

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.

ATTORNEY FOR APPELLANT:

DONALD W. PAGOS
Michigan City, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

SCOTT L. BARNHART
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

AARON YOUNG,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

)
)
)
)
)
)
)
)
)
)
)

No. 46A03-0612-CR-588

APPEAL FROM THE LAPORTE SUPERIOR COURT
The Honorable William J. Boklund, Judge
Cause Nos. 46D04-0602-CM-289 and 46D04-0602-FD-367

August 17, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

Aaron Young appeals his convictions for class B misdemeanor battery and class D felony criminal recklessness. We affirm.

Issue

The issue is whether the State presented sufficient evidence to support Young's convictions.

Facts and Procedural History

On January 27, 2006, Richard Graff arrived at his apartment. Graff's friend, Tammy Stamps, met him, and they entered his apartment. Young then entered Graff's apartment, where Tammy was lying down on Graff's couch. Young whispered something to Tammy. She told him to leave her alone, and he left the apartment. About one hour later, Young returned to the apartment. This time Young appeared to be drunk and angry. Young invited Graff and Tammy upstairs to his apartment so that they could party. Both of them refused Young's invitation. Graff saw Young go up to Tammy and hit her in the mouth. Tammy then hit Young twice with a stick and chased him out of Graff's apartment. Graff and another neighbor noticed that the right side of Tammy's mouth was cut and bleeding.

On February 17, 2006, Young had an altercation with Larry Starks, his landlord. Michael Ferrell lived in the same apartment building with Young. Ferrell was helping Young move into the apartment, when Young and Starks got into a verbal altercation that became physical. Young jumped up in Starks's face and pushed him, and they began struggling. Tr. at 16. Young hit Starks, grabbed a samurai sword, and began swinging it. *Id.* at 16-17. Ferrell took the sword from Young, but the physical altercation between Young and Starks

continued. Ferrell told Starks to leave, but as Starks was getting into his car, Young pushed the driver's door against Starks's legs. *Id.*

Officer Dion Campbell arrived at the scene. *Id.* at 20. When Officer Campbell approached Young, he was uncooperative and his speech was slurred. Officer Campbell retrieved the sword and noticed that it was about five to six feet long with a sharp edge. *Id.* The apartment where the fight occurred was in disarray and furniture was broken. *Id.* at 20-21. Officer Campbell then observed the injuries that Starks acquired during his fight with Young.

As a result of the two separate incidents, the State charged Young with class B misdemeanor battery and class D felony criminal recklessness. On September 7, 2006, Young was tried in absentia, and the court found him guilty as charged. Young now appeals his convictions.

Discussion and Decision

Young asserts that the State failed to provide sufficient evidence to support his convictions of battery and criminal recklessness. Our standard of review is well settled:

We will neither reweigh the evidence nor judge the credibility of the witnesses when reviewing the sufficiency of the evidence. We examine the evidence most favorable to the judgment and all reasonable inferences to be drawn therefrom. We will affirm a conviction when there is substantial evidence of probative value from which the trier of fact could find guilt beyond a reasonable doubt.

Trotter v. State, 838 N.E.2d 553, 556-57 (Ind. Ct. App. 2005) (citations omitted).

Young asserts that the State did not prove that he victimized the victims alleged in the charging informations, Tammy Stamps and Larry Starks. Although neither of the victims

was present at trial, eyewitnesses provided direct evidence regarding the identity of the victims. At trial, Graff testified that he witnessed Young hit Tammy in the mouth. Tammy's last name was not mentioned at trial, but Graff identified his friend, Tammy, as the victim. Officer Campbell and Ferrell testified that a physical altercation occurred between Young and Starks. Ferrell witnessed Young hit Starks and swing a samurai sword at him. This evidence was sufficient to establish the identity of the victims.

Young further alleges that the State did not satisfy the necessary elements of criminal recklessness because there was insufficient evidence that the samurai sword he used was a deadly weapon. Class D felony criminal recklessness is committed when a person recklessly, knowingly, or intentionally performs an act that creates a substantial risk of bodily injury to another person while armed with a deadly weapon. Ind. Code § 35-42-2-2. A deadly weapon is a destructive device or weapon that in the manner it is used, or could ordinarily be used, or is intended to be used, is readily capable of causing serious bodily injury. Ind. Code § 35-4-1-8. Based on Ferrell's and Officer Campbell's testimony, the trial court could have reasonably inferred that the samurai sword used by Young against Starks was a deadly weapon. We therefore affirm Young's convictions.

Affirmed.

DARDEN, J., and MAY, J., concur.