



## Case Summary

Jeremiah Walls appeals his conviction for Class D felony domestic battery. We affirm.

### Issue

Walls raises two issues on appeal, which we consolidate and restate as whether there is sufficient evidence to sustain his conviction.

### Facts

Walls and R.P. lived together with their three children, ages five, three, and two, in Bargersville. On August 19, 2007, the two had been arguing all day and Walls repeatedly referred to R.P. as a “slut” and a “whore.” Tr. p. 114. The couple had a few drinks during the late morning and early afternoon. Later that afternoon, Walls left for a few hours to drink more at a local bar. He returned from the bar that evening with chicken wings for the family’s dinner. As the family began eating, Walls continued calling R.P. inappropriate names and she told him he needed to stop. R.P. thought that Walls looked angry and suspected he was about to “lean up to hit me” so she took a dinner plate and hit him over the head with it. Id. at 119. The plate shattered.

R.P. left the house, with her three children in tow. She went out to the family’s van and began situating the children. As R.P. was buckling in one child, Walls came out to the van. He asked where she was going and she told him she was going to buy some toilet paper and get out of there because they both needed to “cool off.” Id. at 123. R.P. turned toward Walls and he struck her in the left eye. Her eye area was red and swollen by the time the police arrived and photographed her.

The State charged Walls with Class D felony domestic battery. A jury convicted him on January 8, 2008. This appeal followed.

### **Analysis**

Walls contends that the State presented insufficient evidence to sustain his conviction for Class D domestic battery. When reviewing the sufficiency of the evidence supporting a conviction, we will not reweigh the evidence or judge the credibility of witnesses. Staton v. State, 853 N.E.2d 470, 474 (Ind. 2006). We must look to the evidence most favorable to the conviction together with all reasonable inferences to be drawn from that evidence. Id. We will affirm a conviction if there is substantial evidence of probative value supporting each element of the crime from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. Id.

In order to prove Class D felony domestic battery, the State was required to prove that Walls knowingly or intentionally touched R.P., who had a child in common with Walls, in a rude, insolent, or angry manner that resulted in bodily injury, and that Walls committed the offense in the presence of a child, knowing the child was present and could see or hear the offense. See Ind. Code § 35-42-2-1.3. Walls argues on appeal that he only hit R.P. in self defense and her testimony is not credible because of various inconsistencies. Walls also seems to suggest he could not have known the children were within sight or hearing of the offense. Considering that R.P. was buckling one of the children into the van while the van door was wide open, we find that it is highly unlikely Walls failed to notice at least one of his three children before he struck R.P.

Once a defendant claims self-defense, the State bears the burden of disproving the claim. Pinkston v. State, 821 N.E.2d 830, 842 (Ind. Ct. App. 2004), trans. denied. “The State may satisfy its burden by either rebutting the defense directly or relying on the sufficiency of evidence in its case-in-chief.” Id. “A person is justified in using reasonable force against another person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force.” I.C. § 35-41-3-2(a). Walls seems to rely on his version of the events, which is that he struck R.P. while she raised the plate and they were still in the house, in touting this self defense claim. The jury chose to believe R.P.’s version of the events—that Walls did not strike her until she left the house with the children and was buckling them into the van. In this instance, any danger to Walls had ceased and he no longer needed to defend himself. We do not find a viable self defense claim here, especially considering that Walls left the home and followed R.P. as she fled the situation. We decline Walls’ request to judge his credibility and reweigh the evidence. See Stanton, 853 N.E.2d at 474.

During the trial, R.P. clarified the inconsistency between her written statement at the scene and her testimony. Her statement from the scene said that Walls struck her before she hit him with the plate. On the stand, R.P. testified that Walls did not strike her first and she did not recall telling the officer that he did. R.P. told the investigating officer that Walls chased her from the home, but testified at trial that he did not. The inconsistencies Walls complains of on appeal were all pointed out during cross examination. Nothing is inconsistent, however, about R.P.’s recounting of Walls actually striking her in the eye near the van as she buckled in one of their children. The jury heard

the testimony, found R.P. to be a credible witness, and we cannot and should not disturb that determination.

### **Conclusion**

Sufficient evidence existed to support Walls' conviction for Class D felony domestic battery. We affirm.

Affirmed.

BAILEY, J., and MATHIAS, J., concur.