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IN THE
COURT OF APPEALS OF INDIANA

DONALD PARMERLEE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-0810-CR-620
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Jeffrey Marchal, Commissioner
Cause No. 49F08-0808-CM-193858

June 5, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Defendant Donald Parmerlee appeals his Class A misdemeanor conviction of Battery,[1] alleging that there is insufficient evidence. We affirm.

Facts and Procedural History

On August 16, 2008, Randolph Hatchett encountered Parmerlee near the Indianapolis library. Parmerlee threatened that he was going to "kick [Hatchett's] ass" and lunged at Hatchett. Hatchett told Parmerlee to leave him alone, and Parmerlee walked away.

Later that day, Hatchett saw Parmerlee on a bench outside a downtown grocery store. After entering the store, Hatchett alerted a store security guard, Doyle Allen, that Parmerlee was harassing people. Allen walked outside, saw Parmerlee sitting on a bench, and walked back in the store. Hatchett then purchased a soda and left the store. As Hatchett walked away from the store, Parmerlee lunged at him, punching and scratching at Hatchett's face.

Store customers reported to Allen that a fight was occurring outside. Upon exiting the store, Allen observed Hatchett pinned on the ground by Parmerlee, who was punching and clawing at Hatchett's face. Allen commanded Parmerlee to stop, but Parmerlee continued beating Hatchett. Finally, Allen pulled Parmerlee away from Hatchett and pinned him on the ground. Hatchett sustained injuries to his face and eyes, requiring him to stay overnight at a hospital.

The State charged Parmerlee with Battery, as a Class A misdemeanor. After a bench

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[1] Ind. Code § 35-42-2-1.

trial, Parmerlee was found guilty and sentenced to 150 days in the Marion County Jail.

Parmerlee now appeals.

Discussion and Decision

Parmerlee contends that there is insufficient evidence to support his conviction because the State failed to rebut his claim of self-defense. In addressing a claim of insufficient evidence, we do not reweigh the evidence nor do we reevaluate the credibility of the witnesses. Rohr v. State, 866 N.E.2d 242, 248 (Ind. 2007), reh'g denied. We view the evidence most favorable to the verdict and the reasonable inferences therefrom. Id. We will affirm the conviction unless "no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." Brown v. State, 868 N.E.2d 464, 470 (Ind. 2007) (quoting Jenkins v. State, 726 N.E.2d 268, 270 (Ind. 2000)).

When a defendant raises the claim of self-defense, he must show: (1) he was in a place where he had the right to be; (2) he acted without fault; and (3) he had a reasonable fear of death or great bodily harm. Wallace v. State, 725 N.E.2d 837, 840 (Ind. 2000). In reviewing such a claim, we determine whether the State presented sufficient evidence to support a finding that at least one of the elements of the defendant's claim was negated. Id. The standard of review is the same as that for a sufficiency of the evidence claim. Id.

To convict Parmerlee of Battery as charged, the State was required to prove that Parmerlee knowingly or intentionally touched Hatchett in a rude, insolent, or angry manner that resulted in bodily injury. See Ind. Code § 35-42-2-1(a)(1)(A). Parmerlee claims that Hatchett was the aggressor, that he never hit Hatchett and that his actions were only to defend

himself. However, the evidence presented sufficiently negates Parmerlee's claim that he acted without fault. Parmerlee had pinned Hatchett to the ground and was punching and clawing at Hatchett's face and eyes. The beating was stopped by Allen physically removing Parmerlee from Hatchett after several verbal warnings were unheeded.

Affirmed.

DARDEN, J., and ROBB, J., concur.