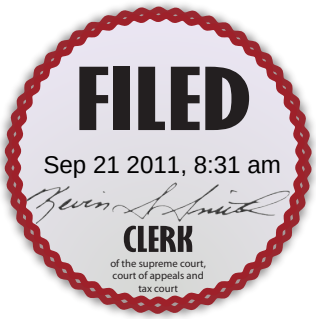

ATTORNEY FOR APPELLANT:

BARBARA J. SIMMONS
Oldenburg, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana
Indianapolis, Indiana

ANN L. GOODWIN
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

JAMES BELLAMY,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-1102-CR-68
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Mark King, Judge Pro Tempore
Cause No. 49F08-1011-CM-086345

SEPTEMBER 21, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BARTEAU, Senior Judge

STATEMENT OF THE CASE

Defendant-Appellant James Bellamy appeals his conviction for Class A misdemeanor battery. Ind. Code § 35-42-2-1(a)(1) (2009). We affirm.

ISSUE

Bellamy raises one issue, which we restate as: whether there is sufficient evidence to support his conviction and to rebut his claim of self-defense.

FACTS AND PROCEDURAL HISTORY

On November 14, 2010, Bellamy called Fahad Qureshi for a ride from his workplace at Papa John's Pizza near 71st Street and Georgetown Road in Indianapolis. Qureshi agreed, but Bellamy hung up the phone before Qureshi could explain that he could either take him to Bellamy's apartment immediately or Bellamy would have to wait for Qureshi to finish his homework before he could take him to Bellamy's mother's house. When Qureshi arrived at Papa John's, he explained those choices to Bellamy. Bellamy responded that if he was not driven to his mother's house, "he was gonna go ahead and do something." Tr. p. 6. Qureshi said he could take Bellamy to his apartment or back to Papa John's, but he could not take him to his mother's house because his car was almost out of gas. Bellamy replied that if Qureshi "wasn't gonna drop him off it wouldn't be looking good." *Id.* at 7. Qureshi tried to calm Bellamy down, but Bellamy "just kept on blowing up further and further." *Id.*

While in the car, Bellamy started punching Qureshi. In the span of about one and a half minutes, he punched Qureshi between twenty and twenty-five times. Qureshi dodged the first punch and kept asking Bellamy to stop while trying to block the other

punches. Bellamy's punches landed on Qureshi's forehead, the top of his head, and his jaw and caused him "unbearable" pain. *Id.* at 9. When Bellamy finally stopped and got out of the car, Qureshi drove to the nearest pay phone and called the police. As a result of the attack, Qureshi had a "huge knot" on top of his head and could not open his jaw completely for two weeks. *Id.* at 10.

Officers William Wogan and Daniel Rosenberg of the Indianapolis Metropolitan Police Department were dispatched to Qureshi's location. The officers saw scratches on Qureshi's face, hands, and arms and a large bump on his head. Qureshi explained what had happened. The officers first went to Papa John's but eventually found Bellamy at his mother's house. They placed him in custody and read him his *Miranda* rights. Bellamy waived his *Miranda* rights and told the officers that when Qureshi "wasn't going to be able to take him where he wanted to go he knew [Qureshi] to no longer be a friend and that [Bellamy's] life was now in jeopardy." *Id.* at 21. Bellamy never accused Qureshi of attacking him, and neither officer observed any injuries on him.

The State charged Bellamy with Class A misdemeanor battery. At a bench trial, Qureshi and Officers Wogan and Rosenberg testified for the State. Bellamy testified that he acted in self-defense. The trial court found Bellamy guilty as charged, sentenced him to one year with all but fourteen days suspended, and credited him for those fourteen days. The court also ordered Bellamy to perform forty hours of community service, complete twelve anger management classes, continue his mental health treatment, and have no contact with Qureshi for one year. Bellamy now appeals his conviction.

DISCUSSION

Bellamy contends that the evidence is insufficient to support his conviction. Our standard of review with regard to sufficiency claims is well settled. In reviewing a sufficiency of the evidence claim, this Court does not reweigh the evidence or judge the credibility of the witnesses. *Bond v. State*, 925 N.E.2d 773, 781 (Ind. Ct. App. 2010), *trans. denied*. We consider only the evidence most favorable to the judgment and the reasonable inferences drawn therefrom and affirm if the evidence and those inferences constitute substantial evidence of probative value to support the judgment. *Id.* Reversal is appropriate only when reasonable people would not be able to form inferences as to each material element of the offense. *Id.*

To convict Bellamy of Class A misdemeanor battery as charged here, the State had to prove beyond a reasonable doubt that he knowingly touched Qureshi in a rude, insolent, or angry manner and that the touching resulted in bodily injury to Qureshi in the form of "pain and/or swelling and/or scratches." Appellant's App. p. 15; *see* Ind. Code § 35-42-2-1(a)(1)(A).

The evidence most favorable to the judgment shows that Bellamy punched Qureshi twenty to twenty-five times when Qureshi could not immediately take him to his mother's house. Qureshi sustained a large bump on his head and scratches on his face, hands, and arms. The attack caused him unbearable pain, and he could not properly open his jaw for two weeks. This evidence is sufficient to support Bellamy's conviction.

Bellamy nonetheless contends that the evidence is insufficient to rebut his claim of self-defense. The standard of review for a challenge to the sufficiency of the evidence to

rebut a self-defense claim is the same as the standard for any sufficiency of the evidence claim. *Wilson v. State*, 770 N.E.2d 799, 801 (Ind. 2002). That is, we neither reweigh the evidence nor judge the credibility of the witnesses. *Id.* If there is sufficient evidence of probative value to support the conclusion of the trier of fact, the judgment will not be disturbed. *Id.*

A valid claim of self-defense is legal justification for an otherwise criminal act. *Id.* at 800 (citing Ind. Code § 35-41-3-2(a) (1979)). To prevail on such a claim, the defendant must show that he: (1) was in a place where he had a right to be; (2) did not provoke, instigate, or participate willingly in the violence; and (3) had a reasonable fear of death or great bodily harm. *Id.* When a claim of self-defense is raised and finds support in the evidence, the State has the burden of negating at least one of the necessary elements. *Id.* The State may meet its burden by rebutting the defense directly or by relying on the sufficiency of the evidence in its case-in-chief. *Carroll v. State*, 744 N.E.2d 432, 434 (Ind. 2001). If a defendant is convicted despite his claim of self-defense, we reverse only if no reasonable person could say that self-defense was negated by the State beyond a reasonable doubt. *Wilson*, 770 N.E.2d at 800-01.

The evidence most favorable to the judgment shows that Bellamy told Qureshi that if he was not taken to his mother's house, "he was gonna go ahead and do something," Tr. p. 6, and that "it wouldn't be looking good," *id.* at 7. Qureshi tried to calm Bellamy down, but Bellamy became increasingly agitated. Bellamy repeatedly punched Qureshi and would not stop despite Qureshi's pleas. Qureshi never attacked Bellamy, and Bellamy had no injuries.

Despite this clear evidence, Bellamy presents a different version of what occurred. His arguments, however, are merely an invitation to reweigh the evidence, which we will not do. The evidence shows that Bellamy provoked, instigated, and participated willingly in the violence and that he had no reasonable fear of death or great bodily harm. The evidence is thus sufficient to rebut Bellamy's claim of self-defense.

CONCLUSION

For the reasons stated above, we affirm the judgment of the trial court.

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