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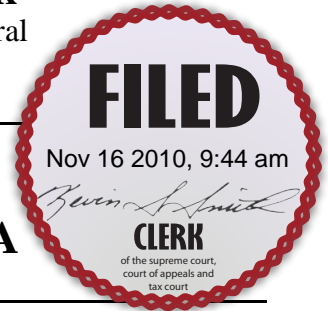
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**IN THE**  
**COURT OF APPEALS OF INDIANA**

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BLAKE PARKINS, )  
 )  
Appellant-Defendant, )  
 )  
vs. )  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

No. 29A02-1002-CR-345

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APPEAL FROM THE HAMILTON SUPERIOR COURT  
The Honorable Wayne A. Sturtevant, Judge  
Cause No. 29D05-0903-CM-01363

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**November 16, 2010**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**BAKER, Chief Judge**

Appellant-defendant Blake Parkins observes that breaking up is hard to do. Surviving a breakup with a modicum of dignity—in a law-abiding fashion—is possible, however. Parkins should have learned how to carry on, turned around, and walked out the door, but instead he struck his former wife with a car while one of their young daughters was unrestrained in the backseat screaming for help.

Parkins appeals his conviction for Criminal Recklessness With the Use of a Motor Vehicle,<sup>1</sup> a class A misdemeanor. Although Parkins frames his argument as whether the trial court properly refused to consider his self-defense argument, in actuality he is contesting the sufficiency of the evidence supporting the conviction. Finding the evidence sufficient, we affirm.

### FACTS

At the time of relevant events, Parkins and his wife were separated and in the middle of divorce proceedings. On November 23, 2008, Parkins returned the couple's children to his wife's home after exercising his visitation rights. Before removing the children, who were two and four years old at that time, from his vehicle, Parkins asked his wife about future visitation. The couple quickly became involved in a heated discussion, during which time the four-year-old child unbuckled her seatbelt and may have begun to unbuckle her sister's carseat harness as well.

Parkins returned to the vehicle, and his wife positioned herself behind the vehicle, blocking his exit because she did not want him to take the children away while he was

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

upset and because their older daughter was unrestrained in the backseat. Parkins reversed the vehicle in the driveway toward his wife, bumping her with the vehicle more than once. When she began to fear that he was going to hit her with the vehicle at a higher velocity, she moved out of the way into the street, at which point he pulled into the street at a high speed. Throughout the incident, the couple's older daughter was screaming "help me[.]" Tr. p. 31. Although Parkins could have driven around his wife, instead he "looked [her] in the eye, put the car in drive, and started to come after [her,]" at which time the vehicle struck her thigh and she jumped out of the way. *Id.* at 16-17. Parkins's wife sustained minor bruising as a result of the incident.

On March 13, 2009, the State charged Parkins with class A misdemeanor criminal recklessness. His bench trial took place on January 8, 2010. Parkins never raised the affirmative defense of self-defense. At the close of the trial, the trial court commented that

how Ms. Parkins reacted to all this, what she possibly did to provoke the situation, how upset she was. . . . Those are all beyond the point. Neither side has cited the Court to any statute or anything along those lines—any case law—that says any of the actions of [an] alleged victim would be a defense to this crime. The issue is whether or not, as it's alleged here, whether Mr. Parkins recklessly performed an act with a vehicle that created a substantial risk of bodily injury to another person. And that's what I have to focus on.

*Id.* at 118. The trial court found Parkins guilty as charged and sentenced him to 365 days of incarceration with all but four days suspended to probation. Parkins now appeals.

### DISCUSSION AND DECISION

Parkins frames his argument as whether the trial court erred by refusing to consider his self-defense argument. At trial, Parkins did not advance a theory of self-defense; instead, he argued that the events did not occur as his former wife described them and contended that he never actually struck her with the vehicle. Consequently, he has waived any argument about self-defense. Barker v. State, 681 N.E.2d 727, 728 (Ind. Ct. App. 1997).

Waiver notwithstanding, we note that to establish a claim of self-defense, Parkins would have had to show, among other things, that he was in reasonable fear or apprehension of bodily harm. Henson v. State, 786 N.E.2d 274, 277 (Ind. 2003). It is undisputed that during the parties' altercation, Parkins was in his vehicle while his wife, who was unarmed, was on foot. There is simply no evidence in the record that would support a contention that he was in reasonable fear or apprehension of bodily harm. Consequently, there was no error in this regard.

Parkins's argument, at its essence, is that the evidence is insufficient to support his conviction. In reviewing claims of insufficient evidence, we neither reweigh the evidence nor assess witness credibility, and will affirm unless no rational factfinder could have found the defendant guilty beyond a reasonable doubt. Clark v. State, 728 N.E.2d 880, 887 (Ind. Ct. App. 2000). To convict Parkins of class A misdemeanor criminal recklessness, the State was required to prove beyond a reasonable doubt that he recklessly, knowingly, or intentionally performed an act that created a substantial risk of bodily injury to another person, and that his conduct included the use of a vehicle. I.C. §

35-42-2-2(c)(1).

The record here reveals that Parkins reversed his vehicle while his then wife was standing behind it, trying to prevent him from leaving. He bumped her with the vehicle multiple times. He then pulled into the street, at which point she was standing in front of the vehicle, and rather than drive around her, he put the car in drive and drove straight for her, striking her thigh in the process. Parkins and his wife both testified, offering different versions of the events in question. The trial court credited his wife's testimony over his, which is an evaluation that we cannot and will not second-guess. With this record, we find that the evidence is sufficient to support Parkins's conviction.

The judgment of the trial court is affirmed.

NAJAM, J., and MATHIAS, J., concur.