

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Kasey L. Wireman,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

November 21, 2023

Court of Appeals Case No.
22A-CR-2118

Appeal from the LaPorte Circuit
Court

The Honorable Thomas Alevizos,
Judge

Trial Court Cause No.
46C01-2007-F1-904

Memorandum Decision by Judge Kenworthy
Judges Bailey and Tavitas concur.

Kenworthy, Judge.

Case Summary

- [1] A jury found Kasey Wireman guilty of four counts of child molesting: one count as a Class A felony,¹ and three counts as Class C felonies.² Wireman appeals, raising one issue: Was the evidence sufficient to convict him? Concluding sufficient evidence supports Wireman’s convictions, we affirm.

Facts and Procedural History

- [2] Wireman is the father of C.W. (born in 2005) and S.W. (born in 2007). He lived with the children and their mother, Crystal Yaw (“Crystal”) from when S.W. was six months old until the couple separated when S.W. was one and one-half years old. Shortly after Crystal and Wireman broke up, Crystal and the children moved in with Crystal’s grandfather (the children’s great-grandfather) Gerald Yaw (“Yaw”) and his wife, Cheryl. Crystal and the children lived there from 2009 until 2012. Yaw and his wife sometimes watched the children between 2014 and 2019.
- [3] Wireman had parenting time with the children until 2019, but sometimes he would miss two or more visits in a row because he could not financially provide for the children while they were with him. Wireman lived and had parenting time in the basement of his grandparents’ home in Rolling Prairie, Indiana,

¹ Ind. Code § 35-42-4-3(a)(1) (2007).

² I.C. § 35-42-4-3(b) (2007).

from 2010 to 2013 (when S.W. was three to six years old). Sometimes C.W. did not go with S.W. to parenting time.

[4] Before S.W. started elementary school, she was diagnosed with ADHD and a sensory processing disorder. She began taking medication and attending occupational therapy. She was “acting out, maybe screaming a little bit, throwing some fits, throwing herself on the ground, banging her head on things.” *Tr. Vol. 2* at 95. When S.W. was around twelve years old, she seemed “troubled, emotional, angry.” *Id.* at 70. S.W. began cutting herself on her arms and thighs, and Crystal took her to a doctor. S.W. did not tell the doctor about any abuse from Wireman or Yaw.³

[5] In October 2019, when S.W. was twelve years old, Crystal’s then-boyfriend, Andrew Mercer, lived with Crystal, S.W., and C.W. Mercer worked nights and was asleep most of the time when S.W. and C.W. came home from school. Crystal was usually away at work when the children came home. Mercer noticed the children were not coming home right after they got off the bus. One day, when the children did not come home, Mercer “went out looking for them” and eventually found them at an elementary school where their bus dropped them off, a few blocks from home. *Id.* at 71. When they got home, Mercer spoke with C.W. and S.W. about coming home from school on time. Mercer “wanted everybody to be on the same page” and “was also trying to

³ Prior to Wireman’s trial, Yaw was found guilty of molesting S.W. from when she was eight to twelve years old.

relate and just try[ing] to better understand them[.]” *Id.* at 73. Mercer “mentioned having a rough life and dealing with abuse from [his] father as a child,” and S.W. “broke down and started crying.” *Id.* Mercer took S.W. out to the front porch, and S.W. told him she was molested by Wireman and Yaw. Mercer drove S.W. to Crystal’s workplace.

[6] Crystal spoke to S.W. in the parking lot of her workplace. Crystal, Mercer, and S.W. went to the police station. Crystal filed reports, then she, Mercer, and S.W. went home. S.W. was “visibly upset” the entire time. *Id.* at 104.

[7] S.W. was interviewed at a child advocacy center, then underwent a physical examination at the hospital. After the examination, S.W. began attending therapy in Valparaiso.

[8] The State charged Wireman with seven counts of child molesting. The trial court granted the State’s motion to dismiss three counts, leaving three counts of Class C felony child molesting and one count of Class A felony child molesting. A jury trial was held in June 2022.

[9] At trial, S.W. said she was six years old when Wireman began abusing her, and the abuse occurred at the house in Rolling Prairie. S.W. said she was eight years old when Wireman stopped abusing her—and the abuse did not overlap with Yaw’s abuse, which occurred from the time S.W. was eight years old to the time she was twelve. S.W. described four instances of abuse from Wireman but did not remember how old she was or in what order the instances occurred.

