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**IN THE
COURT OF APPEALS OF INDIANA**

BILLY RAY ARNDELL,¹
Appellant-Defendant,
vs.
STATE OF INDIANA,
Appellee-Plaintiff.

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) No. 82A01-0709-CR-421
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APPEAL FROM THE VANDERBURGH SUPERIOR COURT
The Honorable Mary Margaret Lloyd, Judge
Cause No. 82D02-0611-FC-981

December 14, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

¹ Appellant’s name is spelled both “Arndell” and “Arendell” in the record on appeal.

Case Summary

Appellant-Defendant Billy Ray Arndell (“Arndell”) appeals his conviction for Battery Resulting in Serious Bodily Injury, a Class C felony.² We affirm.

Issue

Arndell presents a single issue for review: whether the State presented sufficient evidence to support his conviction for Battery Resulting in Serious Bodily Injury.

Facts and Procedural History

During the early morning hours of November 15, 2006, Arndell, his sister Candace Arndell (“Candace”), Cliff Scaper (“Scaper”), and Kelley Fussner went to Rick’s Sports Café in Evansville. At some point, Candace had a verbal exchange with Brandon Gaines (“Gaines”) and Doug Henson (“Henson”) that led Arndell to confront Henson about “hitting on” his sister. (Tr. 144, 150.)

Arndell struck Henson multiple times and Gaines stood up, saying “what are you doing.” (Tr. 145.) Arndell punched Gaines twice, kicked Gaines after he fell to the floor, and hit him twice on the top of the head with a chair. Arndell and Scaper stomped on Gaines’ head and Candace struck Gaines with a chair or pool cue. Gaines lost consciousness and suffered bruises, abrasions, swelling, and severe pain. Gaines also sustained permanent scarring of his face.

On November 17, 2006, the State charged Arndell with Battery Resulting in Serious Bodily Injury and Resisting Law Enforcement. Arndell’s jury trial commenced on March 5,

2007 and concluded on the following day. Arndell was found guilty as charged. On April 5, 2007, the trial court sentenced Arndell to six years of imprisonment for the Battery conviction and one year of imprisonment for the Resisting Law Enforcement conviction, to be served concurrently. Arndell now appeals.

Discussion and Decision

Arndell claims that the evidence is insufficient to support his conviction. More specifically, he alleges that the eyewitnesses offered contradictory and implausible testimony, and that the evidence as a whole does no more than “tend” to support a conclusion of guilt. Appellant’s Brief at 13.

When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and the reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). In so doing, we do not assess witness credibility or reweigh the evidence. Id. We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. Id.

To convict Arndell of Battery Causing Serious Bodily Injury, as charged, the State was required to establish beyond a reasonable doubt that he knowingly or intentionally touched Gaines in a rude, insolent, or angry manner causing serious bodily injury to Gaines. See Ind. Code § 35-42-2-1(a)(1). “Serious bodily injury” is bodily injury that creates a

² Ind. Code § 35-42-2-1(a)(3). Arndell does not challenge his conviction for Resisting Law Enforcement, a Class A misdemeanor. See Ind. Code § 35-44-3-3(a)(3).

substantial risk of death or that causes serious permanent disfigurement, unconsciousness, or extreme pain. See Ind. Code § 35-41-1-25.

Gaines testified that he was “hit and knocked out.” (Tr. 145.) He suffered severe pain, loose teeth, facial abrasions, and permanent scarring. Having been rendered unconscious, Gaines could not identify who struck the blows after he lost consciousness. However, eyewitness Jane Healy (“Healy”), the mother of bartender Corey Yeida, testified that she saw Arndell punch Gaines twice in the face, hit him with a chair, and kick him in the head.³ Gaines covered his head and curled into a ball, attempting to evade the blows. According to Healy, Arndell and his accomplices continued to beat Gaines until she feared he was dead.

From this evidence, the jury could conclude that Arndell knowingly or intentionally touched Gaines in a rude, insolent, or angry manner, causing serious bodily injury to Gaines. Nevertheless, Arndell asks this Court to find Healy’s testimony lacking in credibility because she testified that Gaines was knocked back five feet and struck multiple times before he hit the floor. Arndell also asks that we resolve in his favor perceived conflicts arising from the testimony of the eyewitnesses. In contrast to Healy’s testimony, Scrapper testified that he acted alone and that Arndell did not strike Gaines. However, the trier of fact, rather than this Court, is in the best position to weigh the evidence presented and to resolve conflicts arising from the testimony of multiple witnesses. Graham v. State, 713 N.E.2d 309, 311 (Ind. Ct. App. 1999), trans. denied.

Conclusion

There is sufficient evidence to support Arndell's conviction for Battery Causing Serious Bodily Injury.

Affirmed.

NAJAM, J., and CRONE, J., concur.

³ Healy testified that the altercation began when Candace announced her plan to rob a drunken patron who had passed out, and Gaines told her not to do it.