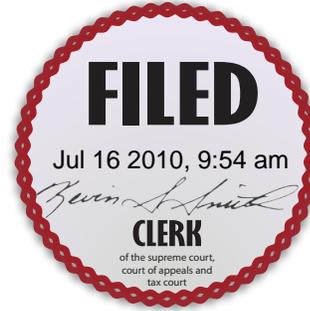


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

AARON SPEARS,

Appellant/Defendant,

vs.

STATE OF INDIANA,

Appellee/Plaintiff.

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No. 49A02-0912-CR-1194

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Barbara A. Collins, Judge
The Honorable John J. Boyce, Master Commissioner
Cause No. 49F08-0906-CM-58072

July 16, 2010

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Appellant/Defendant Aaron Spears appeals from his conviction for Class A misdemeanor Battery,¹ contending that the State produced insufficient evidence to sustain it. We affirm.

FACTS AND PROCEDURAL HISTORY

On June 20, 2009, Erika and Aaron Spears both lived at their father's Marion County home, and Erika's boyfriend Brent Woods was visiting. Aaron and Woods began to fight as a result of Aaron's apparent uncured indebtedness to Woods. Erika saw the duo wrestling and striking one another and attempted to intervene. Erika separated the duo, at which point Aaron "swung one more time on Brent[,]” actually striking Erika in the head with a closed fist, causing bleeding and pain. Tr. p. 24. The next day, the State charged Aaron with two counts of Class A misdemeanor battery and Class B misdemeanor disorderly conduct. On October 26, 2009, the trial court found Aaron guilty of one count of Class A misdemeanor battery and subsequently sentenced him to one year of incarceration, with all but ten days suspended and six months of that suspended to probation.

DISCUSSION AND DECISION

Our standard of review for challenges to the sufficiency of the evidence supporting a criminal conviction is well-settled:

In reviewing a sufficiency of the evidence claim, the Court neither reweighs the evidence nor assesses the credibility of the witnesses. We look to the evidence most favorable to the [finding of guilt] and reasonable inferences drawn therefrom. We will affirm the conviction if there is

¹ Ind. Code § 35-42-2-1(a) (2008).

probative evidence from which a reasonable [finder of fact] could have found Defendant guilty beyond a reasonable doubt.

Vitek v. State, 750 N.E.2d 346, 352 (Ind. 2001) (citations omitted).

In order to establish that Aaron committed Class A misdemeanor battery, the State was required to prove that he “knowingly or intentionally touche[d] another person in a rude, insolent, or angry manner ... result[ing] in bodily injury to any other person[.]” Ind. Code § 35-42-2-1(a). Aaron contends that there is no evidence that he knowingly or intentionally struck Erika and that the doctrine of transferred intent does not apply in this case.

While we accept Aaron’s first contention as true, it will not help him because his second is not. In our view, the facts of this case fit squarely within the doctrine of transferred intent. The Indiana Supreme Court has held that “if the evidence shows the requisite mental state to exist in conjunction with the performance of a criminal act, then the law may punish the perpetrator, although the particular person injured was a mere bystander.” *Straub v. State*, 567 N.E.2d 87, 91 (Ind. 1991) (citation omitted); *see also Tucker v. State*, 443 N.E.2d 840, 842 (Ind. 1983) (“The fact that he did not strike his intended victim but instead injured another is not a defense. We have found in similar cases that the defendant’s intent is transferred from the person against whom it was directed to the person actually injured.”). So, the fact that Aaron actually hit Erika instead of Woods is irrelevant because he clearly intended to hit somebody.

The judgment of the trial court is affirmed.

RILEY, J., and MATHIAS, J., concur.