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IN THE
COURT OF APPEALS OF INDIANA

J.B.,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-1005-JV-323
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Geoffrey A. Gaither, Magistrate
Cause No. 49D09-0912-JD-4057

December 29, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

J.B. appeals his adjudication as a delinquent child for committing aggravated battery, a Class B felony when committed by an adult. J.B. presents a single issue for our review, namely, whether the State presented sufficient evidence to support the true finding.

We affirm.

FACTS AND PROCEDURAL HISTORY

On December 9, 2009, L.B., a sophomore at Arsenal Tech high school in Indianapolis, was leaving school when a group of boys approached him. One of the boys, J.B., hit L.B. hard in the face. L.B. fell to his knees, and somebody in the group hit him again. L.B. was bleeding from his nose and mouth, and his two front teeth were severely chipped.[1] When a school security guard asked L.B. who had hit him, L.B. responded that he did not know. But after L.B. realized the extent of his injuries, he told the security guard that J.B. and L.W. had hit him.

The State filed a petition against J.B. alleging his delinquency for battery. Following a hearing, the juvenile court adjudicated J.B. a delinquent child on that count. This appeal ensued.

DISCUSSION AND DECISION

J.B. contends that the State presented insufficient evidence to support his adjudication as a delinquent child for committing battery. When presented with a challenge to the sufficiency of the evidence upon review of a juvenile adjudication, this

[1] A photograph of L.B. in the record shows that approximately one-fourth to one-half of each of his front teeth was knocked out.

court will consider only the evidence and reasonable inferences supporting the judgment. J.B. v. State, 748 N.E.2d 914, 916 (Ind. Ct. App. 2001). We will neither reweigh the evidence nor judge witness credibility. Id. If there is substantial evidence of probative value from which a reasonable trier of fact could conclude that the defendant was guilty beyond a reasonable doubt, we will affirm the adjudication. Id.

To prove aggravated battery, a Class B felony when committed by an adult, the State had to show that J.B. knowingly or intentionally inflicted injury on L.B. that created a substantial risk of death or that caused serious permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ. See Ind. Code § 35-42-2-1.5. Because the statute is written in the disjunctive, the State need only prove one of the injury elements.

Here, J.B. contends that the State presented insufficient evidence to prove either that L.B. suffered serious permanent disfigurement or the protracted loss or impairment of the function of a bodily member. Because we hold that the evidence is sufficient to show the protracted impairment of L.B.'s front teeth, we need not address whether the evidence shows that he suffered permanent disfigurement.

The State presented evidence that approximately one-fourth to one-half of each of L.B.'s front teeth was knocked out as a result of J.B. striking him in the face. This court has held that a tooth is a bodily member for purposes of the aggravated battery statute. See Smith v. State, 881 N.E.2d 1040, 1046 (Ind. Ct. App. 2008). And in Mann v. State, 895 N.E.2d 119, 122 (Ind. Ct. App. 2008), we interpreted "protracted impairment" as follows: "protracted" means "to draw out or lengthen in time," and . . . "impairment"

means the "fact or state of being damaged, weakened, or diminished." (Citations omitted). Expert testimony is not required to prove the victim suffered a protracted impairment. Id.

Here, L.B. testified that his two front teeth "were like gone" and that they "really, really" hurt for "the next couple of days[.]" Transcript at 26. The photographic evidence shows that approximately one-fourth to one-half of each of L.B.'s two front teeth are missing. L.B. also testified that a dentist "put in partials." Id.

In Smith, we held that the State had proven permanent loss of a bodily member where the evidence showed that the victim's tooth had to be "surgically removed and artificially replaced." 881 N.E.2d at 1046. The evidence showed that the victim in Smith had functionality in the tooth, but suffered a "brain freeze" every time she chewed food. Id. Thus, even the surgical replacement of a missing tooth was not enough to make the victim whole again for purposes of proving aggravated battery.

Here, again, the evidence and reasonable inferences show that L.B. suffered the permanent loss of significant portions of his two front teeth, but that they were repaired with "partials." L.B.'s teeth were clearly impaired in that they were damaged and weakened. The question remains whether that impairment was protracted. "We expect [factfinders] to draw upon their own personal knowledge and experience in assessing credibility and deciding guilt or innocence." Carter v. State, 754 N.E.2d 877, 882 (Ind. 2001), cert. denied, 537 U.S. 831 (2002). Teeth, unlike bones or broken skin, do not repair themselves, but can only be replaced or supplemented by artificial means. And a factfinder would generally understand by experience that partial dentures are not as

strong or as permanent as real teeth. We hold that here, where L.B.'s two front teeth were significantly broken and repaired with partial dentures, the evidence is sufficient to show protracted impairment of those teeth.

Next, J.B. contends that the State presented insufficient evidence to prove either that J.B. hit L.B. or that J.B. caused L.B.'s injuries. We address each contention in turn. First, L.B. testified that J.B. hit him. Our reading of L.B.'s testimony shows that the attorneys asked confusing questions and frequently spoke over one another, further confusing L.B. during the hearing. In light of those circumstances, J.B.'s assertion that L.B.'s testimony was equivocal is understandable. But L.B.'s testimony and the evidence taken as a whole support the trial court's determination beyond a reasonable doubt that J.B. hit L.B. in the face. We will not reweigh the evidence on appeal.

J.B. also contends that there is insufficient evidence to prove that he caused L.B.'s injuries. But L.B. testified that J.B. hit him so hard that he fell to his knees, which supports a reasonable inference that that hit caused L.B.'s injuries. And while L.B. could not be sure whether J.B. or another boy hit him a second time, either way, J.B. is at least criminally liable for the injuries as an accomplice. See Alvies v. State, 905 N.E.2d 57, 61 (Ind. Ct. App. 2009) (holding accomplice need not participate in each element of crime to be convicted). The State presented sufficient evidence to support the true finding for aggravated battery against J.B.

Affirmed.

DARDEN, J., and BAILEY, J., concur.