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ATTORNEY FOR APPELLANT:

**CHRIS P. FRAZIER**  
Marion County Public Defender  
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

**STEPHEN R. CARTER**  
Attorney General of Indiana  
Indianapolis, Indiana

**MICHAEL GENE WORDEN**  
Deputy Attorney General  
Indianapolis, Indiana

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**IN THE  
COURT OF APPEALS OF INDIANA**

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ARTHUR JOHNSON, )  
 )  
Appellant-Defendant, )  
 )  
vs. ) No. 49A02-0511-CR-1094  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Clark Rogers, Judge  
Cause No. 49G16-0508-FD-131841

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**DECEMBER 5, 2006**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**ROBERTSON, Senior Judge**

## STATEMENT OF THE CASE

Defendant-Appellant Arthur Johnson was convicted at a bench trial of the Class D felony of criminal recklessness and the Class A misdemeanor of domestic battery. He was acquitted on the Class A misdemeanor of battery.

We affirm.

### ISSUE

Johnson states the issue as:

Did the trial court err in finding Johnson guilty of Criminal Recklessness as a Class D felony, when the State failed to show that Johnson's wife was actually at risk of bodily injury at the time of the incident?

### FACTS

Johnson, who had been drinking all day, became angry with his wife and required her to throw away a faceless doll because it offended him. When she tried to throw the doll over a fence, and failed, Johnson lunged at her and knocked her into a pole. She received a knot on her head and injured her shoulder. Johnson put her head in a headlock, and then he left home for a while.

When Johnson returned home, he asked his wife to drive him to the river. Once there he threw rocks and cans into the river. They drove to another place along the river where Johnson asked her to have sex. She demurred saying that they could do that at home. When they returned home Johnson, while still in the van, wanted her to perform oral sex on him, which she refused. Johnson grabbed a box cutter knife from the dashboard, leaned over her holding the knife within a foot of her, and told her that he

could slash her throat. She was scared and moved closer to the vehicle's door and assumed a fetal position. She told Johnson to go in the house and she would follow; however, after he left, she drove away.

### DISCUSSION AND DECISION

Our standard of review when considering the sufficiency of the evidence is well settled. Morrison v. State, 824 N.E. 2d 734, 742 (Ind. Ct. App. 2005), *trans. denied*. We will not reweigh the evidence or assess the credibility of witnesses. *Id.* We will only consider the evidence most favorable to the judgment, together with all reasonable inferences that can be drawn therefrom. *Id.* We will uphold a conviction if there is substantial evidence of probative value from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.*

Ind. Code § 35-42-2-2(b) states that a person who recklessly, knowingly, or intentionally performs an act that creates a substantial risk of bodily injury to another person commits criminal recklessness which is a Class D felony if it is committed while armed with a deadly weapon.

The essence of Johnson's argument is that the State did not prove that he used a deadly weapon. The issue, however, is whether the inferences supporting the judgment were reasonable, not whether there were other more reasonable inferences that could have been made. Brink v. State, 837 N.E. 2d 192, 197 (Ind. Ct. App. 2005), *trans. denied*. Reaching alternative inferences such as this is a function of the trier of fact and not of the court on appeal. *Id.* We cannot reverse the conviction merely because one inference is a plausible one that might have been drawn from the evidence. *Id.*

The trial judge heard evidence that Johnson held a box cutter knife within a foot of his wife's throat and threatened to cut her throat. We are of the opinion that evidence is sufficient to satisfy a reasonable trier of fact beyond a reasonable doubt that Johnson was guilty of criminal recklessness committed by means of a deadly weapon.

CONCLUSION

The evidence is sufficient to sustain the verdict. Judgment affirmed.

BAILEY, J., and CRONE, J., concur.