

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Steven Anthony Thomas,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

October 20, 2022

Court of Appeals Case No.
22A-CR-637

Appeal from the
Marion Superior Court

The Honorable
Cynthia L. Oetjen, Judge

The Honorable
Anne Flannelly, Magistrate

Trial Court Case No.
49D30-2110-F5-30905

Baker, Senior Judge.

Statement of the Case

- [1] During Steven Anthony Thomas' trial, the jury was asked to determine whether Thomas' actions during a marital dispute constituted self-defense or went too far and amounted to unjustified criminal conduct. The jury rejected Thomas' self-defense claim and found that his actions did go too far such that they constituted domestic battery, a conviction that was elevated to a Level 5 felony¹ based on the trial court's finding of a prior conviction. Because Thomas' argument on appeal asks us to reweigh the evidence, a task our standard of review forbids, we must affirm.

Facts and Procedural History

- [2] Thomas resided in an apartment complex in Marion County with his wife, Angela. On Thursday, September 30, 2021, Angela finished work at 5:00 p.m. Thomas had already left work earlier that day at 3:00 p.m. and went to a bar. On her way home from work, Angela called Thomas to ask if he could pick up a particular brand of sausages for her on his way home from the bar. Angela did not have any money on hand and Thomas had the EBT card. Angela was no longer allowed to use the EBT card because on a prior occasion she had disobeyed Thomas and spent the entire balance remaining on the card for food.

¹ Ind. Code § 35-42-2-1.3(c) (2021).

The first time Angela called Thomas, she said he had “a little attitude” about her calling him. Tr. Vol. II, p. 152. The conversation was so short, she believed he had possibly hung up on her, so she called him again. Angela stated that this time Thomas seemed to be “trying to hurry me off the phone.” *Id.* He eventually agreed to buy the food Angela requested.

[3] Angela drove to her apartment complex and parked her car in the parking lot. She went to her friend’s apartment, which was located in the same complex. Angela could see her apartment building from her friend’s apartment and decided to wait there for Thomas to arrive home. Angela had two glasses of wine and socialized with her friend on the apartment’s balcony. After waiting for around three hours, Angela accompanied her friend who bought food from a nearby restaurant. On the way, Angela called Thomas to inform him that she and her friend were out buying food and to ask when he would come home. Angela could tell that Thomas had been drinking and that “he was really a little tipsy.” *Id.* at 155. Thomas told her that he was still at the bar, that she could eat whatever was available, and that he would “be there [home] when the eff [he got] there.” *Id.* at 154. Angela’s friend gave her a piece of chicken to eat.

[4] Angela and her friend returned to her friend’s apartment where they talked while Angela waited for Thomas. She testified that at the time “I’m crying because I’m hungry and I want to see my husband. He’s been off work since 3:00, it’s after 8:00, and [he’s] still not home.” *Id.* at 156. At around 9:00, Angela saw Thomas arrive. She could tell that he was “tipsy” as he went to their apartment. *Id.* at 156-57. She returned to her apartment, and her friend

walked there with her. Angela called out to Thomas several times, and when she finally got his attention, told him that she had been waiting at her friend's apartment for him to come home. Angela became even more irritated because Thomas said "yeah, right" which she interpreted to mean that he thought she was lying. *Id.* at 157.

[5] The three went into the apartment where Angela discovered that Thomas had purchased food for himself, and the incorrect brand of sausages for Angela. She complained to him about his mistake to which he asked "what f**king difference" it made because the brands were similar. *Id.* at 158. She then complained to Thomas about how long he had stayed at the bar instead of coming home. Angela's friend was in the adjacent room while the two argued, and she could see them from where she was seated.

[6] Angela argued that wives nag their husbands if they stay at the bar instead of coming home. Thomas replied, "you're married, not me." *Id.* at 159. This comment agitated Angela to the point that she "knocked the food out of his hand." *Id.* He replied, "you[sic] an ignorant bitch, and you're going to clean that shit up." *Id.* She then told Thomas to leave and to give her the key to the apartment. When Thomas refused, Angela tried to take the keys from his pocket, but he stopped her. He eventually removed the keys and threw them at her.

[7] Next, the argument moved to the bedroom, where Thomas entered the closet and began removing a few of Angela's things. Angela "snatched" the items

from Thomas. *Id.* After Thomas started to take shirts that Angela had purchased for him, she told him he could not take them with him. They were “snatching” the items from each other, “tussling back and forth.” *Id.* Eventually, Angela, who was crying and upset, tossed the clothes across the room and began to back out of the closet.

