



Karla J. Reaser was convicted of Class C felony battery,<sup>1</sup> Class A misdemeanor possession of paraphernalia,<sup>2</sup> and Class D felony criminal confinement.<sup>3</sup> Reaser appeals her confinement conviction contending that the trial court's failure to instruct the jury, *sua sponte*, on the meaning of the word "confine" constituted fundamental error.

We affirm.

### **FACTS AND PROCEDURAL HISTORY**

Reaser was engaged in an ongoing sexual relationship with Jim Hicks. She discovered that another woman, Peggie Hill, had sexual relations with Hicks during that same time period. On June 24, 2008, Reaser asked Hill to help her round up some loose horses, and Hill got into Reaser's car. When Reaser turned the vehicle away from where the horses were, Hill became uncomfortable and asked to be let out. Reaser did not respond and kept driving. Hill then began to open the door in an attempt to jump from the moving vehicle. Reaser grabbed Hill by the hair and pulled her back into the car, causing the door to close. Reaser continued driving for approximately five minutes before stopping the vehicle on a remote country road. Pulling Hill out of the vehicle by the hair, Reaser began beating Hill with a small club. The beating continued for several minutes before Hill was able to escape into the woods.

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<sup>1</sup> See Ind. Code § 35-42-2-1(a)(3).

<sup>2</sup> See Ind. Code § 35-48-4-8.3(b).

<sup>3</sup> See Ind. Code § 35-42-3-3(a).

At trial, the jury was instructed on the elements of criminal confinement,<sup>4</sup> but not on the definition of the word “confine.” The jury found Reaser guilty as charged on all three counts. Reaser now appeals.

### **DISCUSSION AND DECISION**

At trial, Reaser did not object to the lack of an instruction on the definition of “confine,” nor did she offer any instruction regarding the definition to the court. She admits that her claim of error was not properly preserved and is therefore waived on appeal. *Appellant’s Br.* at 4. To circumvent the waiver, Reaser contends that the trial court’s failure to instruct the jury, *sua sponte*, on the statutory definition of “confine”<sup>5</sup> constituted fundamental error.

Our standard of review for claims of fundamental error is well settled. “The fundamental error exception to the waiver rule is available only where the record reveals clearly blatant violations of basic and elementary principles of due process and the harm or potential for harm cannot be denied.” *Book v. State*, 880 N.E.2d 1240, 1248 (Ind. Ct. App. 2008). “To qualify as fundamental error, an error must be so prejudicial to the rights of the defendant as to make a fair trial impossible.” *Rowe v. State*, 867 N.E.2d 262, 266 (Ind. Ct. App. 2007).

Here, the trial court’s failure to define the word “confine” did not constitute fundamental error. First, the jury was properly instructed as to the elements of criminal

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<sup>4</sup> Indiana Code section 35-42-3-3(a)(1) states that a person commits criminal confinement when knowingly and intentionally confining a person without that person’s consent.

<sup>5</sup> “Confine” means, “To substantially interfere with the liberty of a person.” *See* Ind. Code § 35-42-3-3(a).

confinement and the burden of proof and did not request any clarification regarding the instructions. Additionally, the word “confine” is a commonly understood word that would not cause the jury any confusion. *See Manley v. State*, 656 N.E.2d 277, 279 (Ind. Ct. App. 1995) (finding that “firearm” is commonly understood and need not be defined for jury).

Although Reaser contends that had the trial court defined “confine” the jury would have reached a different conclusion, this is unpersuasive considering this court has upheld a confinement conviction on similar evidence. *See McCullough v. State*, 888 N.E.2d 1272, 1276 (Ind. Ct. App. 2008), *partially vacated on other grounds* (upholding criminal confinement conviction based on evidence that, despite victim’s requests to be let out, defendant grabbed victim and pulled her back into car as she attempted to escape from moving vehicle).

Affirmed.

FRIEDLANDER, J., and ROBB, J., concur.