ARKANSAS COURT OF APPEALS

DIVISION II
No. CACR08-1040

CHRISTOPHER TODD HAMILTON APPELLANT	**Opinion Delivered** September 2, 2009 APPEAL FROM THE OUACHITA COUNTY CIRCUIT COURT [NO. CR-07-304-3]
V.	HONORABLE EDWIN A. KEATON, JUDGE
STATE OF ARKANSAS APPELLEE	AFFIRMED

JOHN MAUZY PITTMAN, Judge

Appellant was charged with violation of a protective order and battery in the second degree. After a jury trial, he was found guilty of violating the protective order and not guilty of battery in the second degree. On appeal, he argues that the evidence is insufficient to support his conviction for violating a protective order. We affirm.

Violating a protective order is a criminal offense pursuant to Ark. Code Ann. § 5-53-134 (Repl. 2005). In reviewing the sufficiency of the evidence to support a criminal conviction, we view the evidence in the light most favorable to the appellee and affirm the judgment if the verdict is supported by substantial evidence. *Lair v. State*, 19 Ark. App. 172, 718 S.W.2d 467 (1986). Substantial evidence is evidence of sufficient certainty and precision to compel a conclusion one way or another and pass beyond mere suspicion or conjecture. *Renderos v. State*, 92 Ark. App. 293, 213 S.W.3d 43 (2005).

At trial, Garland Hamilton testified that he was eighty-two years of age and was appellant's father. He obtained an order of protection after appellant threw a glass at him, followed him into the bedroom, and hit him. The order of protection, filed September 14, 2007, prohibited appellant from having any further contact with his father and from committing further acts of abuse. Appellant's father testified that appellant had previously lived in his home and that appellant asked for and received permission to pick up his belongings at his father's home on October 28, 2007. Appellant's father testified that, while appellant was at the father's home, appellant without provocation struck him in the face with sufficient force to cause prolonged bleeding. Appellant testified and denied having gone to his father's home on the night in question.

Appellant argues that the evidence does not support a finding that he violated the protective order because (1) the jury's verdict acquitting him of battery in the second degree established that he did not strike his father as charged, and (2) he did not violate the order's prohibition against further contact because his father admitted that he gave appellant permission to come to his home to pick up his belongings that night. We do not agree.

First, appellant is mistaken in his assertion that the jury's verdict of not guilty for battery means that no battery occurred as a matter of law:

> The law is clear that a defendant may not attack his conviction on one count because it is inconsistent with an acquittal on another count. Res judicata concepts are not applicable to inconsistent verdicts; the jury is free to exercise its historic power of lenity if it believes that a conviction on one count would provide sufficient punishment.

McVay v. State, 312 Ark. 73, 77, 847 S.W.2d 28, 31 (1993) (quoting *United States v. Romano*, 879 F.2d 1056 (2d Cir. 1989)). Furthermore, although it was established that appellant's father did permit appellant to come to the father's house to pick up appellant's belongings, appellant's father clearly did not in any way induce appellant to believe that he was permitted to violate that portion of the order of protection that prohibited him from engaging in conduct that would put his father "in reasonable fear of bodily injury." We hold that the evidence is sufficient to support appellant's conviction.

Affirmed.

VAUGHT, C.J., and GLADWIN, J., agree.