

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Steven Shoup,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

September 16, 2021

Court of Appeals Case No.
21A-CR-380

Appeal from the Marion Superior
Court

The Honorable Joshua Levin,
Judge Pro Tempore

Trial Court Cause No.
49D17-1903-F6-11099

Pyle, Judge.

Statement of the Case

[1] Steven Shoup (“Shoup”) appeals his conviction, following a bench trial, for Class A misdemeanor domestic battery.¹ He contends that there was insufficient evidence to support his conviction. Concluding that the evidence was sufficient to support Shoup’s domestic battery conviction, we affirm the trial court’s judgment.

[2] We affirm.

Issue

Whether there is sufficient evidence to support Shoup’s domestic battery conviction.

Facts

[3] In April 2016, Shoup and T.L. began dating. In September 2017, T.L. began living with Shoup in his apartment above a storage facility that he owned. Although Shoup and T.L. lived together, they had separate bedrooms. In early February 2019, T.L. suspected Shoup of being in her bedroom without her permission. T.L. asked Shoup not to enter her bedroom without permission. Shoup responded that T.L. was a guest in his house and that he could do whatever he wanted. Moments later, Shoup entered T.L.’s room while she was inside. This led to an argument. During the argument, Shoup knocked some of

¹ IND. CODE § 35-42-2-1.3.

T.L.'s belongings off her cabinet. T.L. responded by entering Shoup's room and knocking some of his belongings to the floor.

[4] Shoup responded to T.L.'s actions by "grabb[ing] [T.L.] by the arm and by the back of the head[.]" (Tr. Vol. 2 at 101). Shoup had also grabbed T.L.'s hair "just to hold her in position[.]" (Tr. Vol. 2 at 102). T.L. resisted Shoup's grip and tried to break free by dropping to the ground. However, Shoup used his leg to hold her in position and stop her from moving. Shoup then forced T.L. out of his room and locked the door.

[5] After the incident, there was no contact between Shoup and T.L. for about a week. Eight days later, Shoup sent the following text to T.L.: "I want to apologize for what I said, what I did and all my bad actions. Please forgive me!" (State's Ex. 10).

[6] Subsequently, the State charged Shoup with Class A misdemeanor domestic battery.² A bench trial was held in September 2020. T.L. and Shoup both testified that they had had an argument, but they presented wildly different accounts of what had happened.

[7] T.L. testified that Shoup had punched her in the side of the head. She further testified that Shoup then grabbed her by the hair and the back of the neck. T.L. stated that she tried to crawl away, but Shoup continuously kicked her in the

² The State also charged Shoup with Level 6 felony battery resulting in moderate bodily injury and Class A misdemeanor intimidation. After a bench trial, the trial court acquitted Shoup of those charges.

groin as she crawled away and that Shoup pushed her down the stairs. The prosecution presented evidence from forensic nurse examiner Kenzie Hale (“Nurse Hale”). Nurse Hale testified that she had conducted a head-to-toe examination of T.L. and had taken photographs of her reported injuries. Nurse Hale charted that T.L. had injuries to the back of her head and neck. The State introduced the medical records and the photographs of T.L. as exhibits at trial. Defense counsel thoroughly impeached T.L. on cross-examination.

[8] When Shoup testified, he admitted that he had grabbed T.L. Shoup specifically testified as follows: “I grabbed [T.L.] by her . . . right arm . . . and the back of her hair, and I slowly walked her towards the door.” (Tr. Vol. 2 at 107). Shoup further testified that he had been “taught [this] in Judo in junior high.” (Tr. Vol. 2 at 107). Shoup explained that T.L. had “dropped to the floor[,]” and he had “stuck [his] leg between her legs to keep her from crawling backwards.” (Tr. Vol. 2 at 108). He had then forced her forward and out of his room.

[9] The trial court found Shoup guilty of domestic battery at the conclusion of the bench trial. The trial court noted that “there[] [was] an admission from [Shoup] that he put his hand on the back of her . . . head, and that he put his hand on her arm[.]” (Tr. Vol. 2 at 121). The trial court noted that T.L.’s credibility as a witness was suspect. However, based on Shoup’s admission, photographs depicting marks on T.L.’s neck, and evidence of Shoup’s apology to T.L., the trial court found Shoup guilty of domestic battery.

[10] At the sentencing hearing, which was held remotely, T.L. provided a victim impact statement over the telephone. Defense counsel took this opportunity to impeach T.L. further. On cross-examination, defense counsel impeached T.L. regarding statements about money owed to Shoup and her assertion that she had never been the victim of domestic battery before her interactions with Shoup.

[11] After sentencing, Shoup filed a motion to correct error. He argued that he had found more impeachment evidence against T.L. and that he should be given an opportunity to further impeach her. The trial court denied Shoup's motion.

[12] Shoup now appeals.

Decision

[13] Shoup argues that the evidence was insufficient to support his Class A misdemeanor domestic battery conviction. Our standard of review for sufficiency of the evidence claims is well settled. We consider only the probative evidence and reasonable inferences supporting the verdict. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We do not reweigh the evidence or judge witness credibility. *Id.* We will affirm the conviction unless no reasonable fact finder could find the elements of the crime proven beyond a reasonable doubt. *Id.* at 146-47. The evidence is sufficient if an inference may be reasonably drawn from it to support the verdict. *Id.* at 147.

[14] INDIANA CODE § 35-42-2-1.3(a)(1) provides “a person who knowingly or intentionally . . . touches a family or household member in a rude, insolent, or

angry manner . . . commits domestic battery[.]” “Evidence of touching, however slight, is sufficient to support a conviction for battery.” *Wolf v. State*, 76 N.E.3d 911, 915 (Ind. Ct. App. 2017) (quoting *A.A. v. State*, 29 N.E.3d 1277, 1281 (Ind. Ct. App. 2015)).

[15] Here, Shoup specifically argues that the evidence is insufficient to show that he touched T.L. in a rude, insolent, or angry manner.³ We disagree. T.L. testified that Shoup had punched her in the side of the head and grabbed her by her hair and the back of her neck. In addition, the State presented photographs that corroborated that T.L. had an injury on her neck. Moreover, Shoup admitted that he had grabbed T.L. by the back of her head, by her hair, and by her arm. Punching a victim in the side of her head, and grabbing her by the back of her head, hair, and arm in order to force her out of a bedroom certainly constitutes a touching done in a rude, insolent, or angry manner and is sufficient to support a domestic battery conviction. *See also Mathis v. State*, 859 N.E.2d 1275, 1281 (Ind. Ct. App. 2007) (explaining that pushing a victim against a door and grabbing a victim’s hair was sufficient to support a domestic battery conviction). Based on the evidence presented during the bench trial, there was sufficient

³ Shoup also attempts to challenge the denial of his motion to correct error. In his motion and on appeal, Shoup argues that he has discovered additional evidence that he believes would have further impeached the victim at trial and at sentencing. We need not address this additional argument. Shoup admitted to the elements of the crime, making additional impeachment evidence irrelevant. Shoup’s argument is also an invitation for us to reweigh the evidence and reassess T.L.’s credibility, which we will not do.

evidence for the trial court, as the finder of fact, to conclude that Shoup had committed domestic battery. Accordingly, we affirm the trial court's judgment.

[16] Affirmed.

Bailey, J., and Crone, J., concur.