MEMORANDUM DECISION

ATTORNEYS FOR APPELLANT

Valerie K. Boots
Marion County Public Defender Agency
Indianapolis, Indiana

Barbara J. Simmons
Batesville, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Nicole D. Wiggins
Deputy Attorney General

Robert M. Yoke
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

Christopher Scott,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

January 11, 2024

Court of Appeals Case No. 23A-CR-1103

Appeal from the Marion Superior Court

The Honorable Helen W. Marchal, Judge

The Honorable Denise Turner, Judge Pro Tempore

Trial Court Cause No. 49D26-2302-CM-4177

Memorandum Decision by Judge Bailey
Judges May and Felix concur.

Bailey, Judge.

Case Summary

[1] Christopher Scott appeals his convictions for Theft, as a Class A misdemeanor,[1] and Battery, as a Class B misdemeanor.[2] He contends that the State failed to show that he acted with the requisite criminal intent and thus his convictions are unsupported by sufficient evidence. We affirm.

Facts and Procedural History

[2] On February 11, 2023, Scott entered a Needler's Fresh Market, selected three candy bars, and "concealed them in his pocket." (Tr. Vol. II, pg. 28.) He walked past the cash registers and continued toward the exit. Loss prevention officer Angelina Marshall, who had been observing Scott via store surveillance equipment, approached Scott and placed her hand on his arm. Marshall told Scott: "sir, I need you to take the candy out of your pocket and then you can go." (*Id.* at 29.) Scott responded: "get your hands off me or something is going to happen." (*Id.*)

[3] Marshall pulled Scott back into the store and the two began to "tussle," with each grasping the other's wrist. (*Id.* at 42.) Daniel Bernhardt, the store

---

[1] Ind. Code § 35-43-4-2(a).

[2] I.C. § 35-42-2-1(c)(1).

manager, came up to offer Marshall assistance; he placed his hand on Scott's shoulder. Scott then struck Marshall with his closed fist, impacting the left side of her face. Bernhardt grabbed Scott's arm and took him to the floor, where he was held until police arrived. An officer searched Scott's pocket and retrieved the candy bars. Scott was arrested.

[4] On February 12, 2023, the State charged Scott with Theft and Battery. At the conclusion of a bench trial conducted on April 18, 2023, Scott was convicted as charged. He was given concurrent sentences of twenty days each. Scott now appeals.

Discussion and Decision

Standard of Review

[5] When reviewing the evidence in support of a conviction, we consider only the probative evidence and reasonable inferences most favorable to the trial court's judgment. *Binkley v. State*, 654 N.E.2d 736, 737 (Ind. 1995). The decision comes before us with a presumption of legitimacy, and we do not substitute our judgment for that of the fact-finder. *Id*. We do not assess the credibility of the witnesses and we do not reweigh the evidence. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). Reversal is appropriate only when no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Id*.

[6] Pursuant to Indiana Code Section 35-41-2-2(a), "[a] person engages in conduct 'intentionally' if, when he engages in the conduct, it is his conscious objective to

do so." Pursuant to Indiana Code Section 35-41-2-2(b), "[a] person engages in conduct 'knowingly' if, when he engages in the conduct, he is aware of a high probability that he is doing so." Whether one has "knowledge" is a question of a mental state and, "absent an admission by the defendant, the [fact-finder] must resort to the reasonable inferences from both the direct and circumstantial evidence to determine whether the defendant has the requisite knowledge or intent to commit the offense in question." *Pritcher v. State*, 208 N.E.3d 656, 665-66 (Ind. Ct. App. 2023).

Analysis

[7] Theft. To support Scott's conviction for Theft, as a Class A misdemeanor, as charged, the State was required to prove beyond a reasonable doubt that Scott knowingly or intentionally exerted unauthorized control of Needler Fresh Market merchandise with the "intent to deprive the store of any part of its value or use." Ind. Code § 35-43-4-2(a).

[8] Marshall testified that she observed, through video surveillance equipment located in a loss prevention office, Scott take three candy bars and place them in his pocket. She further observed Scott pass all the cash registers and proceed toward the store exit without making a purchase. When Scott was apprehended, an officer removed candy bars from his pocket. According to Scott, there is a "question regarding the video's quality" and "there are other reasons he may have been in the part of the store such as retrieving a shopping basket." Appellant's Brief at 9-10. He asks that we consider whether his intent could have been to continue to shop. In short, he presents a request that we

reweigh the evidence and find Marshall's testimony of her observations to be lacking in credibility. This we cannot do. *Drane*, 867 N.E.2d at 146. The State presented sufficient evidence from which the fact-finder could conclude that Scott knowingly or intentionally committed Theft.

[9] Battery. To support Scott's conviction for Battery, as a Class B misdemeanor, as charged, the State was required to show beyond a reasonable doubt that Scott knowingly or intentionally touched Marshall in a rude, insolent, or angry manner. I.C. § 35-42-2-1(c)(1). Scott concedes that he used his left hand to strike Marshall on the left side of her face. However, according to Scott, "the confusion and the chaos of the scuffle in Needler's Market that evening seed doubt as to whether [he] acted with any intent at all or simply reacted with surprise and confusion to the confrontation." Appellant's Brief at 13.

[10] Marshall testified that she confronted Scott and demanded the return of candy bars. He then verbally threatened her, grabbed her wrist, and used a closed fist to strike her in the face. Bernhardt also testified that Scott struck Marshall. Scott's emphasis upon the chaotic nature of the encounter simply presents a request to reweigh the evidence. The State presented sufficient evidence from which the fact-finder could conclude that Scott knowingly or intentionally committed a battery upon Marshall.

Conclusion

[11] The State presented sufficient evidence to support Scott's convictions.

[12] Affirmed.

May, J., and Felix, J., concur.