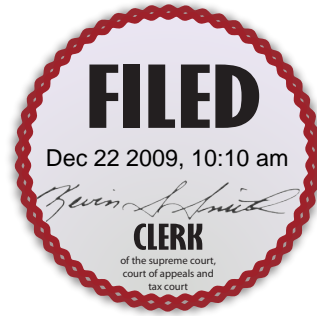


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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M.J.-W., )  
 )  
Appellant-Respondent, )  
 )  
vs. ) No. 49A02-0906-JV-534  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Petitioner. )

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Marilyn A. Moores, Judge  
Cause No. 49D09-0903-JD-671

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**December 22, 2009**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**NAJAM, Judge**

## **STATEMENT OF THE CASE**

M.J.-W. appeals her adjudication as a delinquent child for committing Battery, as a Class D felony when committed by an adult, and Disorderly Conduct, as a Class A misdemeanor when committed by an adult. She presents a single issue for our review, namely, whether the State presented sufficient evidence to disprove her self-defense claim with regard to each adjudication.

We affirm.

## **FACTS AND PROCEDURAL HISTORY**

On March 3, 2009, M.J.-W. got into an altercation with T.R. at school. M.J.-W. and T.R. were yelling at each other when M.J.-W. entered Sarah Thrasher's classroom. Thrasher intervened and stood in the doorway while M.J.-W. was inside the classroom and T.R. was standing in the hallway. Thrasher urged both girls to quiet down. At one point, M.J.-W., who had sat down inside the classroom, got up and walked toward Thrasher and T.R. and continued to yell at T.R. Then a physical altercation began, and M.J.-W. hit Thrasher. Thrasher extricated herself from the fight, and a police officer soon arrived. The police officer had to use pepper spray to get M.J.-W. and T.R. to stop fighting.

The State filed a petition against M.J.-W. alleging her delinquency for battery and disorderly conduct. Following a hearing, the juvenile court adjudicated M.J.-W. a delinquent child on both counts despite her claim that she acted in self-defense. This appeal ensued.

## DISCUSSION AND DECISION

M.J.-W. contends that the State presented insufficient evidence to disprove her self-defense claims with regard to both adjudications. A valid claim of self-defense is legal justification for an otherwise criminal act. Wallace v. State, 725 N.E.2d 837, 840 (Ind. 2000). When a defendant raises the claim of self-defense, she is required to show three facts: 1) she was in a place where she had a right to be; 2) she acted without fault; and 3) she had a reasonable fear of death or great bodily harm. Id. The issue on appellate review is typically whether the State presented sufficient evidence to support a finding that at least one of the elements of the defendant's self-defense claim was negated. The standard of review for a challenge to the sufficiency of evidence to rebut a claim of self-defense is the same as the standard for any sufficiency of the evidence claim. Id. We neither reweigh the evidence nor judge the credibility of witnesses. Id. If there is sufficient evidence of probative value to support the conclusion of the trier of fact, then the judgment will not be disturbed. Id.

Here, the evidence shows that M.J.-W. was in Thrasher's classroom, seated, when Thrasher was standing in the classroom doorway trying to end the verbal confrontation between M.J.-W. and T.R. At that time, M.J.-W. had a choice whether to remain seated and be quiet, or continue engaging T.R. in the argument. Thrasher testified that M.J.-W. got up from her seat and walked toward T.R. to continue the confrontation, and that's when the verbal disagreement escalated into physical violence. That evidence negates the element of M.J.-W.'s self-defense in that it shows that M.J.-W. did not act without fault. When she chose to stand up and walk towards the classroom doorway, M.J.-W.

willingly participated in the violence despite a clear opportunity to avoid it. See Hollowell v. State, 707 N.E.2d 1014, 1021 (Ind. Ct. App. 1999) (holding defendant asserting self-defense must show he did not provoke, instigate, or participate willingly in the violence). M.J.-W.'s argument on appeal amounts to a request that we reweigh the evidence, which we will not do. The juvenile court did not err when it adjudicated M.J.-W. a delinquent child for battery and disorderly conduct.

Affirmed.

FRIEDLANDER, J., and BRADFORD, J., concur.