[10] First, S.W. described an instance that took place on the living room couch. She had just woken up and her feet were on Wireman's penis, which S.W. described as feeling "[l]ike a deflated balloon." *Id.* at 125. Wireman was making S.W. move her feet up and down, and Wireman's penis got "harder." *Id.* at 127. S.W. said she was lying on her back but "kind of sitting up more." *Id.* at 123. Wireman was lying down facing her. They were covered by a yarn blanket with a clown on it. S.W. heard the television, but she could not remember what they were watching. Wireman said nothing to S.W. S.W. did not remember what time of day it was, where C.W. was, or how the incident stopped. Wireman confirmed at trial he owned a knitted clown blanket.

[11] Second, S.W. described an instance that took place in Wireman's bedroom at the entrance of his closet. Wireman and S.W. were standing, looking out of the closet and facing the bed. Wireman was slightly turned toward S.W., and he made S.W. touch his penis. Both were wearing clothes, but Wireman's pants were pulled down to his knees. Wireman made S.W. move her hands up and down on his penis, which S.W. described as feeling "[h]ard." *Id.* at 129. Then "white stuff came out of his penis." *Id.* at 128. S.W. described the substance as "like water but thicker, and it was like milk but like more of a gray tone." *Id.* at 129. Some of it got on S.W.'s hand and it felt "[s]limy." *Id.* Wireman was "woozy" and "unbalanced." *Id.* at 131. Wireman removed a jacket from a hook outside the closet and used it to wipe the "white stuff" off S.W.'s hand. *Id.* at 130. The jacket was a "lavender, bright purple" raincoat with a zipper.

Id. at 129. S.W. used to wear the jacket “all the time,” and she remembered it had flowers or butterflies on it. *Id.*

[12] Third, S.W. described an instance that took place in Wireman’s bed. It was morning, and Wireman and S.W. had slept in bed together through the night. This was not the first time S.W. had slept overnight in bed with Wireman. S.W. woke up because Wireman’s fingers were inside her vagina, moving “every which way.” *Id.* at 133. This caused S.W. to feel “a sharp pain, like you hit your funny bone kind of.” *Id.* S.W. “sat up and . . . looked at him, and he looked at [S.W.] and smiled.” *Id.* S.W. felt “[u]ncomfortable and confused” because “it hurt. So [she did not] know why he would be smiling.” *Id.* at 134. Wireman said nothing to S.W. S.W. was wearing a nightgown but no underwear, and Wireman was clothed. S.W. continued to feel pain throughout the day, and the pain stopped the next morning. S.W. did not remember where C.W. was or how the incident stopped.

[13] Fourth, S.W. described an instance that took place at the beach in LaPorte, Indiana. S.W., C.W., and Wireman were in the water. Wireman was crouched chest-deep in the water with S.W. on top of his knee. Wireman moved S.W.’s swimsuit bottom over and began “moving his hand everywhere over [her] vagina” under the water, *id.* at 136, but “[h]is fingers didn’t go inside of [her],” *id.* at 137.

[14] On cross-examination, S.W. agreed she told the interviewer at the child advocacy center she was about four or five years old when the abuse began, and

she only told the interviewer about three of the instances, excluding the beach incident. S.W. then testified she was five or six when the abuse started. She said she was “like, six” years old when she, C.W., and Crystal lived with Yaw and his wife “for a month.” *Id.* at 159. S.W. did not recall “telling the [child advocacy center] interviewer that [she was] watching Batman” when the instance on the living room couch took place. *Id.* at 160. S.W. could not describe the nightgown she wore during the instance in Wireman’s bed. On redirect examination, S.W. confirmed she remembered the beach incident after the interview at the child advocacy center.

