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:

RUTH JOHNSON
Marion County Public Defender Agency
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

RICHARD C. WEBSTER
Deputy Attorney General
Indianapolis, Indiana

FILED
Sep 04 2009, 8:51 am
CLERK
of the supreme court, court of appeals and tax court

IN THE
COURT OF APPEALS OF INDIANA

ELISHA DRAKE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A04-0903-CR-130
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Rebekah Pierson-Treacy, Judge
Cause No. 49F19-0810-CM-232677

September 4, 2009

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Elisha Drake ("Drake") was convicted in Marion Superior Court of Class A misdemeanor battery. Drake appeals her conviction and challenges the sufficiency of the evidence. Concluding that Drake's argument is merely a request to reweigh the evidence and the credibility of the witnesses, we affirm.

Facts and Procedural History

On September 21, 2008, at approximately 1:30 a.m., Drake and Donine Brinkley ("Brinkley") were present outside the Ritz Lounge in Indianapolis, Indiana. As Brinkley was walking into the building, Drake approached her from the back and hit Brinkley on the right side of her head with a padlock. Tr. p. 9. Drake hit Brinkley numerous times on both sides of her head and her forehead causing her pain. Brinkley suffered a cut across her left eye, a cut under her right eye, and a swollen forehead. Tr. p. 11.

On October 14, 2008, Drake was charged with Class A misdemeanor battery. A bench trial was held on February 5, 2009, and Drake was found guilty as charged. The trial court ordered her to serve a suspended sentence of 365 days and placed her on probation for 180 days. Drake now appeals.

Discussion and Decision

Drake claims that the evidence is insufficient to support her conviction. When we review 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 therein 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 establish that Drake committed Class A misdemeanor battery, the State was required to prove that Drake knowingly or intentionally touched Brinkley in a rude, insolent, or angry manner and said touching resulted in bodily injury to Brinkley. See Ind. Code § 35-42-2-1 (2004); Appellant's App. p. 13.

Drake argues that "[t]he outcome of the trial in favor of [Brinkley], was the result of an incorrect determination, but just as sometimes happens in a boxing match, the judge in this case got it wrong. The trial court incorrectly chose the testimony of [Brinkley] to be more credible than that of Ms. Drake." Br. of Appellant at 3. Drake admits to striking Brinkley, but argues that she did so in self-defense. In support of her argument, Drake cites her own testimony that Brinkley hit her first. Tr. p. 23.

Drake's arguments are merely an invitation to our court to reweigh the evidence and the credibility of the witnesses, which our court will not do. See Wallace v. State, 725 N.E.2d 837, 840 (Ind. 2000) (stating the standard upon appellate review of a challenge to the sufficiency of the evidence to rebut a claim of self-defense is the same as the standard for any sufficiency of the evidence claim). The evidence supporting the judgment is sufficient to support Drake's Class A misdemeanor battery conviction.

Affirmed.

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