

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Tracy L. Ash,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

November 16, 2021

Court of Appeals Case No.
21A-CR-746

Appeal from the Marion Superior
Court

The Honorable Clark Rogers,
Judge

Trial Court Cause No.
49D25-2007-CM-023361

Altice, Judge.

Case Summary

- [1] Following a bench trial, Tracy Ash was convicted of battery as a Class A misdemeanor and criminal mischief as a Class B misdemeanor. On appeal, Ash argues the State presented insufficient evidence to convict her.
- [2] We affirm.

Facts & Procedural History

- [3] In July of 2020, William Kirk lived in a house located between the homes of Carri Alexander and Tracy Ash on Bellwood Drive in Indianapolis, Indiana. Alexander lived with her fiancé and teenage daughter, and Ash lived with her husband. Kirk and Ash had been having an affair for approximately three years.
- [4] On July 23, 2020, Alexander called Kirk to return a drill she borrowed from him. Because Alexander had experienced “prior issues” with Ash “kind of stalking [Kirk] and [Alexander],” she asked Kirk to retrieve the drill from her bedroom window to avoid any issues with Ash. *Transcript* at 7. After exchanging the drill, Kirk and Alexander spoke for a few minutes through the window.
- [5] Meanwhile, Ash decided to go over to Kirk’s house. After hearing Kirk’s voice coming from the side of his house, she turned the corner and approached him and Alexander. Ash and Alexander engaged in a verbal altercation, and Kirk left. Ash proceeded to punch through the window screen and hit Alexander in

the face, requiring Alexander to seek medical attention. Two officers from the Indianapolis Metropolitan Police Department arrived at the scene and noticed Alexander's mouth area was bleeding and the window screen was damaged.

[6] On July 28, 2020, Ash was charged with one count of battery as a Class A misdemeanor and one count of criminal mischief as a Class B misdemeanor. A bench trial was held on April 19, 2021, at the conclusion of which Ash was convicted of both charges. She was subsequently sentenced to ninety days with four days credit and eighty-six days suspended to unsupervised probation. Ash now appeals.

Discussion and Decision

[7] Ash argues that the evidence presented by the State was insufficient to support her convictions. When a challenge to the sufficiency of the evidence is raised, appellate courts will not reweigh the evidence nor judge the credibility of the witnesses. *Atteberry v. State*, 911 N.E.2d 601, 609 (Ind. Ct. App. 2009). This court will only consider the evidence which supports the conviction and the reasonable inferences to be drawn therefrom. *Id.* A conviction will be affirmed “if there is substantial evidence of probative value supporting each element of the crime from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt.” *Davis v. State*, 813 N.E.2d 1176, 1178 (Ind. 2004). Further, it is not necessary that the evidence overcome every reasonable hypothesis of innocence. *Drane v. State*, 867 N.E.2d 144, 147 (Ind. 2007).

[8] To convict Ash of battery as a Class A misdemeanor, the State was required to show that Ash “knowingly or intentionally” touched Alexander “in a rude, insolent, or angry manner” and that the touching resulted in bodily injury to Alexander. Ind. Code §§ 35-42-2-1(c)(1), (d)(1). Ash’s two main arguments are that her shoulder injury would have prevented her from punching through the screen and that she was not at the scene of the crime when the police officers arrived. These arguments ask us to reweigh the evidence presented at trial, which we cannot do. Ash also contends that Alexander’s testimony about the incident was “suspect” and uncorroborated. *Appellant’s Brief* at 10. We disagree.

[9] It is well established that “the uncorroborated testimony of a single witness is sufficient to sustain a conviction.” *Dobbins v. State*, 721 N.E.2d 867, 875 (Ind 1999). Here, Alexander testified that Ash punched her through her window screen and caused an injury to her lip that required medical attention and stitches. The photographs of both Alexander’s injury and the window screen corroborate her testimony. Additionally, contrary to Ash’s claim, Officer Austin Kirby testified that Ash was at the scene. From this evidence, a reasonable trier of fact could have concluded that Alexander at least knowingly, if not intentionally, hit Alexander and caused injury. The evidence is sufficient to sustain Ash’s conviction of battery as a Class A misdemeanor.

[10] Ash also challenges the sufficiency of the evidence in relation to her conviction of criminal mischief. To convict Ash of criminal mischief as a Class B misdemeanor, the State was required to prove that she “recklessly, knowingly,

or intentionally damage[d] or deface[d] property of another person without the other person's consent." Ind. Code § 35-43-1-2(a). Alexander testified that Ash "punched threw [*sic*] [her] screen and hit [her] in the face." *Transcript* at 19. The photograph of the damaged screen corroborates her testimony. This evidence is sufficient to support her conviction for criminal mischief as a Class B misdemeanor.

[11] Judgment affirmed.

Bradford, C.J. and Robb, J., concur.