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ATTORNEY FOR APPELLANT:

BARBARA J. SIMMONS
Oldenburg, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

MELLISICA K. FLIPPEN
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

KATRINA KREMPLE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-0812-CR-743
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Paula E. Lopossa, Judge
Cause No. 49F08-0809-CM-218160

July 8, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Katrina Kremple appeals her conviction for Battery, as a Class A misdemeanor, following a bench trial. Kremple presents a single issue for review, namely, whether the evidence is sufficient to support her conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

On the evening of September 19, 2008, Kremple and her boyfriend, Joshua Church, were living together in Beech Grove. At approximately ten o'clock that night, Kremple ingested sixty Klonopin tablets. Klonopin is an anti-anxiety medication that had been prescribed for Kremple. Shortly after ingesting the pills, Kremple fell asleep. Joshua[1] and two friends, one of whom is a registered nurse, monitored Kremple through the night.

Kremple awoke at eight or nine o'clock the following morning, was incoherent, and began tearing up her belongings. About ninety minutes after Kremple had awakened, Ruth Church, Joshua's mother, arrived at the home to pick Joshua up for an outing. When Mrs. Church found the home to be disheveled, Joshua told her that Kremple had taken the Klonopin tablets and was "out of it." Transcript at 7. Joshua took Mrs. Church to see Kremple, who was in the couple's bedroom.

Mrs. Church and Kremple began arguing, and Mrs. Church told Joshua to join his father in the truck outside. Mrs. Church stated that Kremple then "just come lunging at me and grabbed me, hit me right about my neck and just knocked me so hard my feet

[1] We refer to Kremple's boyfriend by his first name for clarity because his mother, who has the same last name, is also relevant to the facts.

[sic], I mean, I just landed just flat on my back." Id. at 10. Kremple then picked up her purse and started to leave the house through the kitchen door. Joshua prevented Kremple from leaving, and Mrs. Church dialed 911. Kremple then left the home through the front door.

The State charged Kremple with battery, as a Class A misdemeanor. Following a bench trial on November 25, the court found Kremple guilty as charged. The court then sentenced Kremple to 365 days, with thirty days executed and 335 days suspended, plus six months of probation. The court also ordered her to undergo a substance abuse evaluation. Kremple now appeals.

DISCUSSION AND DECISION

Kremple contends that the evidence is insufficient to support her conviction. 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.

To convict Kremple of battery, as a Class A misdemeanor, the State was required to show that she "knowingly in a rude, insolent or angry manner" touched Mrs. Church

and that the touching resulted in pain or redness.[2] Appellant's App. at 16. See also Ind. Code § 35-42-2-1. Kremple concedes that "it is unrefuted that [she] hit Mrs. Church that day[.]" Appellant's Brief at 7. But Kremple argues that the evidence is insufficient to show that she did so knowingly because she was "intoxicated at the time of the incident due to an overdose of her prescribed medication and did not have the mental capacity to intentionally or knowingly hit Mrs. Church." Appellant's Brief at 4. We cannot agree.

Indiana Code Section 35-41-3-5 defines the defense of intoxication as follows:

> It is a defense that the person who engaged in the prohibited conduct did so while he was intoxicated, only if the intoxication resulted from the introduction of a substance into his body:
>
> (1) without his consent; or
>
> (2) when he did not know that the substance might cause intoxication.

In other words, "Indiana law provides that intoxication is a defense only if the defendant did not consent to the introduction of the substance into his body or if the defendant was unaware the substance might cause intoxication." Davidson v. State, 849 N.E.2d 591, 594 (Ind. 2006) (citing Ind. Code § 35-41-3-5). The Indiana Supreme Court has described the intoxication defense further as follows:

> When a defendant raises the intoxication defense, the State bears the burden of negating the defense in relation to the mens rea of the offense. Whether a defendant was so intoxicated that he could not form the mens rea required for the crime is a question for the trier of fact. The conviction will be affirmed if there was substantial evidence of probative value that would have allowed the fact finder to conclude beyond a reasonable doubt that the defendant formed the required mental element. Evidence of capacity to form the requisite criminal intent includes the ability to "devise a plan, operate equipment, instruct the behavior of others or carry out acts

[2] The statute defines battery as conduct done "knowingly or intentionally." Ind. Code § 35-42-2-1(a). But the information charged Kremple only with knowingly having committed battery. Thus, we consider the sufficiency of the evidence only in light of this lower level of intent.

> requiring physical skill." If the defendant was able to form the required mental element of the crime, the degree of intoxication is immaterial.

Bassie v. State, 726 N.E.2d 242, 243-44 (Ind. 2000).

Here, Kremple argues that there is reasonable doubt that she knowingly committed battery on Mrs. Church. In support, Kremple points to evidence that she "remember[ed] waking up to Mrs. Church screaming at her house and [Mrs.] Church pointing in her face but did not have a memory of anything else that happened that day other than Mrs. Church's daughter hitting her on the bridge." Appellant's Brief at 7. She also testified that she only remembered taking two Klonopins and contends that she was "intoxicated by being under the influence of an involuntary overdose of her prescribed medication[.]" Id. at 8. But Kremple points to no evidence showing that the ingestion of the Klonopin was without her consent or that she did not know that the substance might cause intoxication. As a result, Kremple has not satisfied the definition of intoxication in Indiana Code Section 35-41-3-5, and her argument must fail.

Notwithstanding Kremple's failure to satisfy the statutory definition of intoxication, Kremple's argument amounts to a request that we reweigh the evidence. Kremple argues that "it was mere speculation for the trial court to infer that the [sic] she intentionally or knowingly hit Mrs. Church because Ms. Kremple grabbed her purse and left after the incident." Id. at 8. Kremple confuses speculation with reasonable inferences drawn from the evidence. The evidence shows that, after she attacked Mrs. Church, Kremple retrieved her purse and attempted to leave the house through the kitchen door. When Joshua blocked her departure, Kremple then left through the front door. Based on that evidence, that Kremple had the presence of mind to gather her

personal effects and leave the home after the attack, the trial court reasonably inferred that Kremple had the capacity to form the intent to commit battery. Kremple's argument is merely a request that we reweigh the evidence, which we cannot do. See Jones, 783 N.E.2d at 1139. The evidence is sufficient to support Kremple's conviction.

Affirmed.

FRIEDLANDER, J., and VAIDIK, J., concur.