MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

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IN THE

COURT OF APPEALS OF INDIANA

Andrew Cantrell,

Appellant-Defendant,

v.

State of Indiana,

Appellee-Plaintiff.

October 6, 2022

Court of Appeals Case No. 22A-CR-488

Appeal from the Huntington Superior Court

The Honorable Jennifer E. Newton, Judge

Trial Court Cause No. 35D01-2105-F5-155

Bradford, Chief Judge.

Case Summary

[1] On May 10, 2021, Andrew Cantrell was charged with numerous offenses stemming from a physical altercation with his then-girlfriend, A.G. A.G. testified at trial, at one point making a statement that violated a pre-trial motion in limine. The trial court admonished the jury to disregard the statement and denied Cantrell's motion for a mistrial. At the conclusion of trial, the jury found Cantrell guilty of Level 5 felony criminal confinement, Level 6 felony domestic battery, Level 6 felony battery, Level 6 felony possession of methamphetamine, and Class C misdemeanor possession of paraphernalia. The trial court subsequently sentenced Cantrell to an aggregate five-year sentence. On appeal, Cantrell contends that the trial court abused its discretion in denying his motion for a mistrial; the evidence is insufficient to sustain his convictions for criminal confinement, domestic battery, and battery; and his sentence is inappropriate. We affirm.

Facts and Procedural History

[2] On May 6, 2021, A.G. and Cantrell began to argue. In an effort to avoid a fight, A.G. completed small tasks around the apartment and, when she had completed those tasks, decided to take a walk. As she was walking, A.G. noticed that Cantrell had left the apartment and was following her. Not wanting to provoke Cantrell, A.G. sat down and waited for him to catch up with her. Cantrell asked A.G. to come back to the apartment, and A.G. agreed

that she would if Cantrell calmed down and stopped yelling. A.G. and Cantrell returned to the apartment after Cantrell agreed to calm down.

[3] Despite A.G.'s efforts to disengage and to end the argument, she and Cantrell continued to argue once back in the apartment. Again, attempting to disengage from the argument, A.G. went into the bathroom, locked the door, and sat on the edge of the tub. At some point, Cantrell came to the bathroom door and A.G., "keeping [her] voice really … monotone[,]" asked him to leave. Tr. Vol. II p. 151.

[4] At some point, A.G. told Cantrell that she did not love him and that she wanted him to leave the apartment. In response, Cantrell raised his voice and yelled "she's killing herself." Tr. Vol. II p. 152. Believing that Cantrell was going to try and break into the room, A.G. stood up, turned around, put her back to the bathroom door, and braced herself. Cantrell "barreled into the door … three times, maybe four times before he stopped." Tr. Vol. II p. 153. A.G. managed to keep the door closed, but the force of Cantrell hitting the door caused the door to crack and caused A.G. pain.

[5] After a short while, A.G. "heard the front door open and shut." Tr. Vol. II p. 154. Assuming that Cantrell had left the apartment, A.G. exited the bathroom. Cantrell re-entered the apartment, walked over to A.G., placed his hands in her hair, grabbed her head, and slammed her head against the wall. A.G. was unsure how many times Cantrell slammed her head against the wall but felt like she was "being pinballed around." Tr. Vol. II p. 155. Cantrell eventually

pinned A.G. into a corner. Once in the corner, Cantrell, who was standing behind A.G., "had his arm around [her] throat and was choking" A.G., making it hard for her to breathe. Tr. Vol. II p. 155. A.G. tried to get free, trying to scratch Cantrell and bite his hand. Cantrell "flipped [her] off and threw [her] from that corner to other corner and came down on top of" her. Tr. Vol. II p. 155.

[6] Once on top of A.G., Cantrell pinned her down, holding her hands and arms. At this point, A.G. became "extremely frightened" because Cantrell appeared to be "in a blind rage." Tr. Vol. II p. 156. A.G. asked Cantrell to stop, told him that he was hurting her, and pleaded with him to let her go. Cantrell did not let A.G. go, instead slamming her head down onto the baseboard and telling her to put her legs down. A.G. decided to comply with Cantrell's request with the hope that he would stop. Cantrell eventually seemed to calm down a bit. He then grabbed A.G.'s throat. Cantrell squeezed and shook A.G.'s throat. Suddenly, he stood up, walked to the front door, grabbed A.G.'s cellphone, and left the apartment.

