

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Brandon Terrall Johnson,  
*Appellant-Defendant*

v.

State of Indiana,  
*Appellee-Plaintiff.*

August 11, 2023

Court of Appeals Case No.  
23A-CR-257

Appeal from the St. Joseph  
Superior Court

The Honorable Jeffrey L.  
Sanford, Judge

Trial Court Cause No.  
71D03-2009-F6-926

## Memorandum Decision by Judge Pyle

Judges Vaidik and Mathias concur.

**Pyle, Judge.**

## **Statement of the Case**

[1] Brandon Terrall Johnson (“Johnson”) appeals his conviction by jury of Level 6 felony domestic battery.<sup>1</sup> He argues that there is insufficient evidence to support his conviction. Concluding that there is sufficient evidence to support Johnson’s conviction, we affirm the trial court’s judgment.

[2] We affirm.

## **Issue**

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

## **Facts**

[3] The facts most favorable to the judgment reveal that in July 2020, Johnson and R.M. (“R.M.”) were involved in an “on and off relationship.” (Tr. Vol. 2 at 15). Johnson is the father of R.M.’s youngest son, B.J. (“B.J.”), who was one year old at the time. R.M. has two additional sons who were eight years old and six years old.

[4] On July 17, 2020, Johnson was at R.M.’s apartment when R.M. told him that she planned to take her three sons to a barbeque at her brother’s house. R.M.

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<sup>1</sup> IND. CODE § 35-42-2-1.3.

further told Johnson that she did not want him to attend the barbeque and that she would drop him off at a family member's house where he had been living. When no one was home at that house, R.M. offered to drive Johnson to another location. However, Johnson asked why he could not attend the barbeque, and he and R.M. began arguing. R.M. repeatedly asked Johnson to exit the car, but he refused to do so. When R.M. attempted to "nudge [Johnson] out of the car" without using "force or anything[,]," Johnson told R.M. not to touch him. (Tr. Vol. 2 at 19-20). When R.M. nudged Johnson a second time, Johnson grabbed R.M.'s arm and bit her. Concerned for her safety, R.M. drove her car to a nearby gas station.

[5] While at the gas station, R.M. continued to ask Johnson to exit her car. However, Johnson refused to comply with R.M.'s requests. Johnson then reached around to the backseat and attempted to unsnap the seatbelt on B.J.'s car seat. When R.M. attempted to remove Johnson's hands from B.J.'s car seat, Johnson punched R.M. in the face with a closed fist. As R.M. attempted to protect her face with her hands, Johnson punched her more than seven times with a closed fist while R.M.'s three sons were crying in the back seat. Johnson eventually got out of the car and left the gas station, and R.M. went to a nearby hospital to seek medical treatment. She was in pain, had a knot on the back of her head, and a bite mark and multiple bruises on her arm.

[6] In September 2020, the State charged Johnson with Level 6 felony domestic battery and Class A misdemeanor domestic battery. The jury heard the evidence as set forth above at Johnson's September 2021 trial. In addition,

Johnson testified that R.M. had hit him with a closed fist while they were sitting in the car in front of his family member's house. Johnson further testified that he did not remember biting R.M. In addition, Johnson testified that he had only struck R.M. at the gas station after she had struck him multiple times and "busted [his] lip." (Tr. Vol. 2 at 36). The jury convicted Johnson of both Level 6 felony domestic battery and Class A misdemeanor domestic battery, and the trial court entered judgment of conviction on the Level 6 felony count.

[7] Johnson now appeals.

## **Decision**

[8] Johnson argues that there is insufficient evidence to support his conviction. Specifically, he contends that the State failed to rebut his claim that he had acted in self-defense. We disagree.

[9] The standard of review for a challenge to the sufficiency of the evidence to rebut a claim of self-defense is the same as the standard for any sufficiency of the evidence claim. *Cole v. State*, 28 N.E.3d 1126, 1136-37 (Ind. Ct. App. 2015). We neither reweigh the evidence nor judge the credibility of witnesses. *Id.* at 1137. Additionally, if there is sufficient evidence of probative value to support the conclusion of the trier of fact, then the verdict will not be disturbed. *Id.*

[10] A valid claim of self-defense is legal justification for an otherwise criminal act. *Id.* "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.” IND. CODE § 35-41-3-2(c). In order to prevail on a claim of self-defense, a defendant must show that: (1) he was in a place where he had a right to be; (2) he acted without fault; and (3) he had a reasonable fear of death or great bodily harm. *Cole*, 28 N.E.3d at 1137.

[11] 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. *Id.* 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. *Id.* Whether the State has met its burden is a question of fact for the factfinder. *Id.*

[12] Here, the State met its burden by presenting evidence negating all three of the necessary elements. First, the State presented evidence that Johnson was not in a place that he had a right to be. Rather, he was in R.M.’s car, and she had asked him to exit the car. Second, the State presented evidence that Johnson did not act without fault. Specifically, Johnson could have exited R.M.’s car when asked to do so without biting her and punching her with a closed fist more than seven times. Third, there is simply no evidence that Johnson had a reasonable fear of death or great bodily harm. We further note that Johnson’s self-defense claim also fails because he used more force than was reasonably necessary under the circumstances. *See Sudberry v. State*, 982 N.E.2d 475, 481 (Ind. Ct. App. 2013) (explaining that a self-defense claim will fail if a person uses more force than is reasonably necessary under the circumstances).

[13] Ultimately, Johnson's argument that his trial testimony showed that he justifiably acted in self-defense when he punched R.M. with a closed fist more than seven times is nothing more than an invitation to reweigh the evidence and judge the credibility of the witnesses, which we will not do. *See Cole*, 28 N.E.3d at 1137. There is sufficient evidence to rebut Johnson's claim of self-defense, and, therefore, to support Johnson's conviction.

[14] Affirmed.

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