

# MEMORANDUM DECISION

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# IN THE COURT OF APPEALS OF INDIANA

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Jacob A. Maden,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

August 16, 2023

Court of Appeals Case No.  
22A-CR-2832

Appeal from the Warrick Superior  
Court

The Honorable Amy Steinkamp  
Miskimen, Judge

Trial Court Cause No.  
87D02-2107-F5-363

**Memorandum Decision by Judge Kenworthy**  
Judges Bailey and Tavitas concur.

**Kenworthy, Judge.**

## Case Summary

- [1] Jacob A. Maden appeals his conviction for Level 5 felony domestic battery resulting in serious bodily injury,<sup>1</sup> raising for our review the sole issue of whether there is sufficient evidence his offense resulted in serious bodily injury. Concluding the State presented sufficient evidence, we affirm.

## Facts and Procedural History

- [2] In June 2021, Maden and Victoria Riley were in a relationship. Around June 9th or 10th, Riley learned she was pregnant with Maden's child. About a day later, Maden and Riley had a heated argument. During the argument, Maden grabbed Riley by her hair, placed his hands around Riley's neck, and hit Riley on the right-side of her head with a closed fist. Riley was able to escape by running to a neighbor's house. Following her argument with Maden, Riley suffered bruising and marks on her arm, shoulder, neck, knee, and thigh as well as ear pain and hearing loss.
- [3] Riley visited the emergency room to seek treatment for her hearing loss. There, she reported ear pain and abdominal cramping to hospital staff. Because she was embarrassed and scared about what could happen to her if she told the truth, Riley told hospital personnel a recent fall caused her injuries. In turn, the hospital staff informed Riley her eardrum had ruptured, prescribed her eardrops to heal her ruptured eardrum, and confirmed she was pregnant. The emergency

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<sup>1</sup>Ind. Code §§ 35-42-2-1.3(a)(1) & (c)(1) (2020).

room physician recommended Riley follow up with an ear, nose, and throat specialist to determine if surgery was necessary to repair Riley’s eardrum. However, Riley did not want to have surgery because she had a “high-risk pregnancy”—due to a previous miscarriage—and worried she could lose her child by undergoing such treatment. *Tr. Vol. 2* at 125, 143–45. About a week after she went to the emergency room, Riley reported the incident to the police.

[4] The State charged Maden with four counts: Level 5 felony domestic battery resulting in serious bodily injury; Level 5 felony domestic battery resulting in bodily injury to a pregnant woman; Level 5 felony strangulation; and Level 6 felony intimidation. The State also alleged Maden was a habitual offender. A jury found Maden guilty of domestic battery resulting in serious bodily injury and domestic battery resulting in bodily injury to a pregnant woman and determined he was a habitual offender. The jury found Maden not guilty of strangulation and intimidation. Subsequently, the trial court entered judgment of conviction on the guilty finding of domestic battery resulting in serious bodily injury, dismissed the guilty finding of domestic battery resulting in bodily injury to a pregnant woman, and sentenced Maden to an aggregate sentence of ten years.

[5] Maden now appeals.

## **Discussion and Decision**

### ***Standard of Review***

[6] Maden argues the State failed to present sufficient evidence that Riley suffered a serious bodily injury. A sufficiency-of-the-evidence claim warrants a “deferential standard of appellate review, in which we ‘neither reweigh the evidence nor judge witness credibility[.]’” *Owen v. State*, 210 N.E.3d 256, 264 (Ind. 2023) (quoting *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *cert. denied*). Rather, “we consider only probative evidence and reasonable inferences that support the judgment of the trier of fact.” *Hall v. State*, 177 N.E.3d 1183, 1191 (Ind. 2021). “We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Id.* It is “not necessary that the evidence ‘overcome every reasonable hypothesis of innocence.’” *Drane v. State*, 867 N.E.2d 144, 147 (Ind. 2007) (quoting *Moore v. State*, 652 N.E.2d 53, 55 (Ind. 1995)).

### ***Serious Bodily Injury***

[7] Under Indiana’s domestic battery statute, “a person who knowingly or intentionally . . . touches a family or household member in a rude, insolent or angry manner” commits domestic battery. I.C. § 35-42-2-1.3(a)(1). The offense is elevated to a Level 5 felony if the “offense results in *serious bodily injury* to a family or household member.” I.C. § 35-42-2-1.3(c)(1) (emphasis added). In his sufficiency challenge, Maden does not argue the State failed to meet its evidentiary burden as to whether he knowingly or intentionally touched Riley—a family or household member—in a rude, insolent, or angry manner. Instead, Maden challenges only whether the State’s evidence was sufficient to prove beyond a reasonable doubt that Riley suffered a serious bodily injury.

[8] Bodily injury means “any impairment of physical condition, including physical pain.” I.C. § 35-31.5-2-29. And Indiana Code Section 35-31.5-2-292 defines serious bodily injury as “bodily injury that creates a substantial risk of death or that causes: (1) serious permanent disfigurement; (2) unconsciousness; (3) extreme pain; (4) permanent or protracted loss or impairment of the function of a bodily member or organ; or (5) loss of a fetus.” Relevant here, “protracted” means “to draw out or lengthen in time,” *Neville v. State*, 802 N.E.2d 516, 518 (Ind. Ct. App. 2004) (citations omitted), *trans. denied*, and “impairment” means the “fact or state of being damaged, weakened, or diminished,” *Mann v. State*, 895 N.E.2d 119, 122 (Ind. Ct. App. 2008) (quoting *Fleming v. State*, 833 N.E.2d 84, 89 (Ind. Ct. App. 2005)).

[9] There is no “bright-line test to distinguish . . . between bodily injury and serious bodily injury.” *Bailey v. State*, 979 N.E.2d 133, 141 n.17 (Ind. 2012). And, “[o]ur commitment to the role of fact-finders tends to produce considerable deference on a matter as judgmental as whether a bodily injury was ‘serious.’” *Davis v. State*, 813 N.E.2d 1176, 1178 (Ind. 2004).

[10] Here, because of Maden’s actions, Riley suffered ear pain and hearing loss. During her visit to the emergency room, hospital staff diagnosed Riley with a ruptured eardrum, prescribed her eardrops, and advised her to see an ear, nose, and throat specialist to determine if she needed surgery to repair her torn eardrum. Shortly after the incident, Riley told the police she could not hear out of her ear and testified at Maden’s trial she had not regained hearing in that ear—approximately a year and a half after Maden hit her. *Tr. Vol. 2* at 73, 110.

Essentially, Maden asks us to reweigh evidence; a task we will not undertake. Sufficient evidence exists from which a reasonable finder of fact could determine Riley suffered a “protracted loss or impairment of the function” of her ear. I.C. § 35-31.5-2-292(4).

## **Conclusion**

[11] We conclude the State presented sufficient evidence of probative value from which a reasonable jury could find beyond a reasonable doubt that Riley suffered a serious bodily injury. Thus, the State’s evidence was sufficient to support Maden’s conviction for Level 5 felony domestic battery resulting in serious bodily injury.

[12] Affirmed.

Bailey, J., and Tavitas, J., concur.