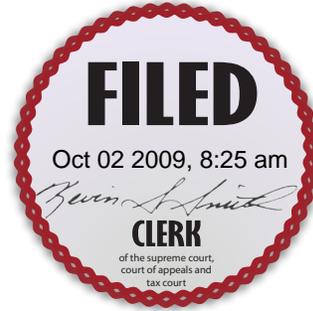


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



ATTORNEY FOR APPELLANT:

**CHRIS P. FRAZIER**  
Marion County Public Defender Agency  
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

**GREGORY F. ZOELLER**  
Attorney General of Indiana

**SCOTT L. BARNHART**  
Deputy Attorney General  
Indianapolis, Indiana

---

**IN THE  
COURT OF APPEALS OF INDIANA**

---

C.R., )  
 )  
Appellant-Defendant, )  
 )  
vs. ) No. 49A05-0903-JV-173  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

---

APPEAL FROM THE MARION SUPERIOR COURT, JUVENILE DIVISION  
The Honorable Marilyn A. Moores, Judge  
The Honorable Geoffrey Gaither, Magistrate  
Cause No. 49D09-0810-JD-3457

---

**October 2, 2009**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BARNES, Judge**

## **Case Summary**

C.R. appeals his delinquency adjudication for having committed what would be Class C felony battery if committed by an adult. We affirm.

### **Issue**

The sole issue is whether the State presented sufficient evidence to rebut C.R.'s self-defense claim.

### **Facts**

On September 2, 2008, C.R. and A.B. were in the midst of a dispute. On that date, C.R. went to the home of another friend, J.F., where he believed he might find shoes of his that he had lost or that had been stolen. A.B. arrived at J.F.'s house shortly thereafter, and several other teenagers also were there. C.R. and A.B. began arguing, with C.R. accusing A.B. of "talking . . . trash" or "running [his] mouth." Tr. pp. 5, 52. After A.B. told C.R. that "nobody was talking any trash," C.R. punched A.B. *Id.* at 5. The two fought briefly, then broke up, and began walking apart. As A.B. turned away, C.R. struck A.B. and knocked him unconscious.

On October 30, 2008, the State filed a petition alleging C.R. was a delinquent child for committing what would be Class C felony battery if committed by an adult. C.R. did not deny striking A.B. and knocking him unconscious but claimed he did so in self-defense. The juvenile court rejected this claim and adjudicated C.R. a delinquent child. C.R. now appeals.

## Analysis

When reviewing the sufficiency of the evidence in a juvenile adjudication, we neither reweigh the evidence nor judge the credibility of the witnesses. K.S. v. State, 849 N.E.2d 538, 543 (Ind. 2006). We consider only the evidence most favorable to the juvenile court’s judgment and the reasonable inferences to be drawn from that evidence. Id. We will affirm if there is substantial probative evidence to support the delinquency adjudication. Id.

This same standard applies when reviewing whether the State has rebutted a claim of self-defense. Hood v. State, 877 N.E.2d 492, 497 (Ind. Ct. App. 2007), trans. denied. “A valid claim of self-defense is a legal justification for an otherwise criminal act.” Henson v. State, 786 N.E.2d 274, 277 (Ind. 2003). “A person is justified in using reasonable force against another person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force.” Ind. Code § 35-41-3-2(a). A claim of self-defense where deadly force has not been used requires a defendant to have acted without fault, been in a place where he or she had a right to be, and been in reasonable fear or apprehension of bodily harm. Henson, 786 N.E.2d at 277.<sup>1</sup>

Once a defendant claims self-defense, the State bears the burden of disproving at least one of the elements beyond a reasonable doubt. Hood, 877 N.E.2d at 497. “The State may meet this burden by rebutting the defense directly, by affirmatively showing the defendant

---

<sup>1</sup> The State argues in its brief that C.R. was required to show that he was in fear of death or serious bodily harm in order to support his self-defense claim. The self-defense statute, however, plainly states that fear of “serious bodily injury” is required for a self-defense claim only if the defendant has used “deadly force.” See I.C. 35-41-3-2(a). There is no claim here that C.R. used deadly force against A.B.; thus, he only needed to demonstrate that he reasonably feared the imminent use of unlawful force or infliction of bodily injury. See Henson, 786 N.E.2d at 277.

did not act in self defense, or by simply relying upon the sufficiency of its evidence in chief.”

Id.

The evidence most favorable to the delinquency adjudication is that C.R. threw the first punch in his fight with A.B. C.R. does not dispute this. He contends, however, that he initiated the fight because he feared he had been “set up” when A.B. appeared at J.F.’s house and there were several other teenagers there. There is no indication in the record that A.B. or any of the other persons at J.F.’s house were armed, or that they made any physically threatening movements toward C.R. It clearly was a question for the juvenile court to decide whether C.R. grossly overreacted to any perceived fear and acted unreasonably by punching A.B. first, rather than attempting to leave the scene if he was feeling threatened.

Furthermore, Indiana Code Section 35-41-3-2(e)(3) states:

a person is not justified in using force if . . . the person has entered into combat with another person or is the initial aggressor, unless the person withdraws from the encounter and communicates to the other person the intent to do so and the other person nevertheless continues or threatens to continue unlawful action.

The record demonstrates that C.R. was the initial aggressor in entering into combat with A.B.

Additionally, the evidence most favorable to the adjudication is that C.R. administered the final blow that knocked A.B. unconscious after the fight had apparently ended and A.B. had turned around to walk away. This would appear to be precisely the type of situation that subsection (e)(3) of the statute was intended to cover as not being an appropriate case for a self-defense claim.

## **Conclusion**

There is sufficient evidence in the record to support the juvenile court's rejection of C.R.'s self-defense claim. We affirm.

Affirmed.

NAJAM, J., and KIRSCH, J., concur.