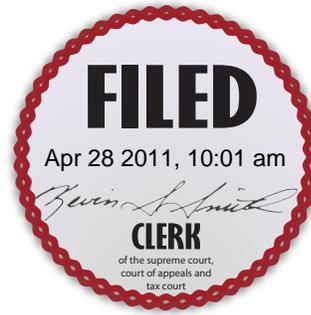


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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TERRY MARTIN, )

Appellant-Defendant, )

vs. )

No. 49A02-1010-CR-1130

STATE OF INDIANA, )

Appellee-Plaintiff. )

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Amy Jones, Judge Pro-Tempore  
Cause No. 49G17-1008-CM-65679

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**April 28, 2011**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**FRIEDLANDER, Judge**

Terry Martin appeals his conviction for Domestic Battery,<sup>1</sup> a class A misdemeanor. On appeal, he challenges only the sufficiency of the evidence supporting his conviction.

We affirm.

The facts favorable to the conviction are that in the early morning hours of August 22, 2010, Martin became upset with his live-in girlfriend, H.S.,<sup>2</sup> because she refused to come to bed. Martin was yelling, pushing, and chasing H.S., and she became scared. She eventually ran into Martin's adult daughter's room for help. The daughter, Casey Martin, awoke to find her father pulling H.S. by the arm and H.S. stating that she did not want to go. While H.S. struggled to get loose from his grip, Casey tried to intervene. She asked her dad what was going on, and he refused to speak with her. H.S. told Casey to call the police. Casey pleaded with her dad to stop because he was "scaring everybody." *Transcript* at 8. She stepped between Martin and H.S. but was knocked down while Martin continued to try to get to H.S., who was attempting to get away.

All the children in the home were awakened by the altercation, which moved into the hallway. According to Casey, Martin "wasn't himself" and was "just mad." *Id.* at 8-9. Casey warned him multiple times that if he did not stop she would have to call the police. H.S. managed to get a phone to call the police, but Martin took it away. Casey again pleaded, "Please stop." *Id.* at 8. "[E]veryone was scared and everyone was crying." *Id.* The police were eventually notified. H.S.'s arm was injured in the altercation and was red and swollen.

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<sup>1</sup> Ind. Code Ann. § 35-42-2-1.3 (West, Westlaw through 2011 Pub. Laws approved & effective through 2/24/2011).

The State charged Martin with class A misdemeanor domestic battery (Count I), two counts of class B misdemeanor battery (Counts II and III), and interference with reporting a crime (Count IV). Martin's bench trial commenced on September 21, 2010, at which H.S. and Casey testified for the State. At the conclusion of the evidence, the State agreed that a directed verdict should be entered as to Counts III and IV. The trial court then found Martin guilty of Counts I and II but merged Count II into Count I. Martin now appeals, challenging the sufficiency of the evidence.

Our standard of review when considering a challenge to the sufficiency of the evidence is well settled.

When reviewing the sufficiency of the evidence needed to support a criminal conviction, we neither reweigh evidence nor judge witness credibility. *Henley v. State*, 881 N.E.2d 639, 652 (Ind. 2008). "We consider only the evidence supporting the judgment and any reasonable inferences that can be drawn from such evidence." *Id.* We will affirm if there is substantial evidence of probative value such that a reasonable trier of fact could have concluded the defendant was guilty beyond a reasonable doubt. *Id.*

*Bailey v. State*, 907 N.E.2d 1003, 1005 (Ind. 2009).

On appeal, Martin correctly argues that the State was required to prove that he knowingly or intentionally touched H.S. in a rude, insolent, or angry manner. *See* I.C. § 35-42-2-1.3. He asserts that the State failed to make such a showing because the evidence established he did not hit or slap H.S. Moreover, he asserts that H.S. was intoxicated at the time she barged into Casey's bedroom and he was simply trying to remove her.

Finding proof beyond a reasonable doubt, the trial court explained:

Now, however we want to characterize the crazy lady coming into your

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<sup>2</sup> Martin and H.S. had one child together and Martin's other children also lived with the couple.

daughter's room, the fact of the matter is, is that there are two witnesses that came before this Court today and that they both gave consistent statements, including your daughter, that talked about your behavior. And that you were...that there was behavior, that there was touching, that there was a struggle. And I do believe...I do believe [H.S.'s] testimony is that that struggle had gone on prior to her going into your daughter's room to seek help. And I don't find anything unusual about that. That she went into another adult...someone who is an adult that might be able to help her.

*Transcript at 34.*

We reject Martin's blatant invitation for us to reweigh the evidence and judge witness credibility. The State presented ample evidence that Martin knowingly or intentionally touched H.S. in a rude, insolent, or angry manner.

Judgment affirmed.

BAILEY, J., and BROWN, J., concur.