

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Edward D. Lowe,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

January 24, 2023

Court of Appeals Case No.
22A-CR-1432

Appeal from the
Marion Superior Court

The Honorable
Charnette D. Garner, Judge

Trial Court Cause No.
49D35-2203-F6-6458

Foley, Judge.

[1] Edward D. Lowe (“Lowe”) was convicted after a bench trial of domestic battery¹ as a Class A misdemeanor. He appeals his conviction, arguing that the evidence presented at his trial was not sufficient to support the conviction. Because we find that the evidence presented was sufficient, we affirm.

Facts and Procedural History

[2] On March 6, 2022, Lowe and his wife, M.D.M.S., were at their home when Lowe began arguing with M.D.M.S. He called her a prostitute and said that he was going to kill her. M.D.M.S. was fearful of Lowe, hid behind a stove, and told Lowe to stay away from her. The next morning, on March 7, 2022, Lowe took M.D.M.S by the arm and took her to the bed. The two were struggling, and Lowe was pulling M.D.M.S. She escaped from his hold and ran outside, but Lowe pursued her and again grabbed M.D.M.S. by the arm. Lowe threw M.D.M.S. onto the bed, and she managed to escape a second time. M.D.M.S. attempted to flee the residence, but Lowe again grabbed her arm, and she lost her footing. Lowe dragged her by the arm back inside the apartment and threw her on the couch, which caused her to hit her neck on a wooden part of the couch. As he was throwing her on the couch, Lowe continued to call M.D.M.S. a prostitute. Lowe then took M.D.M.S. to their bed and had sex with her, even though she told him not to touch her. M.D.M.S. experienced bruising on her arm, neck pain, and back pain as a result of Lowe’s actions.

¹ Ind. Code § 35-42-2-1.3(a)(1).

[3] On March 9, 2022, the State charged Lowe with Level 6 felony domestic battery and Class A misdemeanor interference with the reporting of a crime. A bench trial was held on June 3, 2022. After the State rested, Lowe moved for judgment on the evidence. The trial court denied the motion as to the domestic battery count but granted it as to the interference with the reporting a crime count. At the conclusion of the bench trial, the trial court found Lowe guilty of Class A misdemeanor domestic battery as a lesser-included offense to the charged Level 6 felony. The trial court sentenced Lowe to 365 days with 187 days suspended. Lowe now appeals.

Discussion and Decision

[4] Lowe argues that the evidence presented at trial was insufficient to support his conviction for Class A misdemeanor domestic battery. When there is a challenge to the sufficiency of the evidence, “[w]e neither reweigh evidence nor judge witness credibility.” *Gibson v. State*, 51 N.E.3d 204, 210 (Ind. 2016), *reh’g denied, cert. denied*. Instead, “we consider only that evidence most favorable to the judgment together with all reasonable inferences drawn therefrom.” *Id.* (internal quotation marks, bracket, and ellipses omitted). “We will affirm the judgment if it is supported by substantial evidence of probative value even if there is some conflict in that evidence.” *Id.* (internal quotation marks, ellipses, and brackets omitted). Further, “[w]e will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Love v. State*, 73 N.E.3d 693, 696 (Ind. 2017).

[5] To convict Lowe of Class A misdemeanor domestic battery, the State was required to prove that Lowe knowingly or intentionally touched a family or household member in a rude, insolent, or angry manner. Ind. Code § 35-42-2-1.3(a)(1). “Evidence of touching, however slight, is sufficient to support a conviction for battery.” *Ball v. State*, 945 N.E.2d 252, 258 (Ind. Ct. App. 2011), *trans. denied*. In support of his claim of insufficient evidence, Lowe asserts that the testimony of M.D.M.S. was “nonsensical” and the trial court had difficulty understanding the testimony due to the use of an interpreter. These arguments are merely requests for us to reweigh the evidence and judge the credibility of the witness, which we cannot do. *See Gibson*, 51 N.E.3d at 210.

[6] Looking to the evidence most favorable to the judgment presented at trial, we conclude that there was sufficient evidence presented to support Lowe’s conviction. M.D.M.S. testified that on the date of the crime, she was married to Lowe. Further, M.D.M.S. testified that Lowe either grabbed her or threw her on multiple occasions. Although M.D.M.S.’s testimony may have been difficult to understand, and portions of the testimony may have been inconsistent, sufficient evidence was presented to establish the elements of domestic battery beyond a reasonable doubt.

[7] Affirmed.

Robb, J., and Mathias, J., concur.