[7] A.G. immediately got off the floor, ran to the front door, and locked it. As A.G. was looking for her wallet and cellphone, Cantrell "kicked [the door] open." Tr. Vol. II p. 159. A.G. asked him for her phone back, but Cantrell denied that he had taken it. She asked him to leave the apartment, but Cantrell refused to do so. After Cantrell refused to leave, A.G. "took off walking out of" the apartment without her keys or cellphone. Tr. Vol. II p. 164.

[8] At first, A.G. did not know where to go, stopping "at pretty much anybody's house that [she] thought might be home. Tr. Vol. II p. 164. A.G. eventually made her way to a friend's house. Upon seeing her friend, A.G. immediately started to "bawl" and told him what Cantrell had done. Tr. Vol. II p. 166. A.G.'s friend invited her inside his home and allowed A.G., who had been up all night, to get some sleep.

[9] When A.G. awoke, she went back to her apartment. She knocked on the door, and Cantrell let her inside. A.G. asked Cantrell for her wallet, keys, and cellphone but Cantrell continued to maintain that he did not have her cellphone. At that point, A.G. asked him "why are you still here" and Cantrell ended up leaving the apartment. Tr. Vol. II p. 168. At some point, A.G. walked to the gas station and asked to use the phone to call the police. As the attendant was handing her the phone, a friend of Cantrell's approached her and told her that she did not need to call the police and indicated that he would ensure that Cantrell left her and her belongings alone. A.G. agreed not to call the police at that time and walked back to her apartment. The next day, A.G. located her cellphone behind nearby bushes "smashed to bits." Tr. Vol. II p. 171. After finding her cellphone, A.G. walked to a friend's house, called 911, and reported what had happened.

[10] Huntington Police Officer Darius Hillman responded to A.G.'s call and upon arriving, he noticed that A.G. had scratches on the side of her face, redness on her right wrist, swelling and bruising on her left forearm, a knot on her head, and a broken finger. After taking A.G.'s statement, Officer Hillman drove her

to the hospital for treatment. A.G.'s left ring finger was placed in a temporary splint and, as she healed, she noticed additional bruises develop on her body.

[11] Officer Hillman attempted, but was unable, to locate Cantrell. Eventually, another officer located Cantrell and brought him to the Huntington City Police Department to be interviewed. After being advised of his Miranda rights, Cantrell admitted that he had been involved in a physical altercation with A.G., stating that he "took her to the ground" and sat "on top of her holding her arms–pinning her arms down to the ground." Tr. Vol. II p. 234. Cantrell further admitted that A.G. had told him that he was hurting her during the altercation, but claimed that "her face [ ] didn't look like she was actually hurt." Tr. Vol. II p. 235. When brought to the police station for the interview, Cantrell had a small baggie of methamphetamine and a straw in his pocket.

[12] On May 10, 2021, the State charged Cantrell with Level 5 felony criminal confinement, Level 6 felony domestic battery, Level 6 felony strangulation, Level 6 felony battery, Level 6 felony possession of methamphetamine, Class A misdemeanor theft, Class B misdemeanor criminal mischief, and Class C misdemeanor possession of paraphernalia. Prior to trial, Cantrell filed a motion in limine seeking to preclude the State's witnesses from mentioning Cantrell's prior criminal conduct. The trial court granted Cantrell's motion.

[13] A.G. testified at trial. As she was testifying, A.G. described an exchange she had with Cantrell that occurred as she was leaving the apartment. A.G. testified that

> Um, but when I walked out of the house, um, it was an upstairs apartment. I walked down the stairs and I made it to the yard, and he had come out onto like, the porch area, and was hollering, um, he was hollering at me and he–he said, "come back", and he said, "baby I love you", and–can I say what I said? I cussed a little bit. I said, "are–are you effing kidding me? You just beat me up. I'm not ever coming back", and um, he said, "don't tell it'll be my third time".

Tr. Vol. II pp. 164–65. At that point, Cantrell's counsel objected. The trial court sustained the objection and "order[ed] the jury to disregard [A.G.'s] last answer." Tr. Vol. II p. 165.

