

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Martel Winston,  
*Appellant-Defendant*

v.

State of Indiana,  
*Appellee-Plaintiff.*

July 26, 2023

Court of Appeals Case No.  
23A-CR-163

Appeal from the Marion Superior  
Court

The Honorable Helen W. Marchal,  
Judge

Trial Court Cause No.  
49D26-2202-CM-4207

## Memorandum Decision by Judge Pyle

Judges Vaidik and Mathias concur.

**Pyle, Judge.**

## **Statement of the Case**

[1] Martel Winston (“Winston”) appeals, following a bench trial, his conviction for Class A misdemeanor battery resulting in bodily injury.<sup>1</sup> Winston argues that there is insufficient evidence to support his conviction. Concluding that the evidence is sufficient, we affirm the trial court’s judgment.

[2] We affirm.

## **Issue**

Whether there is sufficient evidence to support Winston’s conviction.

## **Facts**

[3] On January 16, 2022, Winston, Patricia Lloyd (“Lloyd”), K.E. (“K.E.”), and Percy Long (“Percy”) were working at a Dunkin’ in Marion County. Lloyd was working as the assistant manager at Dunkin’ that day. Winston began “messaging with” and “bothering” K.E. while she was working at the drive-thru window. (Tr. Vol. 2 at 97, 99). Lloyd told Winston to “stop bothering [K.E.]” multiple times. (Tr. Vol. 2 at 100). When Winston failed to comply with Lloyd’s requests, Lloyd instructed him to work in the drink station area with

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<sup>1</sup> IND. CODE § 35-42-2-1.

Percy. Winston “got upset” and “had some words to say back” about Lloyd’s instructions. (Tr. Vol. 2 at 100). Lloyd then told Winston that “if he couldn’t do what [she had] asked him to do[,] then he could leave.” (Tr. Vol. 2 at 101). Winston became “upset” and “aggressive[,]” and he responded that “he wasn’t going anywhere but [that Lloyd] c[ould] leave.” (Tr. Vol. 2 at 101).

[4] Lloyd called the district manager to report the situation and requested to “get somebody to the store because [Winston] was refusing to leave, and [Lloyd] was about to leave.” (Tr. Vol. 2 at 102). After Lloyd finished speaking with the district manager, Winston picked up a large coffee pot and “threatened to throw the hot coffee on [Lloyd].” (Tr. Vol. 2 at 103). The pot was steaming and full of coffee with a temperature of approximately 200 degrees. Lloyd struggled with Winston to keep him from pouring the coffee on her, and some of the coffee spilled on the floor.

[5] A customer at the drive-thru window, Vincent Hatch (“Hatch”), noticed “a whole lot of commotion inside the store.” (Tr. Vol. 2 at 36). Specifically, Hatch noticed that Winston seemed to be “very, very agitated and angry,” and Hatch saw Winston “pacing back and forth” and “punching in the air[.]” (Tr. Vol. 2 at 36, 37). Also, Hatch saw Winston “pick[] up the . . . tall stainless steel [pot] of coffee[,]” walk over to Lloyd, hold it over the top of her head, and spill a little bit of coffee on the floor. (Tr. Vol. 2 at 37). Hatch called 911 when he saw Winston with the coffee pot because Hatch thought “[Winston] was going to dump the hot coffee” on Lloyd. (Tr. Vol. 2 at 38). Hatch drove off once he got his order.

[6] Eventually, Winston returned the pot to the counter, and Lloyd went over to the sandwich station. Winston approached Lloyd at the sandwich station, insisted that she leave, and “got in [Lloyd’s] face.” (Tr. Vol. 2 at 109). Lloyd asked Winston to “get out of [her] face.” (Tr. Vol. 2 at 109). However, Winston refused Lloyd’s request, and he “struck [Lloyd] and hit [her] in the mouth[,]” causing her lip to “burst” and “bleed[.]” (Tr. Vol. 2 at 109-10). Lloyd grabbed a knife from the sandwich station behind her to “defend” herself and told Winston to “get the fuck away from [her].” (Tr. Vol. 2 at 111-12). Winston eventually left once a shift leader came and asked him to leave.

