MEMORANDUM DECISION

IN THE

Court of Appeals of Indiana

Lisa Smith,
Appellant-Defendant

v.

State of Indiana,
Appellee-Plaintiff

May 10, 2024

Court of Appeals Case No.
23A-CR-2631

Appeal from the Boone Superior Court

The Honorable Bruce E. Petit, Judge

Trial Court Cause No.
06D02-2208-CM-1316

Memorandum Decision by Judge Weissmann
Judges Mathias and Tavitas concur.

Weissmann, Judge.

[1] Lisa Smith was convicted of battery causing bodily injury and disorderly conduct. On appeal, Smith challenges the trial court's rejection of her self-defense claim at her bench trial. We affirm.

Facts

[2] Smith and her boyfriend, Jason Proctor, spent the day drinking at a bar. When they were finished, they asked Smith's daughter, Sarah, to drive them back to Smith's home. Sarah and her boyfriend, Brendan Autrey, also lived in Smith's home. When Sarah arrived to pick up Smith and Proctor, she observed them to be "very intoxicated." Tr. Vol. II, p. 50.

[3] When the group reached Smith's home, Autrey was sitting outside at the front of the house with his boss. The two moved to the home's back patio to avoid Smith and Proctor "because they were drunk." *Id.* at 51. Yet Smith and Proctor also went to the back of the home. Things quickly went downhill from there. Proctor walked up behind Autrey and stated "something along the lines of I've got a bone to pick with you." *Id.* at 23. This prompted Autrey and his boss to leave the house. But Proctor followed them, acting "confrontational" and touching Autrey "a couple times . . . trying to make a statement." *Id.* at 23. Smith also followed the group.

[4] When Autrey and his boss approached the boss's car, Autrey entered the front passenger seat and placed into the glove compartment a handgun that Proctor and Smith knew him to carry. Before Autrey could close the car door, Proctor

came and held it open. While Autrey yelled at Proctor to release the door, Smith lay on the hood of the car. Proctor then grabbed Autrey's forearms and pulled Autrey out of the car. Proctor headbutted Autrey in the face, and they began fighting. Autrey eventually wrestled Proctor to the ground. While Autrey was on top of Proctor, Smith approached Autrey from behind. Smith grabbed and pulled Autrey's hair and repeatedly hit him in the face. The fight broke up only when the police arrived. Autrey suffered a black eye and various bruises and scrapes.

[5] The State charged Smith with Class A misdemeanor battery resulting in bodily injury, Class B misdemeanor public intoxication, and Class B misdemeanor disorderly conduct. The case proceeded to a bench trial. After the State presented its case, Smith testified in her own defense. Her testimony painted a different, nearly opposite, narrative. Smith stated that she did not drink any alcoholic beverages that day and that Autrey initiated and escalated the altercation. She also denied ever laying on the car's hood. She testified that she only became involved in the incident to defend Proctor once Autry had Proctor pinned. Smith denied ever striking Autrey.

[6] After hearing and considering this evidence, the trial court found Smith guilty of battery causing bodily injury and disorderly conduct. Smith received 365 days imprisonment, fully suspended to probation.

Discussion and Decision

[7] Smith appeals her conviction, arguing that the State failed to rebut her claim of self-defense. "A valid claim of self-defense is legal justification for an otherwise criminal act." *Gammons v. State*, 148 N.E.3d 301, 304 (Ind. 2011). In essence, a person is justified in using deadly force if the person reasonably believes that force is necessary to prevent serious bodily injury to himself or a third person or to prevent the commission of a forcible felony. Ind. Code § 35-41-3-2(c).

[8] There are three elements to a self-defense claim: (1) the defendant must have been in a place where she had a right to be; (2) the defendant acted without fault in that she did not provoke, instigate, or participate willingly in the violence; and (3) the defendant reasonably feared or perceived death or great bodily harm. *Larkin v. State*, 173 N.E.3d 662, 670 (Ind. 2021). After a defendant alleges self-defense, "[t]he State must then negate at least one element beyond a reasonable doubt '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.* (quoting *Lilly v. State*, 506 N.E.2d 23, 24 (Ind. 1987)).

[9] When reviewing a claim that the defendant acted in self-defense, we neither reassess witness credibility nor reweigh the evidence. *Stewart v. State*, 167 N.E.3d 367, 376 (Ind. Ct. App. 2021). The factfinder's judgment will be rejected only if no reasonable person could say that the State negated the defendant's self-defense claim beyond a reasonable doubt. *Id.*

[10] Smith's only argument is that her act of jumping on the hood of Proctor's car did not amount to participation in the fight. Of course, framing the argument this way ignores the State's evidence showing that she struck Autrey multiple times during the fight—to which Smith has no response to on appeal. But even accepting Smith's version of events, a reasonable factfinder was well within its discretion to find that Smith did not "act without fault" leading up to the altercation. *See Cole v. State*, 28 N.E.3d 1126, 1137 (Ind. Ct. App. 2015). The evidence most favorable to the judgment shows Smith following Autrey to the car, jumping on the car's hood to, presumably, prevent him from leaving, and then striking him several times while Autrey and Proctor fought.

[11] Moreover, Smith's argument is entirely based on her own self-serving testimony, which the trial court rejected. Tr. Vol. II, p. 92 ("I don't believe you, Ms. Smith."); *see also Randolph v. State*, 755 N.E.2d 572, 576 (Ind. 2001) (noting that the factfinder "was free to disbelieve [the defendant's] self-serving testimony"). In short, Smith merely asks us to reweigh the evidence in her favor, which we cannot do. *Stewart*, 167 N.E.3d at 376.

[12] Because the State sufficiently rebutted Smith's self-defense claim, we affirm.

Mathias, J., and Tavitas, J., concur.

ATTORNEY FOR APPELLANT

Riley L. Parr
Lebanon, Indiana

ATTORNEY FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Robert M. Yoke
Deputy Attorney General
Indianapolis, Indiana