MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Markquine A. Jordan,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

July 7, 2022

Court of Appeals Case No. 22A-CR-18

Appeal from the Marion Superior Court

The Honorable Christina R. Klineman, Judge

Trial Court Cause No. 49D17-2107-CM-21008

Najam, Judge.

Statement of the Case

[1] Markquine Jordan appeals his conviction for battery, as a Class B misdemeanor, following a bench trial. Jordan presents a single issue for our review, namely, whether the State presented sufficient evidence to rebut his self-defense claim. We affirm.

Facts and Procedural History

[2] Jordan shares three minor children ("the Children"), including K.J., with Tyeka Austin. On May 22, 2021, Jordan was hanging out with the Children at Austin's apartment when he observed Austin's sixteen-year-old brother C.A. playing with seven-year-old K.J. C.A. pretended to arrest K.J., and C.A. was holding K.J.'s arms behind his back. Jordan thought that C.A. was being too rough with K.J., and Jordan told C.A. to let K.J. go. C.A. complied immediately. Then "a few seconds later," Jordan "punched" C.A. in his chest. Tr. at 40. The force of the punch caused C.A.'s body to fall into a nearby door. Tyeka told Jordan to leave, and he did.

[3] The State charged Jordan with battery, as a Class B misdemeanor. At the ensuing bench trial, Tyeka and others testified regarding the battery. Jordan testified and alleged that he had struck C.A. in defense of K.J. In particular, Jordan testified that he had had "concerns over the past years" regarding "inappropriate playing" between C.A. and K.J. *Id.* at 47. He testified that he believes that C.A. is "too rough" with K.J. *Id.* at 48. Jordan then testified that, on the date of the offense, C.A. and K.J.

> were playing in the front room and uh I noticed that [C.A.] had [K.J.'s] legs, and his chest, and his arms were on the ground and he was dragging him. So, I moved to the situation really slow and calm because everybody was there and there's always some- there's been some ill feelings anyway in the family, so I wanted to just show everybody that this is inappropriate. I think this is inappropriate and I'm going to do something about it. I'm going to separate them, and, you know, I tapped him in the chest just to get his attention. I just wanted to let him know that this is inappropriate play.

Id. The trial court found Jordan guilty as charged and entered judgment of conviction and sentence accordingly. This appeal ensued.

Discussion and Decision

[4] Jordan contends that the State did not present sufficient evidence to rebut his self-defense claim. Our standard of review on a claim of insufficient evidence is well settled:

> For a sufficiency of the evidence claim, we look only at the probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 687 N.E.2d 144, 146 (Ind. 2007). We do not assess the credibility of witnesses or reweigh the evidence. We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id.*

Love v. State, 73 N.E.3d 693, 696 (Ind. 2017).

[5] "'A valid claim of defense of oneself or another person is legal justification for an otherwise criminal act.'" *Simpson v. State*, 915 N.E.2d 511, 514 (Ind. Ct.

App. 2009) (quoting *Hobson v. State*, 795 N.E.2d 1118, 1121 (Ind. Ct. App. 2003)). Indiana Code Section 35-41-3-2(c) (2022) provides that "[a] person is justified in using reasonable force against any other person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force." To prevail on a claim of self-defense, the defendant must show that he was in a place where he had a right to be; did not provoke, instigate, or participate willingly in the violence; and had a reasonable fear of death or great bodily harm. *See Simpson*, 915 N.E.2d at 514 (citation omitted). 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 beyond a reasonable doubt." *Id.* The State may meet its burden by either rebutting the defense directly or by relying on the sufficiency of the evidence in its case-in-chief. *Id.* (citation omitted).

[6] Here, Jordan asserts that he was legally justified in punching C.A. because he was in a place he had a right to be, he did not instigate the violence, and he was only protecting his son from what he reasonably believed to be danger from C.A.'s rough play. But Jordan's argument on appeal amounts to a request that we reweigh the evidence, which we cannot do. The State presented evidence that, when Jordan told C.A. to release K.J.'s arms from behind his back, C.A. immediately complied. At that point, K.J. was in no physical danger from C.A. But "a few seconds later," Jordan "punched" C.A. in his chest. Tr. at 40. Jordan testified that he "tapped" C.A. in the chest "just to get his attention." *Id.* at 48. The evidence negates two elements of Jordan's self-defense claim,

namely, that he did not instigate the violence and that he reasonably feared for K.J.'s safety when he hit C.A. *See Simpson*, 915 N.E.2d at 514. We affirm Jordan's conviction for battery, as a Class B misdemeanor.

[7] Affirmed.

Bradford, C.J., and Bailey, J., concur.