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IN THE
COURT OF APPEALS OF INDIANA

GEORGE JAYNE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0706-CR-451
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Linda E. Brown, Judge
Cause No. 49F10-0609-CM-166617

December 27, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

George Jayne appeals his conviction for Pointing a Firearm, as a Class A misdemeanor, after a bench trial. Jayne presents two issues for review, which we restate as:

1. Whether the State presented sufficient evidence to support Jayne's conviction.

2. Whether the evidence supports Jayne's claim that he acted in self-defense.

We affirm.

FACTS AND PROCEDURAL HISTORY

In 2006, Amber Straughn and her children lived on South Lyons Avenue in Indianapolis. Jayne lived down the street from Straughn with his wife Donna and their ten-year-old granddaughter ("granddaughter"). On occasion the granddaughter played with Straughn's daughter in Straughn's yard. But after Straughn's daughter had contracted head lice several times after playing with the granddaughter, Straughn forbade the granddaughter from coming into Straughn's yard.

On September 3, 2006, the granddaughter entered Straughn's yard despite Straughn's prior order to stay away. Straughn told the granddaughter to stay out of Straughn's yard, but the granddaughter "was being real mouthy" and said that Straughn "wasn't [her] boss." Transcript at 11. Later, upon returning home from the store, Straughn and her sixteen-year-old passenger, Brandon Meyer, saw Jayne's wife in Jayne's yard. Straughn stopped her car in the road, parked, and asked the wife to keep the granddaughter out of Straughn's yard.

An argument ensued, and Meyer left Straughn's vehicle to retrieve Straughn's boyfriend, John Williamson, from her home. While Meyer was gone, Jayne came from his home carrying a shotgun. As Meyer returned to the car with Williamson and was about five mobile home lots away from Straughn's car, Meyer saw Jayne pointing the gun through the car window at Straughn, who was in the car. Meyer then saw Jayne "look[] down the street, and [he] sees [sic] me and [Williamson] walking down the street and he runs the gun back up to the house[.]" Transcript at 23.

Police were called to the scene, and Straughn gave a statement. The State charged Jayne with pointing a firearm (unloaded), as a Class A misdemeanor. At the conclusion of a bench trial, the court found Jayne guilty as charged. The court then sentenced him to 365 days with all but four days suspended; four days' credit time (two days actual credit and two days good time credit); 361 days of probation; and 120 hours of community service. Jayne now appeals.

DISCUSSION AND DECISION

Issue One: Sufficiency of Evidence

Jayne contends that the evidence is insufficient to support his conviction for pointing a firearm. Specifically, he argues that the State did not meet its burden to prove that Jayne pointed his firearm at Straughn. We cannot agree.

When reviewing 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 (Ind. 2003). We look only to the probative evidence supporting the verdict and the reasonable inferences that may be drawn from that evidence 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.

The State charged Jayne with pointing a firearm (unloaded), as a Class A misdemeanor. For a conviction on that offense, the State was required to prove that Jayne knowingly or intentionally pointed an unloaded firearm at Straughn. See Ind. Code § 35-47-4-3(b). In his brief, Jayne asserts that "[a] fair reading of the record in this case shows confusing, conflicting, and unreliable testimony to support this conviction." Appellant's Brief at 4. But Jayne acknowledges that his "argument could be construed as a request to re-weigh the evidence and to re-assess the credibility of witnesses." Appellant's Brief at 8. We agree that Jayne's argument regarding the sufficiency of evidence is exactly that, a request that we reweigh the evidence, which we cannot do. See Jones, 783 N.E.2d at 1139. Thus, Jayne's contention must fail.[1]

Issue Two: Self-Defense

Jayne next contends that the State failed to overcome his defense of self-defense. "A person is justified in using reasonable force against another person to protect himself

[1] Jayne asserts that "[i]t is incumbent upon the reviewing court to review the entire record of the case in order to find probative evidence or substantial evidence on all elements of the crime charged." Appellant's Brief at 6 (citing Pyle v. State, 476 N.E.2d 124 (Ind. 1985)) (emphasis in original). But in Pyle, our supreme court held that reviewing courts

> will consider only that evidence most favorable to the State and all reasonable inferences to be drawn therefrom which support the verdict. If there is substantial evidence of probative value which would permit a reasonable trier of fact to find the existence of each element of the offense beyond a reasonable doubt the judgment must be affirmed.

Pyle, 476 N.E.2d at 126. Jayne has misstated the rule from Pyle. Indeed, it is an appellant's responsibility to support his contentions of errors on appeal with appropriate citations, both to the record and to legal authorities, because without such assistance appellate courts cannot determine the merits of his claim. Ind. Appellate Rule 46(A)(8)(a); Grimes v. State, 274 Ind. 378, 412 N.E.2d 75, 76 (1980).

or a third person from what he reasonably believes to be the imminent use of unlawful force." Ind. Code § 35-41-3-2(a) (2007). And a person is "justified in using reasonable force . . . against another person [and] does not have a duty to retreat[] if the person reasonably believes that the force is necessary to prevent or terminate the other person's unlawful entry of or attack on the person's dwelling, curtilage, or occupied motor vehicle." I.C. § 35-41-3-2(b). A claim of self-defense requires a defendant to have acted without fault, been in a place where he or she had a right to be, and been in reasonable fear or apprehension of bodily harm. Henson v. State, 786 N.E.2d 274, 277 (Ind. 2003). When a claim of self-defense is raised and finds support in the evidence, the State has the burden of negating at least one of the necessary elements. Wilson v. State, 770 N.E.2d 799, 800 (Ind. 2002).

Here, Jayne "believes that he acted reasonably in protecting his wife and property." Appellant's Brief at 10. He testified that Straughn threatened to send Williamson down to "clean [Jayne's] house out" and that he feared for his wife when he saw Meyer and Williamson running toward his house. But Meyer testified that Jayne already had the gun when he saw Meyer and Williamson approaching, and, upon seeing the two approach, Jayne returned the gun to his house. Further, the trial court stated:

> Self defense does not make sense to me. It makes no sense at all. You know what makes sense to me? I think that when you look at it from the standpoint that you have two (2) kids playing together, and one kid gets—the kids have head lice. And somebody says they are going to clean out your house, relating to the head lice, I don't think it has anything to do with somebody coming down to clean out your house with a gun or anything like that. I think that's absolutely absurd; and I don't think that's what happened. Do I think he pointed the gun at her, yes I think he pointed the gun at her. I do indeed think he pointed the gun at her, and I don't think it was self-defense.

Transcript at 68.

The trial court rejected Jayne's claim of self-defense. Jayne's arguments on appeal amount to a request that we reweigh the evidence, which, again, we cannot do. See Jones, 783 N.E.2d at 1139. And, because Jayne failed to present a self-defense claim that was supported by the evidence, the State was not required to present evidence negating any element of the defense. Thus, Jayne's argument that he established a claim of self-defense is without merit.

Affirmed.

BAILEY, J., and CRONE, J., concur.