[14] During a subsequent discussion outside the presence of the jury, Cantrell's counsel argued that A.G. had violated the motion in limine by "describing injuries or incidents of domestic battery" that had been committed by Cantrell in the past. Tr. Vol. II p. 184. Cantrell's counsel moved for a mistrial, arguing that the trial court's curative instruction for the jury to disregard the answer was not sufficient. The State argued that A.G.'s testimony was "very vague" and unclear and did not indicate that Cantrell had three prior convictions or that it was even his third time battering her. Tr. Vol. II p. 185. The State further argued that A.G.'s answer "was not elicited in direct response to" any question asked by the State but "was some additional commentary that was added at the end" of A.G.'s response. Tr. Vol. II p. 185. The State indicated that "the appropriate remedy under case law is for an admonishment to the jury to disregard that portion of her testimony, which the Court has already done, but a mistrial, based on such a short vague statement, is not the appropriate remedy."

Tr. Vol. II p. 185. After considering the parties' arguments, the trial court denied Cantrell's motion for a mistrial, finding that its admonishment to the jury was sufficient to cure any error.

[15] Cantrell testified on his own behalf. Cantrell admitted he and A.G. had fought and that the fight had become physical. Cantrell, however, claimed that he was acting in self-defense when he grabbed A.G. and "took her to the ground." Tr. Vol. III p. 54.

[16] At the conclusion of Cantrell's trial, the jury found Cantrell guilty of Level 5 felony criminal confinement, Class A misdemeanor domestic battery, Level 6 felony battery, Level 6 felony possession of methamphetamine, and Class C misdemeanor possession of paraphernalia.[1] Cantrell admitted to having a prior battery conviction, elevating his domestic battery conviction from a Class A misdemeanor to a Level 6 felony. On February 14, 2022, the trial court sentenced Cantrell to serve five years of incarceration for criminal confinement, two and one-half years for his conviction for domestic battery, two and one-half years for battery, two years for possession of methamphetamine, and sixty days for possession of paraphernalia. The trial court ordered that Cantrell's sentences be served concurrently for an aggregate five-year sentence, all of which was to be executed in the Department of Correction.

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[1] The jury found Cantrell not guilty of Level 6 felony strangulation, Class A misdemeanor theft, and Class B misdemeanor criminal mischief.

Discussion and Decision

I. Denial of Motion for Mistrial

[17] Cantrell contends that the trial court abused its discretion in denying his request for a mistrial. Specifically, Cantrell claims that the trial court should have granted his motion for a mistrial because the admonishment given by the trial court after A.G. violated the motion in limine was not sufficient to cure any prejudicial effect of A.G.'s statement.

> On appeal, a trial judge's discretion in determining whether to grant a mistrial is afforded great deference, because the trial judge is in the best position to gauge the surrounding circumstances of an event and its impact on the jury. We therefore review the trial court's decision solely for abuse of discretion. After all, a mistrial is an extreme remedy that is only justified when other remedial measures are insufficient to rectify the situation.

Mickens v. State, 742 N.E.2d 927, 929 (Ind. 2001) (cleaned up).

[18] It is undisputed that A.G., in describing her attempts to disengage from the altercation with Cantrell, violated a motion in limine when she testified that

> Um, but when I walked out of the house, um, it was an upstairs apartment. I walked down the stairs and I made it to the yard, and he had come out onto like, the porch area, and was hollering, um, he was hollering at me and he–he said, "come back", and he said, "baby I love you", and–can I say what I said? I cussed a little bit. I said, "are–are you effing kidding me? You just beat me up. I'm not ever coming back", and um, he said, "don't tell it'll be my third time".

Tr. Vol. II pp. 164–65. The trial court sustained Cantrell's objection and "order[ed] the jury to disregard [A.G.'s] last answer." Tr. Vol. II p. 165. In denying Cantrell's motion for a mistrial, the trial court denied Cantrell's motion for a mistrial, finding that its admonishment to the jury was sufficient to cure any error.

[19] In arguing that the trial court abused its discretion in denying his motion for a mistrial, Cantrell asserts that A.G.'s testimony "was so prejudicial and inflammatory" that it "placed [him] in grave peril for which only a mistrial is the appropriate curative relief." Appellant's Br. p. 16. We cannot agree.

[20] A.G.'s comment was brief and vague, and the trial court immediately instructed the jury to disregard the comment. The trial court was in the best position to gauge the surrounding circumstances and the impact of A.G.'s statement on the jury, ultimately determining that its admonishment to disregard the comment was sufficient to cure any potential harm to Cantrell. Nothing in the record suggests that the jury did not follow the trial court's instruction to disregard the comment. "'On appeal, we must presume that the jury obeyed the court's instructions in reaching its verdict.'" *Isom v. State*, 31 N.E.3d 469, 481 (Ind. 2015) (quoting *Tyson v. State*, 270 Ind. 458, 467, 386 N.E.2d 1185, 1192 (1979)). "As we have noted a 'clear instruction, together with strong presumptions that juries follow courts' instructions and that an admonition cures any error, severely undercuts the defendant's position.'" *Id.* (quoting *Lucio v. State*, 907 N.E.2d 1008, 1010–11 (Ind. 2009)).

