

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Ayesha Hawthorne,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

April 10, 2023

Court of Appeals Case No.
22A-CR-2017

Appeal from the Marion Circuit
Court

The Honorable Helen W. Marchal,
Judge

Trial Court Cause No.
49D26-2105-CM-14058

Memorandum Decision by Judge Kenworthy
Judges Robb and Crone concur.

Kenworthy, Judge.

Case Summary

- [1] Ayesha Hawthorne was convicted of Class A misdemeanor battery resulting in bodily injury.¹ Hawthorne now appeals, raising one issue for our review: whether the State presented sufficient evidence to support her conviction. Concluding the State presented sufficient evidence, we affirm.

Facts and Procedural History

- [2] Hawthorne went to Solano and Sons auto repair shop, seeking repairs to her vehicle. Hawthorne received a cost estimate of \$260, filled out a repair authorization document, and left the shop. The mechanic working on Hawthorne's vehicle, Jose Hurtado, discovered the repair required a new part, increasing the cost. Hurtado replaced the part. Hawthorne returned to pick up her vehicle and learned the cost of the repair had increased by about \$50.
- [3] Hawthorne and the State's witnesses provided conflicting testimony about what happened next. Maria Solano, one of the owners of Solano and Sons, testified at the bench trial that Hawthorne began yelling. *Tr. Vol. 2* at 65–66. Hurtado tried to explain the reason for the additional cost to Hawthorne, but Hawthorne would not listen. *Id.* at 66. Solano told Hurtado to remove the part and charge Hawthorne the original price. Hawthorne tried to go into the work area to

¹ Ind. Code §§ 35-42-2-1(c)(1), (d)(1) (2020).

access her vehicle, but the work area was blocked by a chain. Hawthorne demanded the repair authorization she had signed. Solano searched for the document but could not find it among other customers' documents.

Hawthorne began pulling on her clipboard, and Solano raised her hands to prevent Hawthorne from grabbing other customers' documents. *Id.* As soon as Solano raised her hands, Hawthorne pulled Solano's ponytail from the back, causing Solano to feel pain. *Id.* at 67–68. Hawthorne reached toward Solano's face with her fingernails, scratching Solano. Hawthorne then began hitting Solano "all over." *Id.* Hawthorne's purse fell during the struggle, and its contents spilled onto the ground. One of Hawthorne's fake fingernails also fell to the ground.

[4] Hurtado also testified at the bench trial, saying he "saw part" of the physical struggle between Hawthorne and Solano and "heard everything." *Id.* at 74. He believed Hawthorne was the aggressor. *Id.* at 75.

[5] Hawthorne asserted self-defense, denying she grabbed Solano. *Id.* at 82. According to Hawthorne, when she returned to the repair shop to pick up her car and learned about the new cost, she told Solano and Hurtado that she did not have enough cash. *Id.* at 76–77. Hawthorne had \$260 in cash, and asked Hurtado to "take a part off and make it whatever the quote was for \$260[.]" *Id.* at 77. Hurtado agreed and "started taking the parts off." *Id.* Hawthorne then found out the shop could only take cash, and asked Hurtado and Solano if she could go get the rest of the cash and come back. *Id.* Hawthorne believed "[Hurtado's and Solano's] actions were showing they were going to keep [her]

car.” *Id.* She was “intimidated and scared,” and “kept begging and pleading” to pay for her car and leave. *Id.* at 77–78. Hawthorne took videos on her phone and the trial court admitted them into evidence. Hawthorne said the videos demonstrated that Solano aimed and “swung on” her. *Id.* at 80. Hawthorne claimed she blocked Solano’s punch, and Hurtado stepped in between Hawthorne and Solano. *Id.* at 79. Hawthorne called 911. Hawthorne said her fingernail fell off as she was blocking Solano’s punch, and the scratches on Solano could have been from Hawthorne’s attempt to defend herself from Solano’s attack. *Id.* at 82.

- [6] The State charged Hawthorne with Class A misdemeanor battery resulting in a bodily injury. Following the bench trial at which Solano and Hawthorne testified as above, the court found Hawthorne guilty. The trial court found Solano’s testimony credible and saw no incentive for her to make up the events described. *Id.* at 85. As to Hawthorne’s self-defense claim, the court found no “indication that [Hawthorne] did not provoke or instigate the issue[.]” *Id.* The trial court sentenced Hawthorne to 365 days, crediting her for six days in jail and suspending the rest to probation. Hawthorne now appeals.

Discussion and Decision

1. Standard of Review

- [7] Hawthorne argues the State failed to present sufficient evidence to rebut her self-defense claim. “The standard of review for a challenge to the sufficiency of evidence to rebut a claim of self-defense is the same as the standard for any

sufficiency of the evidence claim.” *Wilson v. State*, 770 N.E.2d 799, 801 (Ind. 2002). When reviewing the sufficiency of the evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the judgment. *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005). We neither reweigh the evidence nor judge the credibility of witnesses. *Bell v. State*, 31 N.E.3d 495, 499 (Ind. 2015). We affirm the conviction unless “no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007).

2. Sufficiency of the Evidence

[8] Focusing on her own testimony, Hawthorne argues she was confronted and attacked by Solano, and her actions stemmed from “a perceived as well as a real threat.” *Appellant’s Br.* at 13. According to Hawthorne, “[s]he defended herself and the State’s evidence was insufficient to negate her valid self-defense claim.” *Id.* Under Indiana Code Section 35-41-3-2(c), “[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.” A person may not use force if the person is the initial aggressor except in certain circumstances. I.C. § 35-41-3-2(g). To prevail on a claim of self-defense, the defendant must show the defendant: (1) was in a place where the defendant had a right to be; (2) did not provoke, instigate, or participate willingly in the violence; and (3) had a reasonable fear of death or great bodily harm. *Wilson*, 770 N.E.2d at 800.

[9] To rebut a claim of self-defense supported by the evidence, the State has the burden of negating at least one of the elements. *Wilson*, 770 N.E.2d at 800. “The State may meet this burden by rebutting the defense directly, by affirmatively showing the defendant did not act in self-defense, or by simply relying upon the sufficiency of its evidence in chief.” *Miller v. State*, 720 N.E.2d 696, 700 (Ind. 1999). Here, the State claims “Hawthorne was the initial aggressor.” *Appellee’s Br.* at 8. Solano testified Hawthorne began yelling when she learned of the price change and then began the physical altercation by pulling Solano’s hair. *Tr. Vol. 2* at 66–67.

[10] Hawthorne testified on her own behalf, and Solano and Hurtado testified for the State. Where there are two versions of the events, the trial court may reject the defendant’s version and adopt the version it finds more credible. *Robinson v. State*, 486 N.E.2d 986, 988 (Ind. 1985). The trial court believed Solano’s and Hurtado’s version of the events instead of Hawthorne’s. Hawthorne is inviting us to reweigh the evidence and determine the credibility of the witnesses for ourselves. Whether the State has disproved a claim of self-defense is a question for the fact-finder, not this Court. *Crisler v. State*, 509 N.E.2d 822, 823 (Ind. 1987). Our role in evaluating the sufficiency of the evidence is to view the evidence in a light most favorable to the judgment. The trial court relied on testimony from Solano and Hurtado to conclude the State met its burden of rebutting Hawthorne’s self-defense claim, and that evidence is sufficient.

Conclusion

[11] The State presented sufficient evidence to support Hawthorne's battery conviction. Accordingly, we affirm.

[12] Affirmed.

Robb, J., and Crone, J., concur.