

Lawrence Echols (“Echols”) was convicted in Marion Superior Court of Class D felony intimidation and Class A misdemeanor domestic battery. The trial court sentenced Echols to 445 days on the Class D felony conviction, with all time suspended but for twenty-three days of time served, and one year on probation. The trial court also ordered that Echols serve a concurrent sentence of one year, with all time suspended, on the Class A misdemeanor conviction. Echols appeals and argues that the evidence presented at trial is not sufficient to support his convictions for Class D felony intimidation and Class A misdemeanor domestic battery.

We affirm.

Facts and Procedural History

On May 3, 2009, Echols and his wife, Jerrilyn Echols (“Jerrilyn”), had been married for four years and lived together. Early that morning, Jerrilyn returned after a night of drinking with a friend. She had forgotten her house key and proceeded to awaken Echols. Echols awakened and allowed Jerrilyn into the house. However, Echols did not appreciate being awakened and the two began to argue about Jerrilyn’s drinking and her late return home.

The argument grew heated and Echols struck Jerrilyn in the eye, leaving a red mark, and scratched Jerrilyn’s back. Jerrilyn called 911. During the call, Jerrilyn told the 911 operator that Echols had a gun in the house. In response, Echols told Jerrilyn, “I’m going to shoot your ass.” Tr. pp. 25-26. Jerrilyn then told the operator that she was running around the house and that Echols was acting up.

Indianapolis Metropolitan Police Officer Gregory Williams (“Officer Williams”) arrived within seconds of the dispatch. Officer Williams met Jerrilyn at the door. He observed a red mark on her eye. Jerrilyn told the officer that Echols had hit her and that he had pointed a rifle at her. Jerrilyn told Officer Williams where to find Echols’s two guns. One of the firearms, a shotgun, was loaded with one round in the chamber.

On June 11, 2009, the State charged Echols with Class C felony intimidation, Class D felony pointing a firearm, Class A misdemeanor domestic battery, and Class A misdemeanor battery. On July 13, 2009, a jury found Echols guilty of the lesser-included offense of Class D felony intimidation, Class A misdemeanor domestic battery, and Class A misdemeanor battery. Echols was found not guilty of the Class D felony pointing a firearm charge. The trial court merged the battery conviction into the domestic battery conviction and entered judgment on the Class D felony intimidation charge and the Class A misdemeanor domestic battery charge.

On July 17, 2009, the trial court sentenced Echols to 445 days with all time suspended and credit for time served, and one year on probation. The trial court also imposed a concurrent sentence of one year with all time suspended. Echols now appeals.

Discussion and Decision

Echols argues that the evidence was not sufficient to support his convictions for Class D felony intimidation and Class A misdemeanor domestic battery. When we review a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the verdict and the reasonable inferences

therein to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. *Id.* If there is substantial evidence of probative value to support the conviction, it will not be set aside. *Id.* If inferences may be reasonably drawn that enable the trier of fact to find the defendant guilty beyond a reasonable doubt, then circumstantial evidence will be sufficient. *Id.*

A. Intimidation

Echols argues that the evidence is not sufficient to support his conviction for Class D felony intimidation. Indiana Code section 35-45-2-1(a)(2), (b)(1)(d) (2004) states: “A person who communicates a threat to another person, with the intent . . . that the other person be placed in fear of retaliation for a prior lawful act . . . commits intimidation, a Class A misdemeanor. . . . However, the offense is a . . . Class D felony if . . . the threat is to commit a forcible felony[.]”

First, Echols contends that the State did not establish that Echols’s threat to Jerrilyn was made in retaliation for Jerrilyn’s 911 call because it was not established that Echols knew that Jerrilyn had called 911. However, the testimony of Officer Williams established that the threat occurred after Jerrilyn had told the 911 operator about Echols’s guns. Jerrilyn also testified that Echols made the threat in response to something she said to the 911 operator. The jury could reasonably infer that Echols knew that Jerrilyn was speaking with the 911 operator when he threatened to shoot Jerrilyn.

Second, Echols argues that Jerrilyn’s trial testimony contradicted that of Officer Williams’s testimony regarding statements Jerrilyn made to him when he responded to

the 911 call. Echols's argument is merely a request that we reweigh the evidence and judge the credibility of the witnesses, which we will not do.

The evidence presented at trial is sufficient to support Echols's conviction for Class D felony intimidation.

B. Domestic Battery

Next, Echols argues that the evidence is not sufficient to support his conviction for Class A misdemeanor domestic battery. Indiana Code section 35-42-2-1.3(2004) states: "A person who knowingly or intentionally touches an individual who: (1) is or was a spouse of the other person; (2) is or was living as if a spouse of the other person as provided in subsection (c); or (3) has a child in common with the other person; in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor."

Again, Echols argues that Jerrilyn's testimony differs from the testimony given by Officer Williams concerning her pre-trial statements. However, once again, Echols is asking that we reweigh the evidence and judge the credibility of the witnesses. Although Jerrilyn's trial testimony is different from the statements she gave to Officer Williams when he arrived after the 911 call, we may not reweigh the evidence and judge the credibility of the witnesses. The evidence is sufficient to support Echols's conviction for Class A misdemeanor domestic battery.

Conclusion

The evidence presented at trial is sufficient to support Echols's convictions for Class D felony intimidation and Class A misdemeanor domestic battery.

Affirmed.

RILEY, J., and BRADFORD, J., concur