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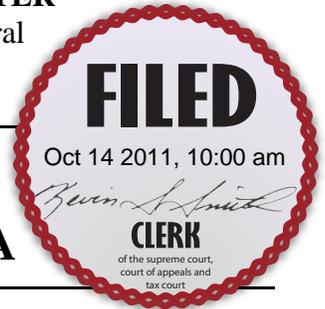
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**IN THE  
COURT OF APPEALS OF INDIANA**

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T.C., )  
)  
Appellant-Defendant, )  
)  
vs. )  
STATE OF INDIANA, )  
)  
Appellee-Plaintiff. )

No. 49A02-1102-JV-231

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Gary K. Chavers, Judge Pro Tempore  
The Honorable Geoffrey A. Gaither, Magistrate  
Cause No. 49D09-1011-JD-3192

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**October 14, 2011**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**MAY, Judge**

T.C. challenges the trial court's finding of delinquency. As the State presented sufficient evidence to disprove his claim of self-defense, we affirm.

### **FACTS AND PROCEDURAL HISTORY**

On November 12, 2010, while at school, T.C. punched D.K. in the cheek. The State alleged T.C. committed what would have been Class B misdemeanor battery<sup>1</sup> had he been an adult. T.C. asserted he punched D.K. in self-defense because D.K. had been walking toward him with a balled-up fist after T.C. heard D.K. wanted to fight him. After a hearing, the juvenile court entered a finding of delinquency.

### **DISCUSSION AND DECISION**

A child commits a delinquent act if, before becoming eighteen years old, he commits an act that would be an offense if committed by an adult. Ind. Code § 31-37-1-2. In its delinquency petition, the State alleged T.C. committed an act that would be Class B misdemeanor battery, which occurs when a person “knowingly or intentionally touches another person in a rude, insolent, or angry manner.” Ind. Code § 35-42-2-1(a). T.C. does not deny that he touched D.K. in a rude, insolent, or angry manner, but he asserts he was acting in self-defense.

“A valid claim of self-defense is a legal justification for an otherwise criminal act.” *Kimbrough v. State*, 911 N.E.2d 621, 635 (Ind. Ct. App. 2009). To prevail on a self-defense claim, a defendant must demonstrate he was in a place he had a right to be; did not provoke, instigate, or participate willingly in the violence; and had a reasonable fear of death or great

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

bodily harm. *Id.* If a claim of self-defense has support in the evidence, the State has the burden of negating at least one element. *Id.* The State can meet this burden by relying on the evidence in its case-in-chief or by presenting additional evidence. *Simpson v. State*, 915 N.E.2d 511, 514 (Ind. Ct. App. 2009), *trans. denied*.

When a defendant challenges whether the State sufficiently rebutted his claim of self-defense, we review the claim like any other sufficiency claim. *Kimbrough*, 911 N.E.2d at 635. We reverse “only if no reasonable person could say that self-defense was negated by the State beyond a reasonable doubt.” *Id.* “[W]e neither reweigh the evidence nor judge the credibility of the witnesses.” *Simpson*, 915 N.E.2d at 514. If there is evidence of probative value to support the court’s conclusion, we will not disturb the verdict. *Id.* at 514-515.

In support of his self-defense claim, T.C. testified he struck D.K. because, after hearing from other students that D.K. wanted to fight him, he saw D.K. walking toward him with a balled fist. However, T.C. also testified he had never before been in a fight with D.K., T.C. and D.K. did not speak prior to the altercation, and D.K. did not raise either of his arms before T.C. hit him. Thus, despite his claim of self-defense, T.C.’s testimony that he punched D.K. before any words were exchanged and before D.K. raised either of his arms was sufficient to allow a reasonable trier of fact to conclude that T.C. instigated or participated willingly in the violence. *See Kimbrough*, 911 N.E.2d at 635 (Kimbrough’s testimony that he and victim were arguing and shoving one another demonstrated he either instigated the fight or was a mutual combatant). The evidence was sufficient to rebut T.C.’s claim of self defense.

T.C. points to his testimony he was afraid D.K. might hit him. When reviewing a sufficiency claim, we consider only the evidence most favorable to the verdict with all logical inferences drawn therefrom. *Martin v. State*, 512 N.E.2d 850, 851 (Ind. 1987). We must accordingly decline T.C.'s invitation to reweigh the evidence. *See Kimbrough*, 911 N.E.2d at 636 (declining to reweigh evidence regarding whether battery was committed in self-defense). Accordingly, we affirm the adjudication of T.C. as a delinquent.

Affirmed.

RILEY, J., and NAJAM, J., concur.