[21] In this case, the trial court determined that its admonishment was, under the circumstances, sufficient to cure any potential harm. The trial court clearly instructed the jury to disregard the statement and, given the lack of any indication in the record to the contrary, we presume that the jury followed the trial court's instruction. As such, we conclude that the trial court did not abuse its discretion in denying Cantrell's motion for a mistrial.

II. Sufficiency of the Evidence

[22] Cantrell also contends that the evidence is insufficient to sustain his convictions for criminal confinement, domestic battery, and battery.

> When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict. It is the fact-finder's role, not that of appellate courts, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. To preserve this structure, when appellate courts are confronted with conflicting evidence, they must consider it most favorably to the trial court's ruling. Appellate courts affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.

Drane v. State, 867 N.E.2d 144, 146–47 (Ind. 2007) (cleaned up). Stated differently, in reviewing the sufficiency of the evidence, "'we consider only the evidence and reasonable inferences most favorable to the convictions, neither reweighing evidence nor reassessing witness credibility'" and "'affirm the

judgment unless no reasonable factfinder could find the defendant guilty.'" *Mardis v. State*, 72 N.E.3d 936, 938 (Ind. Ct. App. 2017) (quoting *Griffith v. State*, 59 N.E.3d 947, 958 (Ind. 2016)).

[23] In order to prove that Cantrell committed Level 5 felony criminal confinement, the State was required to show that Cantrell knowingly or intentionally confined A.G. without A.G.'s consent and that the confinement resulted in bodily injury to A.G. Ind. Code § 35-42-3-3. To confine means "to substantially interfere with the liberty of a person." Ind. Code § 35-42-3-1. "'Bodily injury' means any impairment of physical condition, including physical pain." Ind. Code § 35-31.5-2-29.

[24] In order to prove that Cantrell committed Level 6 felony domestic battery, the State was required to prove that Cantrell, having a prior unrelated conviction for a battery offense, knowingly or intentionally touched a family or household member in a rude, insolent, or angry manner. Ind. Code § 35-42-2-1.3. An individual is a family or household member if the individual "is dating or has dated the other person" or "is or was engaged in a sexual relationship with the other person." Ind. Code § 35-31.5-2-128(a).

[25] In order to prove that Cantrell committed Level 6 felony battery, the State was required to prove that Cantrell knowingly or intentionally touched A.G. in a rude, insolent, or angry manner, causing A.G. to suffer moderate bodily injury. Ind. Code § 35-42-2-1(c) & (e). "'Moderate bodily injury' means any

impairment of physical condition that includes substantial pain." Ind. Code § 35-31.5-2-204.5.

[26] In challenging the sufficiency of the evidence to sustain his convictions for criminal confinement, domestic battery, and battery,[2] Cantrell does not argue that the State failed to prove any of the relevant elements of the charged offenses. Instead, he argues that A.G.'s testimony was incredibly dubious.

> Under the incredible dubiosity rule, this court may impinge upon the jury's responsibility to judge the credibility of witnesses when confronted with inherently improbable testimony or coerced, equivocal, wholly uncorroborated testimony. If a sole witness presents inherently improbable testimony and there is a complete lack of circumstantial evidence, a defendant's conviction may be reversed. Application of this rule is rare, though, and the standard to be applied is whether the testimony is so incredibly dubious or inherently improbable that no reasonable person could believe it. This incredible dubiosity rule applies only when a witness contradicts himself or herself in a single statement or while testifying, and does not apply to conflicts between multiple statements.

Livers v. State, 994 N.E.2d 1251, 1256 (Ind. Ct. App. 2013) (cleaned up).

[27] Despite Cantrell's claim to the contrary, we conclude that the incredible dubiosity rule does not apply to the instant matter. First, A.G.'s testimony was not inherently improbable, coerced, equivocal, or wholly uncorroborated. A.G.

