



## STATEMENT OF THE CASE

Rick Glascoe appeals his conviction for battery, as a Class A misdemeanor, following a bench trial. Glascoe raises a single issue for our review, namely, whether the State presented sufficient evidence to negate Glascoe's purported affirmative defense.

We affirm.

## FACTS AND PROCEDURAL HISTORY

Glascoe and Ashley Williams were involved in a romantic relationship. On August 8, 2009, they had an argument, and Williams left Glascoe's apartment. Shortly thereafter, Williams texted Glascoe and demanded the return of a \$120 loan. Glascoe told her that he had the money, so Williams returned to the apartment to recover it. A roommate let Williams into the apartment, and Williams began going through Glascoe's closet, looking for the \$120. Glascoe then entered the room, saw Williams "grab some of [his] property," and then "attack[ed] her." Transcript at 38.

The roommate called the police, and by the time they arrived the fighting had stopped. However, the officer who first arrived at the scene heard Williams yelling, "Help me. Help me. He just beat me up." *Id.* at 30. The officer also witnessed that Williams had cuts, bruises, and blood on her face, and that her clothes and hair were "in disarray." *Id.* The officer then arrested Glascoe.

That same day, the State charged Glascoe with battery, as a Class A misdemeanor. At the ensuing bench trial, Glascoe defended the State's charge on the grounds that he was acting in the defense of his property. The court rejected that defense and found Glascoe guilty. This appeal ensued.

## DISCUSSION AND DECISION

On appeal, Glascoe asserts that the State “failed to negate beyond a reasonable doubt that [Glascoe] was justified in guarding his home against [Williams’s] unwanted intrusion.” Appellant’s Br. at 4. It is not disputed that Glascoe committed a battery on Williams; rather the only issue on appeal is whether Glascoe demonstrated a legal justification for the battery. We hold that the trial court did not err in rejecting Glascoe’s defense.

When reviewing a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the judgment and the reasonable inferences that may be drawn from that evidence to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id.

Glascoe argues that he used reasonable force to defend his property and, therefore, that his actions were justified. Indiana Code Section 35-41-3-2(c) provides as follows with regard to whether a person may use force to defend his property:

With respect to property other than a dwelling, curtilage, or an occupied motor vehicle, a person is justified in using reasonable force against another person if the person reasonably believes that the force is necessary to immediately prevent or terminate the other person’s trespass on or criminal interference with property lawfully in the person’s possession, lawfully in possession of a member of the person’s immediate family, or belonging to a person whose property the person has authority to protect.

If that defense is supported by the evidence, the State must disprove at least one element of the offense beyond a reasonable doubt. See Nantz v. State, 740 N.E.2d 1276, 1280

(Ind. Ct. App. 2001), trans. denied. However, the State may refute a claim of defense by direct rebuttal or by relying on the evidence presented in its case-in-chief. Id. It is the factfinder's decision to determine whether a claim of defense has been disproved. Id. A conviction in spite of a claim of defense will be reversed only if no reasonable person could say that the claim was negated by the prosecution beyond a reasonable doubt. Id. (quotation omitted).

Indiana Code Section 35-41-3-2(c) is not a license to beat up anyone who is rummaging through your things. To the contrary, the statute only insulates someone who uses reasonable force in defense of “conduct [that] amounts to actual violence or the imminent threat of actual violence toward person or property. Without such a requirement, the reasonable expectations of law-abiding citizens in a civil society will be thwarted by the likelihood of misguided, vigilante notions of justice by . . . individual citizens.” Lemon v. State, 868 N.E.2d 1190, 1196 (Ind. Ct. App. 2007).

Here, there is no evidence that Williams's conduct amounted to actual violence or the imminent threat of actual violence toward Glascoe's person or his property before he battered her. Glascoe admits that he found Williams merely going through his closet. As such, Glascoe's affirmative defense was not supported by the evidence. Even if it were, however, Glascoe's use of force in response to Williams's actions was unreasonable and, therefore, the State disproved at least one element of Glascoe's purported defense. There was no legal justification for the battery. Accordingly, we affirm his conviction.

Affirmed.

VAIDIK, J., and BROWN, J., concur.