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ATTORNEY FOR APPELLANT:

TIMOTHY J. BURNS
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

GARY R. ROM
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

JASON CLARK,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-1102-CR-61
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Barbara Cook Crawford, Judge
Cause No. 49G21-1010-CM-75978

September 8, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Appellant/Defendant Jason Clark appeals following his conviction for Class A misdemeanor Battery.[1] Clark contends that the evidence was insufficient to sustain his conviction or to negate his claim of self-defense. We affirm.

FACTS AND PROCEDURAL HISTORY

At approximately 9:00 a.m. on September 24, 2010, Clark awakened his girlfriend, Courtney McKenna, who was sleeping in his apartment, and confronted her about a text message he found on her cellular phone. Clark threw the phone at McKenna and yelled at her, telling her that she "should just go sleep with the person that texted [her]." Tr. p. 12. Clark pulled McKenna out of the bed by her legs, causing her to hit the floor. After McKenna stood up, Clark pushed her against the wall and the dresser. Clark and McKenna engaged in a struggle as McKenna attempted to leave Clark's apartment.

Later that day, McKenna was treated at Wishard Hospital in Indianapolis for injuries she sustained during the altercation with Clark, including bruising, swelling, and deep tissue damage to her forearm. As a result of her injuries, McKenna wore a splint on her arm for two and one-half weeks. Clark claims to have suffered a broken finger during the altercation but acknowledges that he did not seek any medical treatment following the altercation with McKenna.

On October 1, 2010, the State charged Clark with one count of Class A misdemeanor domestic battery and one count of Class A misdemeanor battery. The trial court conducted a bench trial on January 20, 2011, at the beginning of which the State sought to dismiss the

[1] Ind. Code § 35-42-2-1 (2010).

domestic battery charge. The trial court granted the State's request, dismissed the domestic battery charge, and continued to trial on the Class A misdemeanor battery charge. At the conclusion of the bench trial, the trial court found Clark guilty of Class A misdemeanor battery and sentenced him to time served with 345 days on probation. This appeal follows.

DISCUSSION AND DECISION

Clark contends that the evidence was insufficient to sustain his conviction for Class A misdemeanor battery or to negate his claim of self-defense.

I. Whether the Evidence was Sufficient to Sustain Clark's Conviction for Class A Misdemeanor Battery

Clark claims that the evidence was insufficient to sustain his conviction for Class A misdemeanor battery.

> When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction.… The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146-47 (Ind. 2007) (citations, emphasis, and quotations omitted). "[I]t is for the trier of fact to reject a defendant's version of what happened, to determine all inferences arising from the evidence, and to decide which witnesses to believe." *Holeton v. State*, 853 N.E.2d 539, 541 (Ind. Ct. App. 2006). Upon review, appellate courts do not reweigh the evidence or assess the credibility of the witnesses. *Stewart v. State*, 768 N.E.2d 433, 435 (Ind. 2002).

The offense of Class A misdemeanor battery is defined by Indiana Code section 35-42-2-1, which provides, in relevant part, that "[a] person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery." The offense is a Class A misdemeanor if "it results in bodily injury to any other person." *Id*. In the instant matter, the charging information alleged that Clark "did knowingly in a rude, insolent or angry manner touch Courtney McKenna, another person, and further that said touching resulted in injury to the other person, specifically: swelling and/or bruising and/or pain." Appellant's App. p. 16.

We conclude that the evidence was sufficient to sustain Clark's conviction for Class A misdemeanor battery. The record demonstrates that Clark awakened McKenna by yelling at her about a text message on her cellular phone, pulled her from the bed, and pushed her against the bedroom wall and a dresser. The record further demonstrates that as a result of Clark's actions, McKenna suffered pain and injuries including bruising, swelling, and deep tissue damage to her forearm. To the extent that Clark argues otherwise, his argument merely amounts to a request for this court to reweigh the evidence, which we will not do. *See Stewart*, 768 N.E.2d at 435.

II. Whether the Evidence was Sufficient to Negate Clark's Claim of Self-Defense

Concluding that the evidence was sufficient to sustain Clark's conviction for Class A misdemeanor battery, we must next consider whether the evidence was sufficient to negate Clark's claim that he acted in self-defense. A valid claim of self-defense is legal justification for an otherwise criminal act. *Wallace v. State*, 725 N.E.2d 837, 840 (Ind. 2000). "'A person

is justified in using reasonable force against another person to protect himself or a third person from what he reasonably believes to be the imminent use of unlawful force." *Henson v. State*, 786 N.E.2d 274, 277 (Ind. 2003) (quoting Ind. Code § 35-41-3-2 (2001)). A claim of self-defense requires a defendant to have acted: 1) without fault; 2) been in a place where he had a right to be; and 3) been in reasonable fear or apprehension of bodily harm. *Id*. The amount of force used to protect oneself must be proportionate to the urgency of the situation. *Hollowell v. State*, 707 N.E.2d 1014, 1021 (Ind. Ct. App. 1999). Whether a defendant acted in self-defense is generally a question of fact which is entitled to considerable deference upon appellate review. *Taylor v. State*, 710 N.E.2d 921, 924 (Ind. 1999). "A conviction in spite of a claim of self-defense will be reversed only if no reasonable person could say that the claim was negated by the State beyond a reasonable doubt." *Id*.

The issue on appellate review is typically framed as whether the State presented sufficient evidence to support a finding that at least one of the elements of the defendant's self-defense claim was negated. *Wallace*, 725 N.E.2d at 840. The standard of review for 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. *Id*. We neither reweigh the evidence nor judge the credibility of witnesses. *Id*. If there is sufficient evidence of probative value to support the conclusion of the trier of fact, then the judgment will not be disturbed. *Id*.

Here, the State presented sufficient evidence to rebut Clark's claim that he acted without fault. The evidence demonstrates that Clark initiated the altercation with McKenna while McKenna was asleep. The only evidence to the contrary is Clark's testimony that

McKenna initiated the altercation and that he grabbed McKenna's arm in self-defense. The trial court considered Clark's testimony but ultimately rejected it, which it had the right to do. *See Wallace*, 725 N.E.2d at 840 (providing that a trier of fact has the right to reject a defendant's testimony supporting a claim of self-defense in light of additional evidence to the contrary). Moreover, to the extent Clark relies on the testimony of Charles Bobo and Miesha Edmonds in support of his claim of self-defense, we observe that such reliance is misplaced, because neither Bobo nor Edmonds testified about who initiated the altercation inside Clark's apartment, but rather their observations of the alleged ongoing struggle between Clark and McKenna outside Clark's apartment door. The State presented sufficient evidence to negate Clark's claim of self-defense.

The judgment of the trial court is affirmed.

ROBB, C.J., and BARNES, J., concur.