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[2] Cantrell does not challenge the sufficiency of the evidence to support his convictions for possession of methamphetamine and possession of paraphernalia.

clearly and unequivocally testified that Cantrell battered and confined her, describing the altercation in a clear, consistent, and chronological manner. We also do not believe that the fact that A.G. waited approximately forty-eight hours before reporting the altercation to the police made her testimony incredibly dubious. A.G. provided a logical explanation for the delay in reporting, explaining that she was scared and anxious because Cantrell had convinced her that she would go to jail for defending herself, she did not have access to her cellphone, and while she initially believed that friends could provide some level of protection as emotions and tensions de-escalated, she eventually realized that her friends "can't be around to protect [her] all the time." Tr. Vol. II p. 182.

[28] It is also of little importance that none of A.G.'s neighbors reported overhearing any part of the altercation. The evidence establishes that Officer Hillman chose not to interview any of A.G.'s neighbors because he did not think it was necessary, testifying that he "had already determined with an abundance of evidence what the truth was" and "had already established [his] probable cause and made an arrest." Tr. Vol. III p. 5. The fact that Officer Hillman determined that it was not necessary to speak to A.G.'s neighbors after speaking to A.G. and Cantrell does not make A.G.'s account incredibly dubious. To the contrary, it suggests that Officer Hillman found A.G.'s account to be accurate and reliable.

[29] Furthermore, the incredible dubiosity rule is inapplicable to the instant case because A.G. was not the sole witness who testified about the altercation at

trial. Cantrell himself testified, largely corroborating A.G.'s account and admitting that he battered and confined A.G. during the altercation. *See Govan v. State*, 913 N.E.2d 237, 243 n.6 (Ind. Ct. App. 2009) (concluding that the incredible dubiosity rule did not apply because the victim's testimony was not the sole witness when the defendant admitted to beating the victim in his videotaped statement to police), *trans. denied*. Although Cantrell claimed that A.G. was the aggressor and that he acted in self-defense, the jury was not obligated to believe Cantrell's claim in this regard. *See Thompson v. State*, 804 N.E.2d 1146, 1149 (Ind. 2004) ("As a general rule, factfinders are not required to believe a witness's testimony even when it is uncontradicted."). Cantrell chose to testify, and the jury weighed and rejected his claim that he acted in self-defense. A.G.'s account was also corroborated by other evidence in the record, namely exhibits depicting the injuries she sustained during the altercation. Despite Cantrell's assertion to the contrary, these exhibits are circumstantial evidence that could be considered by the jury in determining witness credibility.

[30] "It is for the trier of fact to resolve conflicts in the evidence and to decide which witnesses to believe or disbelieve." *Ferrell v. State*, 746 N.E.2d 48, 51 (Ind. 2001). The jury heard and considered Cantrell's and A.G.'s differing accounts and ultimately found A.G.'s account to be credible. A.G.'s testimony, together with the other corroborating evidence, is sufficient to sustain Cantrell's convictions for criminal confinement, domestic battery, and battery. *See id.* ("If the testimony believed by the trier of fact is enough to support the verdict, then

the reviewing court will not disturb it."). Cantrell's challenge to the sufficiency of the evidence effectively amounts to nothing more than a request to reweigh the evidence, which we will not do. *See Mardis*, 72 N.E.3d at 938.

III. Appropriateness of Sentence

[31] Cantrell last contends that his five-year sentence is inappropriate. Indiana Appellate Rule 7(B) provides that "The Court may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." In analyzing such claims, we "concentrate less on comparing the facts of [the case at issue] to others, whether real or hypothetical, and more on focusing on the nature, extent, and depravity of the offense for which the defendant is being sentenced, and what it reveals about the defendant's character." *Paul v. State*, 888 N.E.2d 818, 825 (Ind. Ct. App. 2008) (internal quotation omitted), *trans. denied*. The defendant bears the burden of persuading us that his sentence is inappropriate. *Sanchez v. State*, 891 N.E.2d 174, 176 (Ind. Ct. App. 2008).

