

Michael Taylor was convicted after a bench trial of battery¹ as a Class A misdemeanor. Taylor now appeals, arguing that the State did not present sufficient evidence to support the battery conviction or to rebut his claim of self-defense.

We affirm.

FACTS AND PROCEDURAL HISTORY

On September 3, 2007, Taylor visited his cousin Zabrina Jackson and her fiancé Barnard Lockett at Lockett's home in Indianapolis. Lockett and Jackson's children and Taylor's brother were also present. After a couple of hours, Taylor and Lockett left for unrelated reasons. Taylor, realizing he had left his wallet at Lockett's house, called Jackson to verify it was at the house. Taylor then returned to pick it up.

Upon his return, Taylor confronted Jackson about cash missing from the wallet. Lockett returned soon thereafter and noticed that Taylor was "very angry." *Tr.* at 16. Lockett approached Taylor who was "yelling loudly" and becoming "more hostile." *Id.* at 17. During the encounter, Lockett's son wandered down to where the two men were standing. As Lockett turned to direct his son back to the house, Taylor took a two-by-four board from his vehicle and struck Lockett on the forearm causing an injury producing swelling. After the exchange, Jackson called the police. Taylor and his son got into his truck and left the residence before the police arrived. Lockett was taken to the emergency room where he received treatment and medication for his arm.

The State charged Taylor with criminal recklessness as a Class D felony and battery as a Class A misdemeanor. At trial, Taylor denied using a board to strike Lockett

¹ See Ind. Code § 35-42-2-1.

and claimed he acted in self-defense. At the conclusion of the trial, Taylor was found not guilty of criminal recklessness but was convicted of battery. Taylor now appeals.

DISCUSSION AND DECISION

Taylor argues that the State did not present sufficient evidence to support his conviction for battery or rebut his claim of self-defense. The standard of review for a challenge to the sufficiency of evidence and to rebut a claim of self-defense is the same. *Milam v. State*, 719 N.E.2d 1208, 1210 (Ind. 1999); *Sanders v. State*, 704 N.E.2d 119, 123 (Ind. 1999). We will consider the probative evidence most favorable to the State along with any reasonable inferences to be drawn from such evidence. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007) (quoting *McHenry v. State*, 820 N.E.2d 124, 126 (Ind. 2005)). It is the fact-finder's role, not that of this court, to assess witness credibility and to weigh the evidence. *Id.* We will affirm the conviction unless no reasonable person could say that the State produced sufficient evidence to support the conviction or to negate the claim of self-defense beyond a reasonable doubt. *Id.* at 147 (quoting *Jenkins v. State*, 726 N.E.2d 268, 270 (Ind. 2000)).

Taylor argues that there was insufficient evidence to support his battery conviction. In order to convict Taylor of battery as a Class A misdemeanor, the State was required to prove that he knowingly or intentionally touched Lockett in a rude, insolent, or angry manner causing bodily injury. Ind. Code § 35-42-2-1. "Bodily injury" means any impairment of physical condition, including physical pain. Ind. Code § 35-41-1-4. In this case, Taylor struck Lockett on the arm with a two-by-four causing swelling. Lockett received medical attention as a result. Indeed, Taylor admits that he struck

Lockett and that Lockett sustained injury. *Appellant's Br.*, p. 7. Clearly, there was sufficient evidence to support the battery conviction.

Taylor also argues that the State did not present sufficient evidence to rebut his claim of self-defense. A person may use reasonable force to protect himself from what he believes to be an imminent use of unlawful force. Ind. Code § 35-41-3-2(a). A person is not justified in using force if the person was the initial aggressor or entered into combat with another person unless he withdraws from the encounter and communicates intent to do so. Ind. Code § 35-41-3-2(e)(3). Self-defense is established if a defendant: a) was in a place where he had a right to be; b) did not provoke, instigate, or participate willingly in the violence; and c) had a reasonable fear of death or great bodily harm. *Rodriguez v. State*, 714 N.E.2d 667, 670 (Ind. Ct. App. 1999), *trans. denied*. The State bears the burden of disproving, beyond a reasonable doubt, at least one element of the defense. *Sanders*, 704 N.E.2d at 123. The burden may be met by either affirmatively showing that the defendant did not act in self-defense or by relying on the sufficiency of the evidence in chief. *Butler v. State*, 547 N.E.2d 270, 271 (Ind. 1989).

Here, Taylor confronted Jackson about the missing money from his wallet. When Lockett arrived, Taylor turned his attention to Lockett and an argument ensued. As Lockett turned away to direct his child back to the house, Taylor struck Lockett with a two-by-four causing injury for which Lockett received medical attention. The police were called, and Taylor left before they arrived. This evidence was sufficient for the trial court to find that Taylor was the initial aggressor and to rebut Taylor's claim of self-defense.

Taylor asks this court to reweigh the evidence. Our standard of review precludes such practice.

Affirmed.

NAJAM, J., and BARNES, J., concur.