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**IN THE
COURT OF APPEALS OF INDIANA**

WILSON BAILS,)
)
 Appellant-Defendant,)
)
 vs.) No. 49A02-0610-CR-894
)
 STATE OF INDIANA,)
)
 Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Carol Orbison, Judge
Cause No. 49G17-0510-FD-181475

July 6, 2007

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Wilson Bails (“Bails”) was convicted of Class A misdemeanor battery¹ in Marion Superior Court. He appeals, arguing that there is insufficient evidence to support his conviction. We affirm.

Facts and Procedural History

On October 17, 2005, Bails went to the home of Sherrie Elliott (“Elliott”), his on-again off-again girlfriend, to retrieve his mail. When Elliott let Bails in the house, he immediately headed toward the bedroom, “pulled off his clothes,” and informed her that he wanted to have sex. Tr. p. 7. Elliott refused, after which Bails became angry and threw Elliott on the bed. The two struggled as Bails tried to remove Elliott’s pants, while Elliott repeatedly told him to stop. During the struggle, Bails grabbed Elliott’s right breast, which she had recently had pierced, causing pain and swelling. Elliott also experienced back pain from the struggle. Eventually, Bails “gave up” and left. Tr. p. 11. Elliott called police.

On October 24, 2005, the State charged Bails with Class D felony sexual battery, Class A misdemeanor domestic battery, and Class A misdemeanor battery. A bench trial was held on September 18, 2006. The trial court granted Bails’s motion for judgment on the evidence as to sexual battery and dismissed the charge. The court then found Bails not guilty of domestic battery, but convicted him of Class A misdemeanor battery. Bails now appeals.

Standard of Review

When we review a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139

¹ Ind. Code § 35-42-2-1 (2004 & Supp. 2006).

(Ind. 2003). We look only to the probative evidence supporting the judgment 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.

Discussion and Decision

Bails argues that the State presented insufficient evidence that he touched Elliott in a rude, insolent, or angry manner. See Ind. Code § 35-42-2-1 (2004 & Supp. 2006). Elliott testified that Bails became aggressive when she refused to have sex with him. Tr. pp. 10-13. She further testified that Bails threw her on the bed, causing pain to her back, and that he grabbed her breast, which she had recently had pierced, causing pain and swelling. Tr. pp. 13-14. The responding officer also testified that Elliott was visibly upset and complained of pain in her right breast and back. Tr. pp. 16, 18. Essentially, Bails asks that we reweigh the evidence, which we will not do.

The State presented sufficient evidence to convict Bails of Class A misdemeanor battery.

Affirmed.

DARDEN, J., and KIRSCH, J., concur.