

## MEMORANDUM DECISION

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IN THE  
**Court of Appeals of Indiana**

David Allen Hampton,  
*Appellant-Defendant*

v.

State of Indiana,  
*Appellee-Plaintiff*

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March 27, 2024

Court of Appeals Case No.  
23A-CR-2617

Appeal from the Tippecanoe Superior Court

The Honorable Daniel J. Moore, Judge

Trial Court Cause No.  
79D07-2211-F6-1200

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**Memorandum Decision by Judge Bailey**  
Judges Crone and Pyle concur.

**Bailey, Judge.**

## Case Summary

- [1] David Hampton appeals his conviction of domestic battery, as a Level 6 felony.<sup>1</sup> His only contention is that the State presented insufficient evidence to support the conviction. We affirm.

## Facts and Procedural History

- [2] On October 22, 2022, at approximately 7:30 p.m., Jessica Hickey (“Jessica”) was sitting on her front porch with her husband, Nial Hickey (“Nial”). The Hickeys saw a young woman, later identified as Karann Lee, sprinting in the street, and a man, later identified as Hampton, chasing her. The Hickeys saw no one else “out on the streets” at that time. *Tr. v. II* at 100. Hampton seemed upset, and Lee was yelling for help. Hampton said “something like” “nobody’s gonna help you.” *Id.* at 105. The Hickeys called 9-1-1 because it appeared that the woman “wasn’t going to outrun” Hampton, and it “seemed like something bad was gonna happen” if he caught her. *Id.* at 104. The Hickeys had a sense the woman was in danger.
- [3] While Nial was on the phone calling 9-1-1, he saw Hampton standing over someone while making kicking and punching “motions,” but Nial could not see

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<sup>1</sup> Ind. Code § 35-42-2-1.3(a)(1), (b)(1).

the person being punched and kicked. *Id.* at 130. However, at that time, both Hickeys heard a sound like someone was being hit, and they heard a woman screaming in pain. The Hickeys heard between four and six hits. Nial told the 9-1-1 dispatcher: “[H]e’s attacking her. She’s screaming ... she’s just screaming for help ... He was chasing [the] girl saying he was gonna beat, beat her up. She, she’s out.” *Id.* at 119.

[4] The police arrived and spoke to Hampton and Lee, who were the only people outside in the area. Lee was “upset” and “emotional.” *Id.* at 138. An officer asked her if Hampton had hit her, and “she scrunched her face up [] as if she was about to start crying.” *Id.* Lee informed the officer that she and Hampton lived together in Terre Haute. Hampton, meanwhile, was “very agitated” and kept walking away from the scene. *Id.* at 182. Hampton stated, “[M]e and my girl are arguing, but that’s it. We ... doing nothing, basically.” *Id.* at 186.

[5] On November 8, 2022, the State charged Hampton with two counts of domestic battery, one as a Class A misdemeanor<sup>2</sup> and the other as a Level 6 felony involving a prior unrelated battery conviction. At Hampton’s jury trial, Lee did not testify but the Hickeys and two police officers did. The State also admitted into evidence Hampton’s 2019 plea agreement in which he pled guilty to theft and domestic battery and the order accepting the plea agreement. Hampton

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<sup>2</sup> I.C. § 35-42-2-1.3(a)(1).

was found guilty of both charges,<sup>3</sup> but the trial court entered a conviction only as to the Level 6 felony and dismissed the misdemeanor. The court sentenced Hampton to an aggregate term of 545 days, with 150 days executed and the remainder suspended to unsupervised probation. This appeal ensued.

## Discussion and Decision

[6] Hampton contends that the evidence is insufficient to support his conviction.

When reviewing the sufficiency of the evidence needed to support a criminal conviction, we neither reweigh evidence nor judge witness credibility. We consider only the evidence supporting the judgment and any reasonable inferences that can be drawn from such evidence. We will affirm if there is substantial evidence of probative value such that a reasonable trier of fact could have concluded the defendant was guilty beyond a reasonable doubt.

*Bailey v. State*, 907 N.E.2d 1003, 1005 (Ind. 2009) (internal citations omitted).

[7] “A conviction may be based on circumstantial evidence alone so long as there are reasonable inferences enabling the factfinder to find the defendant guilty beyond a reasonable doubt.” *Lawrence v. State*, 959 N.E.2d 385, 388 (Ind. Ct. App. 2012) (citation omitted), *trans. denied*. Moreover, it is well-established that a fact-finder may infer intent from circumstantial evidence alone. *E.g.*, *Brown v.*

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<sup>3</sup> His trial was broken up into two phases: in phase I, he had a jury trial that resulted in the guilty verdict on the misdemeanor charge; in phase II, he had a bench trial at which the State incorporated all evidence from the jury trial and which resulted in the felony conviction.

*State*, 64 N.E.3d 1219, 1230 (Ind. Ct. App. 2016), *trans. denied*. Such evidence need not “be insurmountable, but it must provide a solid basis to support a reasonable inference that the defendant intended to commit” the charged crime. *Deslover v. State*, 734 N.E.2d 633, 635 (Ind. Ct. App. 2000) (quotation and citation omitted), *trans. denied*.

[8] To convict Hampton of domestic battery as a Level 6 felony, the State was required to prove that: (1) Hampton (2) knowingly or intentionally (3) touched (4) a household member (5) in a rude, insolent, or angry manner and (6) had a previous unrelated battery conviction.<sup>4</sup> Ind. Code § 35-42-2-1.3(a)(1), (b)(1). The evidence established that Lee was Hampton’s live-in girlfriend. The Hickeys testified that they saw Hampton chasing Lee, that Hampton seemed upset, and that Lee was yelling for help and seemed to be in danger. Hampton told Lee that “he was gonna beat, beat her up.” Tr. v. II 119; St. Ex. 2. Then Nial saw Hampton standing over someone and making kicking and punching motions, and both Hickeys heard four to six hits and a woman screaming in pain. There were no people on the street at that time other than Hampton and Lee. Nial told the 9-1-1 dispatcher that “he’s attacking her.” *Id.* When the police arrived, only Hampton and Lee were in the area. The fact-finder could reasonably infer from this evidence that Hampton battered Lee as charged. Hampton’s argument to the contrary is a request to reweigh evidence in a

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<sup>4</sup> Hampton does not dispute that he had an unrelated battery conviction in 2019, and the evidence establishes as much.

manner inconsistent with the verdict, which this Court does not do. *Bailey*, 907 N.E.2d at 1005.

[9] The State's evidence is sufficient to support Hampton's conviction.

[10] Affirmed.

Crone, J., and Pyle, J., concur.

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