

MEMORANDUM DECISION

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

Julian T. Humphrey,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

July 28, 2022

Court of Appeals Case No.
22A-CR-144

Appeal from the Allen Superior
Court

The Honorable Steven O. Godfrey,
Judge

Trial Court Cause No.
02D04-2102-F6-157

Mathias, Judge.

- [1] Julian T. Humphrey appeals his convictions for Level 6 felony domestic battery, Level 6 strangulation, Level 6 felony intimidation, and Class A

misdemeanor domestic battery following a jury trial. Humphrey raises a single issue for our review, namely, whether the State presented sufficient evidence to support his convictions. We affirm.

Facts and Procedural History

[2] In 2017, Ashley Strong began dating Humphrey. At some point, the two began living together in a house in Fort Wayne. However, in the summer of 2020, they were having relationship problems.

[3] On August 18, Strong and Humphrey “were arguing a lot” and Strong decided “[t]o end” the relationship. Tr. Vol. 2, p. 95. Humphrey came back to the house around 9:00 p.m. to gather some of his personal belongings, and they got into another argument. After Humphrey left the house to place some items in his car, Strong locked the door behind him. Humphrey returned to the door and, finding it locked, “started to kick it down.” *Id.* at 96. However, he could not get through the door, so he went to the bedroom window with a window-air-conditioning unit, removed the unit, and entered the home through the window.

[4] Strong “tr[ie]d to prevent [Humphrey] from coming in” through the window, and as she did so, he “grabbed [Strong] by . . . [the] neck” and tried “to pull [her] out of the window.” *Id.* at 98. Strong was wearing a keychain around her neck at the time, which broke from Humphrey “trying to pull [her] out of the window.” *Id.* at 99. The result left an injury analogous to a “burn” “all the way across the back of [Strong’s] neck” where the keychain had been. *Id.*

[5] Humphrey then returned to the door he had tried to kick in and “succeeded in breaking the glass and kicking the door off of the hinges completely.” *Id.* at 100. Humphrey then entered then home and “pushed” Strong “[o]nto the glass,” which caused injuries to Strong’s hand and knee. *Id.* Strong was “bleeding” and “crying,” and “on a scale of one . . . to ten” she later described her pain as “a really high ten” *Id.* at 101. Humphrey contacted local police, and Humphrey left the home. Strong moved her refrigerator to block the entrance where Humphrey had kicked the door off of the hinges, and she had Humphrey’s remaining vehicles at the home towed.

[6] The next morning, Strong woke up to the sound of the refrigerator being moved across the broken glass, and she saw Humphrey pushing his way back into the home. Strong was “scared at that point,” and Humphrey walked toward her while using profanity. *Id.* at 102-03. He then grabbed Strong “by [the] neck” using one hand and “started to squeeze.” *Id.* at 104. Humphrey’s action made it “hard” for Strong “to breathe.” *Id.* Humphrey said, “B[****], I’m gonna kill you,” and that “if he couldn’t have [Strong,] no one could[.]” *Id.* at 104-05. Humphrey’s attack left visible injuries on the front of Strong’s neck, and Strong thought she “was . . . gonna die.” *Id.* at 105. However, she convinced Humphrey to go to his car and get his phone so she could call the tow-truck company. As he did so, Strong fled from the home and called 9-1-1.

[7] The State charged Humphrey with Level 6 felony domestic battery, Level 6 strangulation, Level 6 felony intimidation, and Class A misdemeanor domestic battery. During his ensuing jury trial, Strong testified to the events of August 18

and August 19. She further testified that she had suffered a spinal injury from Humphrey's attacks and was in physical therapy in the hopes of avoiding surgery. And, during her testimony, she acknowledged that she was on parole at the time of Humphrey's attacks and that she had prior convictions for criminal conversion and theft. Humphrey testified in his own defense and stated that, while he and Strong had argued on August 18 and August 19, he never touched her and he did not break her door.

[8] The jury found Humphrey guilty as charged. The trial court entered its judgment of conviction and sentenced Humphrey accordingly. This appeal ensued.

