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IN THE
COURT OF APPEALS OF INDIANA

ADRIAN HULSE,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 57A03-1105-CR-213
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE NOBLE SUPERIOR COURT
The Honorable Michael J. Kramer, Judge
Cause No. 57D02-1011-CM-935

December 19, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

Case Summary

According to onlookers, Adrian Hulse and his girlfriend, Elizabeth Deroe, were yelling at each other in a fast food restaurant parking lot, when Hulse hit Deroe, causing her to scream and fall down. Hulse was eventually charged with and convicted of battery. He now appeals, claiming that the State failed to present sufficient evidence to overcome his assertion that he acted in self-defense. Finding the evidence sufficient, we affirm.

Facts and Procedural History

On November 20, 2010, Hulse and Deroe were arguing as they drove along a Kendallville street. Eventually, Deroe pulled into the parking lot of a fast food restaurant, and the two exited, still arguing. Hulse tried to get back in the vehicle, but Deroe removed his suitcase from the vehicle. According to an eyewitness account, Hulse punched or slapped Deroe, and Deroe screamed and fell backwards. Thereafter, the tearful Deroe got into her vehicle and drove away, whereupon the eyewitness called 911. When police arrived on the scene, Hulse was sitting on the ground with no visible evidence of injury. Momentarily, Deroe returned, and she was crying and visibly shaken as she gave the officer a verbal account of the incident. She later provided a written statement concerning the incident.

On November 22, 2010, the State charged Hulse with class A misdemeanor domestic battery. On the day of his bench trial, the State amended the charge to class A misdemeanor battery. At trial, Hulse asserted a self-defense claim. The trial court convicted him as charged, and he now appeals. Additional facts will be provided as necessary.

Discussion and Decision

Hulse challenges the sufficiency of evidence to rebut his claim of self-defense. The standard of review for a challenge to the sufficiency of evidence to rebut a self-defense claim is the same as the standard for any insufficiency of evidence claim. *Boyer v. State*, 883 N.E.2d 158, 162 (Ind. Ct. App. 2008). We neither reweigh evidence nor judge witness credibility; rather, we examine the evidence and reasonable inferences most favorable to the judgment. *Id*. If a defendant is convicted despite his claim of self-defense, we will reverse "only if no reasonable person could say that self-defense was negated by the State beyond a reasonable doubt." *Kimbrough v. State*, 911 N.E.2d 621, 635 (Ind. Ct. App. 2009).

Hulse was convicted of class A misdemeanor battery. Indiana Code Section 35-42-2-1(a)(1)(A) defines this offense as the knowing or intentional touching "of another person in a rude, insolent, or angry manner … resulting in bodily injury to any other person." At trial, Hulse claimed that he acted in self-defense when he hit Deroe. A valid claim of self-defense is a legal justification for an otherwise criminal act. *Kimbrough*, 911 N.E.2d at 635. Indiana Code Section 35-41-3-2(a) states in part, "A person is justified in using reasonable force against another person to protect the person … from what [he] reasonably believes to be the imminent use of unlawful force." To prevail on such a claim, a defendant must establish that he "(1) was in a place where he had a right to be; (2) did not provoke, instigate, or participate willingly in the violence; and (3) had a reasonable fear of death or great bodily harm." *Kimbrough*, 911 N.E.2d at 635. Once a defendant makes a self-defense claim and that claim finds support in the evidence, the State has the burden of negating at least one of the elements

beyond a reasonable doubt. *Id*. The State may disprove one of these elements by affirmatively showing that the defendant did not act to defend himself or by relying on evidence elicited in its case-in-chief. *Boyer*, 883 N.E.2d at 162.

Here, Hulse essentially claims "self-defense" by contending that he accidentally hit Deroe when she threw his suitcase at him. In this vein, we note that when pronouncing judgment, the trial court emphasized that the eyewitness never mentioned anything about Deroe throwing a suitcase at Hulse. Tr. at 41. Hulse's account was controverted by eyewitness testimony, Deroe's written statement, and a letter that Hulse himself wrote to the prosecutor on November 23, 2010, in which he apologized, admitted using drugs at the time, and stated, "now that I am sober I cannot believe I would strike a woman in such a way." St. Ex. 2.

In sum, Hulse essentially invites us to reweigh evidence and judge witness credibility, which we may not do. Based on the foregoing, we conclude that the State presented sufficient evidence to disprove his self-defense claim. Accordingly, we affirm his battery conviction.

Affirmed.

MAY, J., and BROWN, J., concur.