[8] Following her out of the closet, Thomas called her “an ignorant bitch.” *Id.* at 160. He then grabbed her by the neck with both of his hands and shoved her so hard she hit the wall, knocking several art objects off the wall. Thomas left, talking on his phone as he did so, telling someone on the line, “this is an ignorant bitch here.” *Id.* Angela closed the door behind Thomas and called the police. Thomas had previously been convicted of battery against Angela.

[9] The State charged Thomas with domestic battery, a Class A misdemeanor, and alleged the offense was elevated to a Level 5 felony due to Thomas’ prior conviction. He was convicted of the misdemeanor offense after his jury trial. He then waived a jury trial on the allegation that his offense should be elevated. After hearing evidence, the court found that Thomas had previously been convicted of battery, and as such was guilty of domestic battery as a Level 5 felony. The court sentenced Thomas to three years to be served on home detention through Marion County Community Corrections. This appeal ensued.

Discussion and Decision

- [10] Thomas argues that there is insufficient evidence to support his conviction. He suggests that the record supports his claim of self-defense and that the State's evidence was insufficient to rebut that claim such that his conviction should be reversed.
- [11] At trial, the State was required to establish beyond a reasonable doubt that Thomas knowingly or intentionally touched Angela, a family member, in a rude, insolent, or angry manner, and, in this case, had a prior conviction for the same. Ind. Code § 35-42-2-1.3. On appeal, Thomas does not deny that he committed the battery against Angela, but suggests that his "only faults were going to a bar after work and bringing home the wrong kind of sausage." *See* Appellant's Br. pp. 7-10.
- [12] Instead, Thomas argues that the record supports his claim that Angela was the aggressor and that he acted in self-defense. A valid claim of self-defense is a legal justification for an otherwise criminal act. *Hood v. State*, 877 N.E.2d 492, 496 (Ind. Ct. App. 2007), *trans. denied*. The self-defense statute provides in pertinent part as follows: "A person is justified in using reasonable force against any other person to protect the person or a third person from what the person reasonably believes to be the imminent use of unlawful force." Ind. Code § 35-41-3-2(c) (2019).
- [13] When a defendant raises a self-defense claim, he is required to show three things: (1) he was in a place where he had a right to be; (2) he acted without

fault; and (3) he had a reasonable fear of death or serious bodily harm. *Hood*, 877 N.E.2d at 497 (citing *Wallace v. State*, 725 N.E.2d 837, 840 (Ind. 2000)). The State then bears the burden of disproving at least one of these three things beyond a reasonable doubt. *Hood*, 877 N.E.2d at 497. The State may accomplish this by rebutting the defense directly, by affirmatively showing the defendant did not act in self-defense, or by simply relying upon the sufficiency of its evidence in chief. *Id.* The factfinder makes the determination whether the State has met its burden of rebutting the defense. *Id.* Additionally, the factfinder is not precluded from finding that a defendant used unreasonable force simply because the facts show that the victim was the initial aggressor. *Id.* We will reverse a jury’s rejection of a self-defense claim only if no reasonable person could say that at least one element of self-defense had been negated beyond a reasonable doubt. *Taylor v. State*, 710 N.E.2d 921, 924 (Ind. 1999).

[14] “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.” *Wilson v. State*, 770 N.E.2d 799, 801 (Ind.1999). “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 verdict will not be disturbed.” *Id.*

[15] The record reflects that Angela and Thomas were engaged in a spiteful marital argument during which Angela demanded that Thomas leave. Though Angela knocked a plate of food from Thomas’ hand, and the two “tussled” in the bedroom closet over items Thomas attempted to take with him from the home,

the evidence most favorable to the jury's verdict shows that after Angela backed out of the closet, Thomas followed her, grabbed her by the throat, and knocked her into a wall, causing her to hit the wall with enough force to knock objects off the wall. The jury heard Thomas' argument that Angela was the aggressor, but rejected it, finding his overreaction to her behavior to be unjustified under the circumstances. We will not reweigh the evidence. *Id.* The State's evidence was sufficient to rebut Thomas' self-defense claim.

Conclusion

[16] In light of the foregoing, we affirm the court's judgment.

[17] Affirmed.

Bailey, J., and Mathias, J., concur.