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**IN THE
COURT OF APPEALS OF INDIANA**

CHARLES LOUDEN,)
)
Appellant-Plaintiff,)
)
vs.) No. 49A04-0701-CR-22
)
STATE OF INDIANA,)
)
Appellee-Plaintiff.)

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Carol J. Orbison, Judge
Cause Nos. 49G17-0605-CM-083442 and 49G17-0608-CM-154694

October 15, 2007

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

Charles Loudon (“Louden”) was convicted in the Marion Superior Court of Class A misdemeanor domestic battery. Loudon appeals and claims that the evidence was insufficient to rebut his claim of self-defense.

We affirm.

Facts and Procedural History

On April 28, 2006, Loudon and his wife Amanda were at home and got into an argument about money. Amanda admitted that she started the argument. During the physical altercation that ensued, Loudon punched his wife in the face, blacking her eye. After this incident, Loudon left the home, and Amanda did not call the police. The following day, Loudon returned home and again punched his wife in the face, blacking her other eye. Amanda pushed Loudon away after he punched her. She then called the police, gathered her children, and waited for the police in her car.

On May 12, 2006, the State charged Loudon with Class A misdemeanor domestic battery and Class A misdemeanor battery stemming from the April 29 incident. Following a bench trial held on September 1, 2006, the trial court found Loudon guilty as charged.¹

Discussion and Decision

Louden claims that the State presented insufficient evidence to rebut his claim of self-defense. Specifically, Loudon claims that his wife started the fight and that he hit her

¹ On September 22, 2006, Loudon pleaded guilty under another cause to Class A misdemeanor invasion of privacy stemming from his violation of a protective order. Loudon does not challenge this conviction upon appeal. Also, due to double-jeopardy concerns, the trial court vacated the conviction for battery and sentenced Loudon only upon the domestic battery conviction.

only in self-defense. Although Louden may have testified to as much, his wife testified that on April 29, she pushed him only after he had hit her in the face. As such, Louden was the initial aggressor or at least a mutual combatant, and therefore may not claim self-defense. To prevail on claim of self-defense, a defendant must show that he did not provoke, instigate, or participate willingly in the violence. Wilson v. State, 770 N.E.2d 799, 800 (Ind. 2002). The remainder of Louden's argument is simply a request that we consider his testimony and ignore that of his wife, which we will not do. See id. (upon review of a challenge to the sufficiency of evidence to rebut claim of self-defense, appellate court will neither reweigh evidence nor judge witness credibility).

Affirmed.

NAJAM, J., and BRADFORD, J., concur.