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IN THE
COURT OF APPEALS OF INDIANA

SAMUEL BOYD,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-0706-CR-313
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Jose Salinas, Judge
Cause No. 49G17-0512-FD-219914

December 18, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Samuel Boyd appeals his conviction for Domestic Battery, as a Class A misdemeanor, following a bench trial. Boyd raises a single issue for our review, namely, whether the State presented sufficient evidence to support his conviction.

We affirm.

FACTS AND PROCEDURAL HISTORY

In December of 2005, Boyd, Marguerite Newsom, and Charles Harrison lived together on North King Avenue in Indianapolis. Boyd and Newsom had been engaged in an "intimate" relationship for over a year. Transcript at 4. Harrison and Boyd "had the upstairs" and Newsom lived "downstairs." Id. at 18. Prior to living together on North King Avenue, Boyd and Newsom lived together at a different location. At the North King Avenue residence, the three inhabitants "all agreed to rent the house." Id.

On December 11, Boyd engaged Newsom in an argument. The argument escalated to physical violence when Boyd grabbed Newsom by the neck, dragged her out of her bed, and punched her in the face. Boyd tore gold chains from Newsom's neck, cutting her; poured cold water and beer on her face; and "physically tore up" her cell phone as she attempted to call 911. Id. at 8. Newsom fled a short time later and contacted the police.

On December 29, the State charged Boyd with Criminal Confinement, as a Class D felony; domestic battery, as a Class A misdemeanor; Battery, as a Class A misdemeanor; and Interference with Reporting a Crime, a Class A misdemeanor. On May 9, 2007, the court held a bench trial and found Boyd guilty as charged. The court

then entered judgment of conviction on all counts but battery, which the court merged into the domestic battery conviction. The court sentenced Boyd accordingly, and this appeal ensued.

DISCUSSION AND DECISION

On appeal, Boyd argues only that the State failed to present sufficient evidence to support his conviction for domestic battery. When reviewing a claim of sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jones v. State, 783 N.E.2d 1132, 1139 (Ind. 2003). We look only to the probative evidence supporting the judgment and the reasonable inferences that may be drawn from that evidence to determine whether a reasonable trier of fact could conclude the defendant was guilty beyond a reasonable doubt. Id. If there is substantial evidence of probative value to support the conviction, it will not be set aside. Id. To prove domestic battery, as a Class A misdemeanor, the State was required to show beyond a reasonable doubt that Boyd "knowingly or intentionally touche[d] an individual who[] is or was living as if a spouse of the other person as provided . . . in a rude, insolent, or angry manner that result[ed] in bodily injury . . . ." Ind. Code § 35-42-2-1.3(a) (2004) ("the domestic battery statute").[1]

Boyd asserts that the State presented insufficient evidence to demonstrate that Newsom "is or was living as if a spouse of" Boyd at the time he battered her. In support, Boyd cites Vaughn v. State, 782 N.E.2d 417 (Ind. Ct. App. 2003), trans. denied. In that case we held the domestic battery statute unconstitutionally vague as applied when the

[1] The General Assembly has since amended the form of the statute, but that amendment is immaterial to our consideration.

only evidence of a domestic relationship between the defendant and his victim was that the two, at one time but not at the time of the battery, had cohabited and had a sexual relationship. Id. at 418. But Boyd does not challenge the constitutional application[2] of the domestic battery statute in his case, and the evidence here supports the conclusion that, at the time he battered Newsom, they were cohabiting and involved in a romantic relationship. As such, Vaughn is inapposite.

Boyd also argues that the State's evidence does not satisfy the statutory factors a trial court may use in considering whether a person is or was living as a spouse of another. In particular, the domestic battery statute provides, in relevant part, as follows:

> In considering whether a person is or was living as a spouse of another individual . . . , the court shall review the following:
>
> (1) the duration of the relationship;
>
> (2) the frequency of contact;
>
> (3) the financial interdependence;
>
> (4) whether the two (2) individuals are raising children together;
>
> (5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and
>
> (6) other factors the court considers relevant.

I.C. § 35-42-2-1.3(b). However, in Williams v. State, 798 N.E.2d 457, 461 (Ind. Ct. App. 2003), we clarified that that list of statutory factors does not "serve as a litmus test[,] nor do we believe that the list of factors need even be consulted if the character of the

[2] Indeed, as acknowledged in Williams v. State, 798 N.E.2d 457, 460 n.3 (Ind. Ct. App. 2003), the General Assembly's 2003 amendments to the domestic battery statute, the statute at issue here, added a list of relevant factors to aid in the determination of whether one person is or was living "as if a spouse" of another in "an apparent response to Vaughn."

relationship is clearly 'domestic.'" And "when the character of the relationship clearly warrants application of the domestic battery statute, i.e., the couple is cohabiting and engaged in an ongoing romantic relationship, a court would not need to undertake further analysis." Id. (emphasis added).

Here, Newsom testified that she and Boyd were cohabiting and engaged in an ongoing romantic relationship at the time Boyd battered her. They had been in their relationship for more than a year, they had cohabited in at least two residences together, and the incident at issue occurred in their joint residence on North King Avenue. Thus, the State presented sufficient evidence to prove beyond a reasonable doubt that Boyd and Newsom were living as spouses, and their relationship "clearly warrant[ed] application of the domestic battery statute." See id. Insofar as Boyd argues that we should credit his testimony over Newsom's, that argument is a request for this court to reweigh the evidence, which we will not do. See Jones, 783 N.E.2d at 1139.

Affirmed.

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