

STATEMENT OF THE CASE

Maria L. Williams appeals her conviction for battery as a class D felony.¹

We affirm.

ISSUES

1. Whether there is sufficient evidence to support the conviction.
2. Whether there is sufficient evidence to rebut Williams' defense of necessity.

FACTS

On February 26, 2009, school employees Rose Washington and Marsha Wade were monitoring the afternoon recess at South Wayne Elementary School in Fort Wayne. Students K.J. and P.G. were on the playground at the time. Williams, K.J.'s mother, had come to the school that day to have lunch with K.J. Although school rules did not usually allow parents on the playground, she stayed on the playground during recess. After playing kickball with K.J., she struck up a conversation with Washington and Wade.

On that particular day, P.G. was "a walker," meaning "he was supposed to be walking around the playground along the fence" during recess, as a disciplinary measure. (Tr. 62). Other students were "not allowed to communicate or talk with the walkers unless they want[ed] to walk too." (Tr. 63). While P.G. was walking around the playground, K.J. approached him. P.G. told K.J. "to get out of [his] face" (Tr. 78).

¹ Ind. Code § 35-42-2-1.

K.J. responded by pushing P.G. P.G. in turn placed his foot behind K.J. and tripped him to the ground. P.G. then kicked K.J. twice while K.J. was on the ground.

As Washington and Wade were speaking with Williams, she “all of a sudden . . . took off running” toward the boys. (Tr. 61). Washington and Wade followed. P.G. stopped kicking K.J. and “backed up” as the adults approached. (Tr. 88).

By the time Williams got to the boys, they had separated. Williams “had to step over” K.J., who was lying on the ground, in order to reach P.G. (Tr. 94). As Washington attempted to restrain her, Williams “reached out and swung at [P.G.]” with an open hand. (Tr. 63). Williams scratched P.G.’s chin, causing it to bleed. She used “a lot of profanity” and “stated that she had other sons and that she would have them . . . come up to the school also to take care of things.” (Tr. 67).

On March 4, 2009, the State charged Williams with battery as a class D felony. The trial court held a jury trial on September 10, 2009. K.J. testified that he struck P.G. on the chin, causing P.G.’s laceration. Williams also testified; she denied touching, hitting, striking, or swinging at P.G. The jury found Williams guilty as charged. Following a sentencing hearing on October 14, 2009, the trial court sentenced Williams to two years suspended to probation.

DECISION

1. Sufficiency of the Evidence

Williams asserts that there is insufficient evidence to support her conviction. She argues that she neither had a “conscious objective to batter [P.G.], nor was aware of a

high probability that she was doing so.” Williams’ Br. at 9. She further argues that the State failed to prove that she caused P.G.’s injury.

When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict. It is the fact-finder’s role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court’s ruling. Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146-47 (Ind. 2007) (quotations and citations omitted).

Indiana Code section 35-42-2-1(a) provides that a person who “knowingly or intentionally touches another person in a rude, insolent, or angry manner” commits battery. The offense is a class D felony if the touching results in bodily injury to “a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age[.]” I.C. § 35-42-2-1(a)(2)(B). “A person engages in conduct ‘intentionally’ if, when he engages in the conduct, it is his conscious objective to do.” I.C. § 35-41-2-2(a). “A person engages in conduct ‘knowingly’ if, when he engages in the conduct, he is aware of a high probability that he is doing so.” I.C. § 35-41-2-2(b).

Intent is a mental function. Absent an admission by the defendant, it must be determined from consideration of the defendant’s conduct and the natural and usual consequences thereof. The trier of fact must resort to reasonable inferences based on an examination of the surrounding circumstances to determine whether, from the person’s conduct and the

natural consequences of what might be expected from that conduct, there is a showing or inference of the intent to commit that conduct.

Gaerte v. State, 808 N.E.2d 164, 166 (Ind. Ct. App. 2004) (internal citations omitted), *trans. denied*.

Washington testified that she observed Williams “striking out at” P.G. with her hand. Wade testified that she observed Williams “pushing on [P.G.] and swinging . . .” at him. (Tr. 95). Wade further testified that the scratch on P.G.’s chin occurred after Williams “swung at [P.G.] that first time,” before Washington could restrain her. (Tr. 99). P.G. testified that Williams “kept coming toward [him]” and scratched him on his chin, causing it to bleed. (Tr. 79). According to the witnesses, Williams was angry, used profanity, and made threats against them.

Here, the State presented sufficient evidence for a reasonable trier of fact to conclude that Williams touched P.G. in a “rude, insolent, or angry manner” with the requisite intent when she lashed out at him with her hand. *See* I.C. § 35-42-2-1(a). The State also presented sufficient evidence that Williams caused the injury to P.G.’s chin. Williams’ claim to the contrary is merely an invitation to judge the credibility of the witnesses and to reweigh the evidence, which we will not do.

2. Necessity Defense

Williams, however, asserts that even if she did touch P.G., “she did it out of necessity to aid her son who was being harmed physically.” Williams’ Br. at 9. She maintains that the State introduced insufficient evidence to prove otherwise.

In order to establish a necessity defense, a defendant must show the following:

(1) the act charged as criminal must have been done to prevent a significant evil; (2) there must have been no adequate alternative to the commission of the act; (3) the harm caused by the act must not be disproportionate to the harm avoided; (4) the accused must entertain a good-faith belief that his act was necessary to prevent greater harm; (5) such belief must be objectively reasonable under all the circumstances; and (6) the accused must not have substantially contributed to the creation of the emergency.

Patton v. State, 760 N.E.2d 672, 675 (Ind. Ct. App. 2002).

In order to negate a claim of necessity, the State must disprove at least one element of the defense beyond a reasonable doubt. The State may refute a claim of the defense of necessity by direct rebuttal, or by relying upon the sufficiency of the evidence in its case-in-chief. The decision whether a claim of necessity has been disproved is entrusted to the fact-finder. Where a defendant is convicted despite his claim of necessity, this court will reverse the conviction only if no reasonable person could say that the defense was negated by the State beyond a reasonable doubt.

Dozier v. State, 709 N.E.2d 27, 29 (Ind. Ct. App. 1999) (internal citations omitted).

Here, the State presented evidence that P.G. had stepped away from K.J. by the time Williams reached the boys. Thus, the State disproved that Williams' actions were necessary to prevent further physical harm to K.J. Furthermore, at least two school employees were monitoring recess and swiftly responded to the boys' fight. The State therefore disproved that no adequate alternative to Williams' physical intervention existed.

We find that the State presented sufficient evidence to refute Williams' defense of necessity. Accordingly, there is sufficient evidence to support her conviction.

Affirmed.

BAKER, C.J., and CRONE, J., concur.