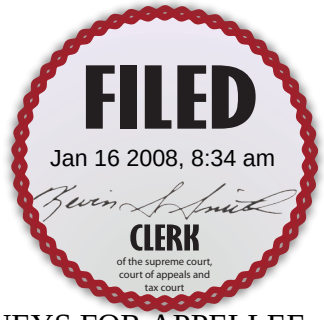

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IN THE
COURT OF APPEALS OF INDIANA

BRITTANY BROWN,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0706-CR-507
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Louis Rosenberg, Magistrate
Cause No. 49F10-0612-CM-243623

January 16, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

VAIDIK, Judge

Case Summary

Brittany Brown ("Mother") appeals her conviction for Battery as a Class A misdemeanor, claiming that insufficient evidence exists to support her conviction. Finding that the evidence is sufficient, we affirm the judgment of the trial court.

Facts and Procedural History

In the early evening on December 17, 2006, Mother called Zachary Watson ("Father"), the father of their two-year-old child, I.W., to discuss their custody arrangement regarding I.W. At the time, Father and Mother had a split custody arrangement, which they altered periodically for their convenience. While conversing, Mother and Father disagreed as to the altered custody arrangement because Mother believed that I.W. was to spend the night with her. As a result, Mother became increasingly upset, cursed at Father over the telephone, and told him that she was coming over to pick up I.W. Anticipating that the situation would escalate once Mother arrived to retrieve I.W., Father called the police At the time, Father lived with his parents, who were I.W's paternal grandparents, Brian and Christina Watson (hereinafter collectively referred to as "Grandparents" or individually referred to as "Grandfather" or "Grandmother").

Soon thereafter, Mother and her husband, Aundre Jackson, arrived at the Grandparents' home. Mother exited her vehicle and began conversing with Father in the entryway of the Grandparents' home while Jackson remained in his vehicle. At some point during their conversation, Mother began yelling at Father and then stormed into the Grandparents' living room to take I.W. but was physically restrained from doing so by

Father. Eventually, Grandfather stopped Father from restraining Mother, and Mother called Jackson from her mobile telephone and told him that Father had hit her. In response, Jackson exited his vehicle and initiated a fight with Father outside of the Grandparents' home.

While Jackson and Father were fighting outside, Grandmother called 911, and Mother reentered the Grandparents' home and again tried to take I.W. During her second attempt to take I.W., Grandmother stepped between Mother and I.W. in an attempt to block her. Mother then hit Grandmother two times on her neck and shoulder with a closed fist, causing Grandmother pain. Mother picked up I.W. and walked outside. The police arrived and took Father, Mother, and Jackson into custody. Grandmother sought treatment at a hospital emergency room for her injuries.

The State charged Mother with Battery as a Class A misdemeanor.[1] At Mother's bench trial, Mother denied any intentional striking of Grandmother and instead stated that if there was contact it was inadvertent in her efforts to regain physical custody of I.W. Grandmother testified that Mother "hit me a couple of times on my neck and shoulder." Tr. p. 12. Following her bench trial, the trial court entered judgment of conviction against Mother for Battery as a Class A misdemeanor. Mother did not directly appeal her case. However, on May 7, 2007, she filed a motion requesting permission to file a belated notice of appeal, which was granted on June 9, 2007. This appeal now ensues.

Discussion and Decision

[1] Ind. Code § 35-42-2-1(a)(1)(A).

Brown's sole argument on appeal is that the evidence is insufficient to support her battery conviction. In reviewing a claim of insufficient evidence, we neither reweigh the evidence nor assess the credibility of the witnesses. *Love v. State*, 761 N.E.2d 806, 810 (Ind. 2002). Instead, we look to the evidence most favorable to the verdict and the reasonable inferences drawn therefrom. *Id*. We will affirm the conviction if there is probative evidence from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id*. To convict Brown of Battery as a Class A misdemeanor, the State was required to prove beyond a reasonable doubt that she knowingly or intentionally touched Grandmother in a rude, insolent, or angry manner that resulted in bodily injury. Ind. Code § 35-42-2-1(a)(1)(A).

Specifically, Brown argues that insufficient evidence exists to support her conviction because "she did not knowingly or intentionally strike [Grandmother], instead, she was only knowingly and intentionally attempting to retrieve her child and leave the home." Appellant's Br. p. 7. In other words, Mother claims that her acts were not intentional because she was simply retrieving her child, whom she had every right to retrieve. We disagree.

Grandmother testified that Mother hit her two times in her neck and shoulder. In general, the uncorroborated testimony of the victim is sufficient to sustain a criminal conviction. *Holeton v. State*, 853 N.E.2d 539, 541 (Ind. Ct. App. 2006). Although Mother argues that she did not intentionally strike Grandmother, this was presented to and ultimately rejected by the trial court. Thus, Mother's argument on appeal is merely a request that we reweigh the evidence, which we cannot do. Further, Mother's claim that

hitting Grandmother is somehow legally justified because she had the legal right to custody of I.W. is misguided. A right to legal custody does not give Mother a right to commit a criminal act in an effort to retrieve her child. Accordingly, the evidence is sufficient to support Brown's conviction for Battery as a Class A misdemeanor.

Affirmed.

SHARPNACK, J., and BARNES, J., concur.