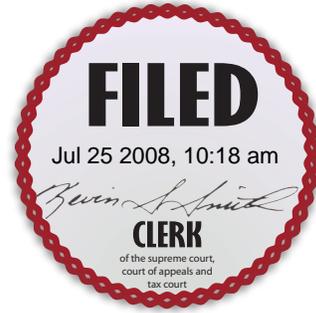


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

DENNIS FEYKA,)
)
Appellant-Defendant,)
)
vs.)
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

No. 49A02-0801-CR-9

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Clark Rogers, Judge
Cause No. 49G16-0708-FD-175775

July 25, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Following a jury trial, Appellant-Defendant Dennis Feyka was convicted of Class D felony Battery.¹ Upon appeal, Feyka challenges the sufficiency of the evidence to support his conviction. We affirm.

FACTS AND PROCEDURAL HISTORY

According to M.S., on August 26, 2007, she and her boyfriend, Feyka, had been drinking before returning home, where an altercation ensued. Feyka slapped M.S. in the face several times and slammed her head into the doorframe. Feyka grabbed M.S. by the arms, shaking and yelling at her. When M.S. was able to get loose, Feyka threw a glass ashtray at her, which shattered, causing a piece of glass to cut open the back of her foot. In addition, Feyka warned M.S. not to call the police and broke both of her cell phones.

Indianapolis Metropolitan Police Officer Andrew Dodds was dispatched to the residence of M.S. Upon arrival, Officer Dodds was informed by Feyka, who was outside, that he and his girlfriend had been arguing. Officer Dodds entered the house where he found M.S., and although he didn't recall seeing any injuries on M.S., he noted that she was upset. After speaking with M.S. for about five minutes, Officer Dodds left the home to check for outstanding warrants on either party. Finding none, he concluded that his investigation was complete and left.

The following day M.S. went to the police station and gave a statement. Detective Anna Humkey spoke with M.S. and saw her injuries. On August 29,

¹ Ind. Code § 35-42-2-1(a)(2)(D) (2007).

2007, the State charged Feyka with Class A misdemeanor battery enhanced to a Class D felony due to a previous battery conviction with respect to the same victim, Class A misdemeanor domestic battery, Class D felony criminal confinement, and Class A misdemeanor interference with reporting a crime. In addition, the State charged Feyka with criminal recklessness, which was dismissed before trial.

Following a trial, the jury found Feyka guilty of Class A misdemeanor battery and domestic battery, acquitting him of criminal confinement and interference with reporting a crime. Feyka stipulated to the Class D felony enhancement of his Class A misdemeanor battery conviction. Upon entering judgment, the trial court merged Feyka's convictions and, on December 4, 2007, sentenced Feyka to two years in the Department of Correction. Feyka now appeals.

DISCUSSION AND DECISION

Feyka's sole challenge on appeal is to the sufficiency of the evidence to support his conviction for battery. Our standard of review for sufficiency-of-the-evidence claims is well-settled. A reviewing court does not reweigh the evidence or assess witness credibility. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). Rather, a reviewing court will consider the evidence most favorable to the trial court's ruling and will affirm a conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id.*

To convict Feyka, the State was required to prove that he knowingly or intentionally touched M.S. in a rude, insolent, or angry manner that resulted in bodily injury to M.S. *See* Ind. Code § 34-42-2-1(a)(1)(A). In order to enhance the battery conviction from a Class A misdemeanor to a Class D felony the State also had to prove that Feyka was previously convicted of battery with respect to M.S. *See* Ind. Code § 35-42-2-1(a)(2)(D). Feyka does not dispute having been previously convicted of battery against M.S.

Feyka challenges his conviction by claiming he simply did not commit the alleged acts and there is insufficient evidence to prove he that did. This court has held that even the uncorroborated testimony of one witness may be sufficient by itself to sustain a conviction on appeal. *Gleaves v. State*, 859 N.E.2d 766, 769 (Ind. Ct. App. 2007). M.S. testified that Feyka grabbed her by the arms, slapped her several times in the face, slammed her head into the doorframe and threw a glass ashtray at her, which cut her foot. Additionally, Detective Humkey, who saw M.S. the following day, observed scabbing and dried blood, supporting the inference that M.S.'s injuries were recent. M.S.'s testimony, together with evidence of her injuries, was sufficient to support Feyka's conviction for Class D felony battery.

The judgment of the trial court is affirmed.

BARNES, J., and CRONE, J., concur.