

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

William D. Titus,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

June 14, 2023

Court of Appeals Case No.
23A-CR-387

Appeal from the Cass Superior
Court

The Honorable Lisa L. Swaim,
Judge

Trial Court Cause No.
09D02-2207-CM-603

Memorandum Decision by Judge Bradford
Judges Riley and Weissmann concur.

Bradford, Judge.

Case Summary

- [1] The State charged William Titus with Class A misdemeanor domestic battery after an incident involving his then-girlfriend, now fiancée, Tonya Luse. After a bench trial, the trial court found Titus guilty as charged and sentenced him to 180 days of incarceration, all suspended to probation except for twenty-two days, which were credited as time served. Titus challenges the sufficiency of the evidence to prove that he committed domestic battery. We affirm.

Facts and Procedural History

- [2] In the Summer of 2022, Titus and Luse lived together. As Titus slept during the early morning hours of July 27, 2022, Luse began reading his text messages, coming across a ten-month-old message thread between Titus and his previous romantic partner. At that point, Luse became “irate[,]” “jerked the blankets” off of Titus, and the two “tussle[d] with the blankets.” Tr. Vol. II pp. 11, 8. During this incident, Luse “got smacked.” Tr. Vol. II p. 8. Titus became upset and began “throwing things around the house[.]” Tr. Vol. II p. 8.
- [3] Luse demanded that Titus leave. As Titus was getting dressed and rolling cigarettes to take with him, Luse became doubtful that he would actually leave, so she called the police for assistance in escorting Titus out of the house. Sometime after 6:00 a.m., Cass County Sheriff’s Deputy Nicholas Bowyer responded to Luse’s request.

[4] When Deputy Bowyer arrived on scene, he heard “yelling and screaming” inside the house. Tr. Vol. II p. 16. As he stood at the front door, Deputy Bowyer heard Luse ask Titus, “Why did you hit me?” Tr. Vol. II p. 19. Once Luse let Deputy Bowyer inside, she informed him that Titus had slapped her with his open right palm on the right side of her face. Deputy Bowyer observed “contusions or abrasions and bruising starting to settle” on Luse’s face, and “her eye was starting to swell as well.” Tr. Vol. II p. 17. When asked about her pain on a scale of one to ten, she responded that it was a ten. Deputy Bowyer asked Luse to complete a battery affidavit; however, Luse declined because she did not want to press charges and see Titus get into more trouble. While Deputy Bowyer was at the house, Titus admitted that he had punched a bedroom wall and had thrown items around but claimed that he “did not mean to” hit Luse and that he did not remember hitting her. Tr. Vol. II p. 19.

[5] Deputy Bowyer placed Titus in handcuffs and read him his *Miranda* rights. After talking with Deputy Bowyer about the incident, Titus explained that he had post-traumatic stress disorder (“PTSD”) and that he had been unable to take his medication for three months. Shortly thereafter, Titus became lightheaded, and emergency medical personnel escorted him to the emergency room for further evaluation. After medical providers examined Titus, Deputy Bowyer arrested him for domestic battery and escorted him to jail.

[6] On July 28, 2022, the State charged Titus with Class A misdemeanor domestic battery. On January 23, 2023, the trial court conducted a bench trial after which it found Titus guilty as charged. That same day, the trial court sentenced

Titus to 180 days of incarceration, all suspended to probation except for the portion that had already been served.

Discussion and Decision

[7] Titus contends that the State presented insufficient evidence to sustain his conviction for domestic battery. “When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict.” *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We will neither assess witness credibility nor “weigh the evidence to determine whether it is sufficient to support a conviction.” *Id.* When presented with conflicting evidence, we “must consider it most favorably to the trial court’s ruling.” *Id.* We will affirm the conviction “unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Id.* “It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence.” *Id.* “The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.” *Id.*

[8] The State charged Titus with Class A misdemeanor domestic battery. A person commits that crime when he knowingly or intentionally “touches a family or household member in a rude, insolent, or angry manner[.]” Ind. Code § 35-42-2-1.3(a)(1). Titus does not challenge the State’s proof of any specific elements of that statute; instead, he argues that his conduct was not voluntary. “A person commits an offense only if he voluntarily engages in conduct in

violation of the statute defining the offense.” Ind. Code § 35-41-2-1(a).

Conduct is voluntary when it “is produced by an act of choice and is capable of being controlled by a human being who is in a conscious state of mind.”

McClain v. State, 678 N.E.2d 104, 107 (Ind. 1997).

[9] Here, Titus argues that the evidence supporting his conviction is insufficient because the trial court’s determination that he had acted voluntarily was based on mere speculation. We disagree. Deputy Bowyer testified that, when he had arrived on scene, he had heard “yelling and screaming” inside the house and had heard Luse ask Titus, “Why did you hit me?” Tr. Vol. II pp. 16, 19. Deputy Bowyer also noted that “contusions or abrasions and bruising” had been forming on Luse’s face, “her eye was starting to swell[,]” and Luse had admitted that Titus had slapped her. Tr. Vol. II p. 17. Notably, Titus admitted at trial that he had been “angry” when Luse had woken him up and demanded that he leave the house. Tr. Vol. II p. 27.

[10] A reasonable factfinder could have found Titus guilty of voluntarily committing domestic battery against Luse. While Luse may have initially startled Titus awake in “the tussle with the blankets” during which she “got smacked[,]” that does not amount to a “lack of a conscious state of mind” on Titus’s part. Tr. Vol. II p. 8; *McClain*, 678 N.E.2d at 107. Further, when Titus denied intentionally hitting Luse, he explained to Deputy Bowyer that he suffers from PTSD and had not taken his medication for the preceding three months; Titus, however, fails to establish how his mental-health issues negated the voluntariness of his conduct. Moreover, Luse’s and Titus’s testimony at trial

that the slap was unintentional, or that it “could’ve been [Luse’s] own hand” that struck her, does not help Titus’s case. Tr. Vol. II p. 11. A factfinder is not required to believe a witness’s testimony, even if that testimony is uncontradicted. *Thompson v. State*, 804 N.E.2d 1146, 1149 (Ind. 2004). Therefore, the trial court reasonably weighed the evidence in reaching its conclusion. Drawing all reasonable inferences in favor of the trial court’s ruling, we conclude that the evidence is sufficient to support Titus’s conviction. *Drane*, 867 N.E.2d at 146. Titus’s argument to the contrary amounts to an invitation to reweigh the evidence, which we will not do. *Id.*

[11] The judgment of the trial court is affirmed.

Riley, J., and Weissmann, J., concur.