[32] Cantrell was convicted of Level 5 felony criminal confinement, Level 6 felony domestic battery, and Level 6 felony battery, Level 6 felony possession of methamphetamine, and Class C misdemeanor possession of paraphernalia. A person who commits a Level 5 felony "shall be imprisoned for a fixed term of between one (1) and six (6) years, with the advisory sentence being three (3) years." Ind. Code § 35-50-2-6(b). A person who commits a Level 6 felony

"shall be imprisoned for a fixed term of between six (6) months and two and one-half (2½) years, with the advisory sentence being one (1) year." Ind. Code § 35-50-2-7(b). "A person who commits a Class C misdemeanor shall be imprisoned for a fixed term of not more than sixty (60) days." Ind. Code § 35-50-3-4. The trial court sentenced Cantrell to a term of five years for his Level 5 felony conviction, a term of two and one-half years on his Level 6 felony convictions for domestic battery and battery, a term of two years on his Level 6 felony conviction for possession of methamphetamine, and a term of sixty days for his Class C misdemeanor conviction. The trial court ordered that each of the sentences run concurrently, for an aggregate five-year sentence. While the sentences imposed for each of Cantrell's felony convictions were higher than the advisory, his five-year aggregate sentence was lower than his possible maximum exposure.

[33] In arguing that his five-year sentence is inappropriate in light of the nature of his offense, Cantrell concedes "that the battery-related Counts did cause bodily injury to [A.G.], which amount to red marks, swelling, injured ring finger, etc." Appellant's Br. p. 24. Cantrell asserts, however, that "[i]t would appear though from [A.G.'s] testimony that at least at the time of trial, she did not appear to be suffering from long-term physical or psychological issues related to the incident." Appellant's Br. p. 24. With regard to his drug-related convictions, Cantrell asserts "that these are essentially victimless crimes and that the only 'victim' is society in [and] of itself" and that "the nature of the offenses of these

types of crime are not particular [sic] egregious when considering the injury to [v]ictim and society." Appellant's Br. pp. 24, 25. We cannot agree.

[34] The record demonstrates that Cantrell committed violent acts against his then-girlfriend. A.G. made numerous attempts to disengage and to get away from Cantrell, but Cantrell thwarted each of her attempts. A.G. suffered injuries and pain as a result of Cantrell's actions. Further, while her injuries might not have been permanent, Cantrell did not face criminal sanction for causing permanent injuries, rather simply for causing bodily injuries. As the State points out, had Cantrell caused A.G. to suffer permanent injuries, he could have been charged accordingly. *See* Ind. Code § 35-42-2-1.5 ("A person who knowing or intentionally inflicts injury on a person that … causes: (1) serious permanent disfigurement; [or] (2) protracted loss or impairment of the function of a bodily member or organ … commits aggravated battery, a Level 3 felony."). We agree with the State that "[t]here is nothing about the nature of offenses that Cantrell committed that warrants a reduction in his sentence." Appellee's Br. p. 30.

[35] As for his character, Cantrell's criminal history includes one juvenile adjudication, six prior misdemeanor convictions, three prior felony convictions, ten prior petitions to revoke probation, and one prior petition to revoke placement in community corrections. Cantrell's prior convictions include convictions for various alcohol and drug-related offenses and various violent battery-type offenses, including operating a vehicle while intoxicated, strangulation, battery with moderate bodily injury, domestic battery, invasion of privacy, and visiting a common nuisance. Cantrell was on probation when

he committed the instant offenses, and he was determined to be a "high" risk to reoffend. Appellant's App. Vol. II p. 112. Cantrell's criminal history indicates that prior attempts at rehabilitation have failed. Cantrell's criminal history reflects poorly on his character. *See Brown v. State*, 160 N.E.3d 205, 221 (Ind. Ct. App. 2020) (providing that even a minor criminal history is a poor reflection of a defendant's character).

[36] In addition, Cantrell has not taken responsibility for his actions or demonstrated any remorse. Cantrell indicated that A.G. was lying and that he was "being incarcerated for something [he] didn't do." Appellant's App. Vol. II p. 112. "Lack of remorse is a proper factor to consider in imposing a sentence." *Deane v. State*, 759 N.E.2d 201, 205 (Ind. 2001). Cantrell also admits that he has had a long-standing issue with drug and alcohol abuse but has not successfully addressed his issues. Cantrell's untreated history of substance abuse reflects poorly on his character. *See Vega v. State*, 119 N.E.3d 193, 204 (Ind. Ct. App. 2019) (finding that a long history of substance abuse reflected poorly on defendant's character).

[37] Cantrell has failed to convince us that his five-year sentence is inappropriate in light of either the nature of his offenses or his character. He has also failed to establish that the trial court abused its discretion in denying his motion for a mistrial, and we conclude that the evidence is sufficient to sustain his convictions for criminal confinement, domestic battery, and battery. As such, we affirm the judgment of the trial court.

[38] The judgment of the trial court is affirmed.

May, J., and Pyle, J., concur.