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**IN THE  
COURT OF APPEALS OF INDIANA**

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MELVIN WALLACE,  
Appellant-Defendant,

vs.

STATE OF INDIANA,  
Appellee-Plaintiff.

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No. 49A04-0803-CR-180

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Melissa H. Kramer, Master Commissioner  
The Honorable Annie Christ-Garcia, Judge  
Cause No. 49G17-0801-CM-24641

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**October 21, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BRADFORD, Judge**

Following a bench trial, the trial court convicted Appellant-Defendant Melvin Wallace of Class A misdemeanor Domestic Battery<sup>1</sup> and Public Intoxication, a Class B misdemeanor.<sup>2</sup> Wallace challenges the sufficiency of the evidence to support his conviction for domestic battery. We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On January 25, 2008, Wallace and his wife, Vannette Wallace, argued over twenty dollars. Wallace left the couple's Indianapolis home, but later returned after he had consumed some alcoholic beverages. Wallace again demanded money and slapped Vannette on the right side of her face, causing her pain. Several hours later, Wallace returned and kicked the door open, damaging the frame. Vannette ran to their neighbors' home and called the police, and Wallace left on foot.

While en route to the disturbance, Indianapolis Metropolitan Police Officer Alan Nelson encountered Wallace, who admitted to kicking the door and appeared to be intoxicated. Upon arriving at the scene, Indianapolis Metropolitan Police Officer Donald Jones spoke with Vannette, who reported that Wallace had "smacked" her. Tr. p. 23. Officer Jones did not observe any injuries. After speaking with Officer Jones, Officer Nelson arrested Wallace.

On January 26, 2008, the State charged Wallace with domestic battery, battery, and public intoxication. Following a February 29, 2008, bench trial, the trial court found

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<sup>1</sup> Ind. Code § 35-42-2-1.3 (2007).

<sup>2</sup> Ind. Code § 7.1-5-1-3 (2007).

Wallace guilty as charged. The trial court entered judgment of conviction for domestic battery and public intoxication and sentenced Wallace to an aggregate sentence of ninety days of incarceration.

### **DISCUSSION AND DECISION**

Wallace's sole challenge on appeal is to the sufficiency of the evidence to support his conviction for domestic battery. Our standard of review for sufficiency of the evidence claims is well-settled. We do not reweigh the evidence or judge the credibility of the witnesses. *Kien v. State*, 782 N.E.2d 398, 407 (Ind. Ct. App. 2003), *trans. denied*. We consider only the evidence which supports the conviction and any reasonable inferences which the trier of fact may have drawn from the evidence. *Id.* We will affirm the conviction if there is substantial evidence of probative value from which a reasonable trier of fact could have drawn the conclusion that the defendant was guilty of the crime charged beyond a reasonable doubt. *Id.* It is the function of the trier of fact to resolve conflicts of testimony and to determine the weight of the evidence and the credibility of the witnesses. *Jones v. State*, 701 N.E.2d 863, 867 (Ind. Ct. App. 1998).

Indiana Code section 35-42-2-1.3 provides that “[a] person who knowingly or intentionally touches an individual who ... is or was a spouse of the other person ... in a rude, insolent, or angry manner that results in bodily injury<sup>[3]</sup> ... commits domestic battery, a Class A misdemeanor.” A conviction may rest upon the uncorroborated testimony of the victim. *Ludy v. State*, 784 N.E.2d 459, 461 (Ind. 2003). Here, Vannette

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<sup>3</sup> “Bodily injury” means any impairment of physical condition, including physical pain. *See* Ind. Code § 35-41-1-4 (2006).

testified that Wallace, her husband, slapped her on the side of her face and that, as a result, her face turned red and she experienced pain. Wallace claims that there was insufficient evidence to prove him guilty of domestic battery because there were no visible injuries on Vannette at the time of his arrest. Of course, the State was not required to prove “visible” injury, because here the “bodily injury” alleged was merely pain, which Vannette testified she suffered. In convicting Wallace, the trial court found Vannette’s testimony to be credible. In addition, the police arrived several hours after the alleged battery occurred, supporting the reasonable inference that any visible effects of Wallace’s slap had by that time disappeared. Wallace’s challenge to his conviction is simply an invitation to reweigh the evidence and reassess the court’s credibility determination, which we decline to do. Therefore, we conclude that Wallace’s challenge to his conviction for domestic battery is without merit.

The judgment of the trial court is affirmed.

RILEY, J., and BAILEY, J., concur.