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ATTORNEY FOR APPELLANT:

BARBARA J. SIMMONS
Oldenburg, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

ERIC P. BABBS
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

ANDREW WAGONER,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-1105-CR-254
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Becky Pierson-Treacy, Judge
The Honorable Shatrese M. Flowers, Master Commissioner
Cause No. 49F19-1012-CM-095648

November 30, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Andrew Wagoner ("Wagoner") appeals his conviction for Battery, as a Class B misdemeanor.[1] He presents the sole issue of whether there is sufficient evidence to support his conviction. We affirm.

Facts and Procedural History

Around 1:00 a.m. on December 30, 2010, Wagoner's mother, Diane Wagoner ("Diane"), knocked on Wagoner's bedroom door, intending, as was her custom, to use a computer located in that room. Receiving no response, Diane started to open the door but "it slammed back" in her face. (Tr. 7.) Diane tried a second time to open the door, and Wagoner came out and shoved her. Diane fell into the wall and onto the floor, bruising her shoulder.

Wagoner was arrested and charged with Battery, as a Class A misdemeanor. At the conclusion of a bench trial, he was convicted of Battery, as a Class B misdemeanor, and sentenced to 180 days imprisonment (with 178 days suspended to probation). He now appeals.

Discussion and Decision

Wagoner claims that the evidence is insufficient to support his conviction. More specifically, he contends that the State failed to negate his claim of self-defense.

To convict Wagoner of Battery, as a Class B misdemeanor, the State was required to establish that Wagoner knowingly or intentionally touched Diane in a rude, insolent, or angry manner. Ind. Code § 35-42-2-1. When reviewing a claim of insufficiency of the evidence,

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[1] Ind. Code § 35-42-2-1.

we do not reweigh the evidence or judge the credibility of the witnesses, but will consider only the probative evidence and reasonable inferences supporting the judgment. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. Id.

A valid claim of self-defense is legal justification for an otherwise criminal act. Birdsong v. State, 685 N.E.2d 42, 45 (Ind. 1997). "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.

When a defendant raises a claim of self-defense, he is required to show three facts: (1) he was in a place where he had a right to be; (2) he acted without fault; and (3) he had a reasonable fear of death or great bodily harm. Wallace v. State, 725 N.E.2d 837, 840 (Ind. 2000). Once a defendant claims self-defense, the State bears the burden of disproving at least one of these elements beyond a reasonable doubt for the defendant's claim to fail. Miller v. State, 720 N.E.2d 696, 700 (Ind. 1999). The State may meet this burden by rebutting the defense directly, by affirmatively showing the defendant did not act in self-defense, or by simply relying upon the sufficiency of its evidence in chief. Id. Whether the State has met its burden is a question of fact for the factfinder. Id. Self defense is generally unavailable to a defendant who is the initial aggressor. Id.

Here, Wagoner did not assert a valid claim of self-defense. Although Wagoner testified, he did not claim that he was in fear of great bodily harm from his mother or that he acted to protect himself. He did not argue a claim of self-defense to the fact-finder. As such,

it was not incumbent upon the State to negate an element of self-defense. Nonetheless, the evidence shows that Wagoner shoved Diane into a wall because he wanted her out of his room. This is sufficient to show that Wagoner was not acting without fault and that he committed battery upon Diane.

Affirmed.

MATHIAS, J., and CRONE, J., concur.