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IN THE
COURT OF APPEALS OF INDIANA

SHAKETA JACKSON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0810-CR-959
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Annie Christ-Garcia, Judge
Cause No. 49G17-0803-FD-58012

May 21, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

DARDEN, Judge

STATEMENT OF THE CASE

Shaketa Jackson appeals her conviction, following a bench trial, for class A misdemeanor battery.

We affirm.

ISSUE

Whether sufficient evidence exists to support Jackson's conviction.

FACTS

Jackson and her partner, Tyria Jones, lived together in Jones' Indianapolis home. After an argument on March 3, 2008, Jones locked Jackson out of the house. Jackson eventually gained entry when her eleven-year-old daughter let her back into the house. On the morning of March 4, 2008, Jackson decided to break off the relationship and told Jones that she was moving out. As Jackson gathered her possessions and loaded her car, another argument ensued between them outside. During the argument, Jones entered Jackson's car and sat in the front seat to talk with her. Jackson ordered Jones out of the car, but Jones refused. Jones then removed some items from the car and threw them into the yard.

Jackson began to wrestle and struggle with Jones. Jackson climbed on top of Jones and bit her face and arm. Jackson shouted to her daughter to call the police. After calling the police, Jackson's daughter returned to the car, "lifted [Jones] up" and helped her to "slide out" of the car. (Tr. 20). Jackson and Jones continued to fight in the yard. Again, Jackson's daughter intervened on behalf of Jones by trying to pull her mother off Jones. When the police arrived, Jackson and Jones were still fighting.

On March 17, 2008, the State charged Jackson with count I, class D felony criminal confinement; count II, class D felony battery; and count III, class A misdemeanor battery. Jackson was tried before the bench on July 21, 2008. At the close of the State's evidence, the trial court granted Jackson's motion for judgment on the evidence as to count I. The trial court found Jackson guilty of counts II and III and found that count III merged into count II.

The trial court conducted a sentencing hearing on September 29, 2008, and sentenced Jackson, alternatively, to a class A misdemeanor. The trial court imposed a sentence of 365 days, with credit for 12 days served, and the balance suspended to probation. In addition, the trial court ordered Jackson to take an anger management course, imposed a no-contact order with Jones, and ordered that Jackson's probation could terminate upon her successful completion of the anger management course. Jackson now appeals.

DECISION

Jackson contends that the evidence was insufficient to support her conviction. She asserts that "the evidence shows that [she] wrestled with Ms. Jones in the car in response to Ms. Jones' initial actions of sitting unwelcome in [her] car and attempting (and succeeding) to grab [her] things out of her own car." Jackson's Br. at 10. She also asserts that the State failed to present sufficient evidence that she bit Jones or that any biting, if it did occur, was undertaken knowingly or intentionally. Jackson's Br. at 10. We disagree.

> Our standard of review with regard to sufficiency claims is well settled. In reviewing a sufficiency of the evidence claim, this court does not reweigh the evidence or judge the credibility of the witnesses. We will consider only the evidence most favorable to the verdict and the reasonable inferences drawn therefrom and will affirm if the evidence and those inferences constitute substantial evidence of probative value to support the judgment. * * * Reversal is appropriate only when reasonable persons would not be able to form inferences as to each material element of the offense.

Perez v. State, 872 N.E.2d 208, 212-13 (Ind. Ct. App. 2007).

The evidence most favorable to the judgment indicates that Jackson initiated the physical altercation because she was angry that Jones had entered and removed Jackson's possessions from the car. Moreover, in her brief, Jackson acknowledges that she initiated the physical violence, stating that she "wrestled with Ms. Jones in the car <u>in response to</u> Ms. Jones' initial actions of sitting unwelcome in [her] car and . . . grab[bing] Ms. Jackson's things out of her own car." Jackson's Br. at 10, emphasis added.

At trial, Jones testified that during the altercation, Jackson climbed on top of her, and as Jones was pinned across the front seat of the car, Jackson wrestled with her and bit her face and arm. Jones testified further that she repeatedly told Jackson to stop, but refrained from using any physical force against her. Jackson's daughter testified that on two separate occasions, she intervened on Jones' behalf. A reasonable inference could be drawn from Jackson's daughter's testimony of having intervened on behalf of the victim that Jackson touched Jones in a rude, angry or insolent manner.

Jackson repeatedly asserts that this incident involved mutual fighting; however, the facts most favorable to the judgment indicate that Jones declined to fight back, and only attempted to stop Jackson's physical attack, through verbal means. Moreover,

although Jackson argues that "[i]t is not necessary to reweigh the evidence in order to review what the evidence actually showed," her assertion that she did not bite Jones merely amounts to an invitation that we do so; this we cannot do. *See Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007).

We conclude that the State presented sufficient evidence to convict Jackson of battery.

Affirmed.

BAILEY, J., and ROBB, J., concur.