[7] The State charged Winston with Class A misdemeanor battery resulting in bodily injury and Class A misdemeanor intimidation. The trial court held a two-day bench trial. The trial court heard the facts as set forth above. At trial, Lloyd testified that Winston had hit and injured her top lip. Furthermore, the State introduced Exhibits 5 and 6, which were photographs of the injury to Lloyd’s top lip. During Lloyd’s cross-examination, Winston’s counsel introduced a portion of a taped statement made by Lloyd prior to trial.<sup>2</sup> In the taped statement, there was a reference about Lloyd being hit on the bottom lip. After the tape had been played, Lloyd then clarified to Winston’s counsel that her “top lip” had been injured just as it had been shown in the photographs in the State’s exhibits. (Tr. Vol. 2 at 121).

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<sup>2</sup> The taped statement was introduced for impeachment purposes only and was not admitted into the evidence.

[8] After the State had rested its case, Winston moved to dismiss both the Class A misdemeanor intimidation charge and the Class A misdemeanor battery resulting in bodily injury charge under Trial Rule 41(B). The trial court granted the motion as to the intimidation charge and denied the motion as to the battery resulting in bodily injury charge. Thereafter, Winston testified on his own behalf that he never hit Lloyd or struck her in the face. Ultimately, the trial court found Winston guilty as charged for Class A misdemeanor battery resulting in bodily injury. The trial court specifically stated that it found the State’s witnesses to be credible. The trial court further stated that it gave “little weight in terms of impeaching [Lloyd’s] testimony” about whether her top lip or bottom lip had been injured. (Tr. Vol. 2 at 151). The trial court noted that Lloyd’s testimony at trial was that her top lip had been injured and that the State’s exhibits showed an injury to her top lip. The trial court sentenced Winston to a 180-day suspended sentence.

[9] Winston now appeals.

## **Decision**

[10] Winston argues that the evidence was insufficient to support his battery resulting in bodily injury conviction. Our standard of review for sufficiency of the evidence claims is well settled. We “consider only the probative evidence and reasonable inferences *supporting* the verdict.” *Drane v. State*, 867 N.E.2d

144, 146 (Ind. 2007) (emphasis in original). We do not reweigh the evidence or 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.* at 146-47. The evidence is sufficient if an inference may be reasonably drawn from it to support the verdict. *Id.* at 147.

[11] To convict Winston of battery resulting in bodily injury as a Class A misdemeanor, the State was required to establish beyond a reasonable doubt that Winston “knowingly or intentionally . . . touch[ed] [Lloyd] in a rude, insolent, or angry manner . . . [that] result[ed] in bodily injury[.]” I.C. §§ 35-42-2-1(c)(1), (d)(1). “‘Bodily injury’ means any impairment of physical condition, including physical pain.” I.C. § 35-31.5-2-29.

[12] Winston asserts that the evidence is insufficient to prove his conviction because the parties presented conflicting testimony. Specifically, Winston points to his own testimony wherein he denied striking Lloyd and Lloyd’s testimony stating that Winston had struck her. However, Winston made that argument to the trial court, and the trial court, as a fact finder, rejected it. Specifically, the trial court weighed the credibility of the witnesses and specifically stated that it found the State’s witnesses to be more credible. We will not reweigh the trial court’s credibility determination. *See Drane*, 867 N.E.2d at 146.

[13] Winston also asserts that the evidence is insufficient because Lloyd provided inconsistent testimony as to whether the injury was to her upper lip or bottom lip. However, the trial court gave “little weight” to Winston’s attempt to

impeach Lloyd's testimony about the location of her injury. (Tr. Vol. 2 at 151). The trial court noted that Lloyd's testimony at trial was that her top lip had been injured, and the State's exhibits showed an injury to the top lip. Winston's argument amounts to a request that we reweigh the evidence, which we will not do. *See Drane*, 867 N.E.2d at 146. The evidence presented at trial supports the trial court's determination that Winston knowingly struck Lloyd in the mouth, which resulted in Lloyd's injury. Accordingly, we affirm Winston's Class A battery resulting in bodily injury conviction.

[14] Affirmed.

Vaidik, J., and Mathias, J., concur.