Discussion and Decision

[9] Humphrey argues that the State did not present sufficient evidence to support his convictions. For sufficiency-of-the-evidence challenges, we consider only probative evidence and reasonable inferences therefrom that support the judgment of the trier of fact. *Hall v. State*, 177 N.E.3d 1183, 1191 (Ind. 2021). We will neither reweigh evidence nor judge witness credibility. *Id.* We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id.*

[10] We first consider Humphrey's challenge to his Level 6 felony domestic battery conviction. To show Humphrey committed Level 6 felony domestic battery as charged, the State was required to prove beyond a reasonable doubt that Humphrey touched Strong, a family or household member, in a rude, insolent,

or angry manner, which resulted in moderate bodily injury to Strong. [Ind. Code § 35-42-2-1.3\(b\)\(3\) \(2020\)](#). “Moderate bodily injury” is defined as “any impairment of physical condition that includes substantial pain.” [I.C. § 35-31.5-2-204.5 \(2020\)](#). As relevant to this charge, the State alleged that Humphrey pushing Strong down onto the broken glass caused her moderate bodily injury.

[11] Humphrey asserts that the State failed to present sufficient evidence of Strong’s moderate bodily injury because no one else observed her injuries, she did not seek treatment for the injuries, and there was no blood at the scene. But Strong testified that she sustained cuts to her hands and knees from Humphrey pushing her onto the broken glass, and she testified that the pain she felt from those injuries was a “really high ten” on a scale of one to ten. Tr. Vol. 2, p. 101. Thus, the State presented sufficient evidence to show that Strong sustained moderate bodily injury.

[12] We next consider Humphrey’s challenge to his Level 6 felony strangulation conviction. To show Humphrey committed Level 6 felony strangulation as charged, the State was required to prove beyond a reasonable doubt that Humphrey, in a rude, angry, or insolent manner, knowingly or intentionally applied pressure to Strong’s throat or neck in a manner that impeded her normal breathing. [I.C. § 35-42-2-9\(c\)\(1\) \(2020\)](#). Humphrey concedes that Strong testified that her breathing was impaired when Humphrey placed his hand against the front of her neck. Appellant’s Br. at 19. But he asserts that her testimony defies “common sense.” *Id.* Humphrey’s assertion is merely a request for this Court to reweigh the evidence, which we will not do. The State

presented sufficient evidence to show that Humphrey committed Level 6 felony strangulation.

[13] Humphrey also challenges his Level 6 felony intimidation conviction. To show Humphrey committed Level 6 felony intimidation as charged, the State was required to prove beyond a reasonable doubt that Humphrey communicated the threat of a forcible felony to Strong with the intent that Strong be placed in fear that the threat will be carried out. [I.C. § 35-45-2-1\(b\)\(1\)\(A\) \(2020\)](#). Strong testified that Humphrey, while strangling her, threatened to “kill” her and told her that if he could not have her, no one could. Tr. Vol. 2, pp. 104-05. Strong believed she was going to “die” before she convinced Humphrey to return to his vehicle for his phone. *Id.* at 105. Thus, the State presented sufficient evidence to show that Humphrey committed Level 6 felony intimidation.

[14] Last, Humphrey challenges his Class A misdemeanor domestic battery conviction. To show Humphrey committed Class A misdemeanor domestic battery as charged, the State was required to prove beyond a reasonable doubt that Humphrey touched Strong, a family or household member, in a rude, insolent, or angry manner. [I.C. § 35-42-2-1.3\(a\)\(1\) \(2020\)](#). The State showed that, on August 18, 2020, Humphrey pushed Strong, with whom he shared a household, and, later, he pulled a keychain off of her neck as he tried to pull her out of a window. Thus, the State presented sufficient evidence to show that Humphrey committed Class A misdemeanor domestic battery.

[15] Much of Humphrey's arguments on appeal seek to attack Strong's credibility based on her status as a parolee and her prior convictions for criminal conversion and theft. He also repeatedly emphasizes his own testimony on appeal in challenging his convictions. In these respects, Humphrey's arguments merely seek to have this Court reweigh the evidence, which we will not do. We affirm Humphrey's convictions.

[16] Affirmed.

Brown, J., and Molter, J., concur.