[15] The interviewer from the child advocacy center testified that during her interview with S.W., S.W. was talkative at first, but her demeanor changed when she started talking about her father. S.W. “started to get emotional and she started crying.” *Id.* at 194. S.W. “struggled to find the words to describe things” and “wasn’t using the correct anatomical name for body parts.” *Id.*

[16] Wireman’s mother testified a detective contacted her about the purple jacket, which she still had. She would wash it “when it needed washed[.]” *Id.* at 210. Wireman’s mother was not sure when the jacket came into her possession, but she assumed S.W. wore it to her house one time and left it there. During the investigation, an officer did a presumptive test for semen on the jacket, but the results were inconclusive. The officer said this result did not surprise him because the jacket was “a synthetic material.” *Id.* at 228. “[I]t was definitely a slicker material; not cotton, not very absorbant [sic].” *Id.* The officer recommended the jacket be sent to Indiana State Lab for further testing. There,

the DNA analyst tested the jacket for sperm, but the results were negative. The DNA analyst said that when testing an item for sperm cells, “[i]f it’s a harder object or not absorbant [sic] and there is semen there and it’s wiped off, then [the analyst is] not going to find it.” *Tr. Vol. 3* at 78.

[17] The nurse who conducted S.W.’s physical exam also testified. She said S.W. told her the abuse occurred when she “was, like, five or six, somewhere in there.” *Id.* at 48. S.W. told the nurse that Wireman “started pulling [her] pants down and acting really weird towards [her].” *Id.* “Then one day he stuck his finger inside of [her].” *Id.* S.W. described another time she and Wireman “were laying on the couch and he was next to [her], and [she] felt something touch [her] feet because he was on the other side of the couch. He grabbed [her] feet and made [her] go up and down on him. . . . He told [her] not the [sic] tell anyone.” *Id.* S.W. then told the nurse about the abuse from Yaw. “When she would describe the actual assault, she looked down a lot.” *Id.* at 51. “She would close her eyes and gaze down and look away from [the nurse].” *Id.* The nurse found scarring on S.W. “consistent with what [S.W.] told [her].” *Id.* “[A] whole quarter of the tissue” directly outside S.W.’s hymen was “very smooth,” which was scarring from injuries S.W. received before she went through puberty. *Id.* at 55. “Any penetration before . . . [puberty] can cause injury to the vulva,” *id.* at 54, but “[t]here’s no way to pinpoint how many times or what amount of pressure would cause this sort of injury,” *id.* at 55. The nurse could not estimate when S.W.’s injuries occurred because “[m]ost vaginal

injuries heal within . . . five to ten days.” *Id.* at 56. The nurse said it was unlikely S.W.’s injuries were from just one incident. *Id.* at 62.

[18] Wireman testified on his own behalf. On cross-examination, the State questioned Wireman about some of his responses in his police interviews. In his first interview, the detective told Wireman about the allegations against him. Wireman responded by asking, “[H]ow am I supposed to react to that?” *Id.* at 129. Wireman admitted his trial testimony was the first time he explicitly denied inappropriately touching S.W., but he claimed the detective who interviewed him never asked him outright whether he inappropriately touched S.W. Also during the interview, when the detective asked Wireman if his semen could have gotten on the purple jacket because he was intimate with a girlfriend, he said “no.” *Id.* at 131. But when the detective asked Wireman about the jacket in connection with S.W., Wireman said, “if something like . . . this is happening, don’t you think the mother would have seen semen stains on the coat?” *Id.*

[19] The jury found Wireman guilty of three counts of Class C felony child molesting and one count of Class A felony child molesting. Wireman was sentenced to two years for the Class C felonies and thirty-four years for the Class A felony, all to be served concurrently. Wireman now appeals.

Sufficient Evidence Supports the Convictions

- [20] Wireman argues the evidence is insufficient because S.W.'s testimony should be disregarded as incredibly dubious. Wireman does not argue the evidence is insufficient to support his conviction if S.W.'s testimony is accepted.
- [21] Ordinarily, when reviewing the sufficiency of the evidence, we “neither reweigh the evidence nor judge witness credibility, instead reserving those matters to the province of the jury.” *Owen v. State*, 210 N.E.3d 256, 264 (Ind. 2023) (quoting *Brantley v. State*, 91 N.E.3d 566, 570 (Ind. 2018), *cert. denied*). We consider only the evidence and reasonable inferences supporting the verdict and will affirm the conviction “if probative evidence supports each element of the crime beyond a reasonable doubt.” *Brantley*, 91 N.E.3d at 570.
- [22] Although we generally do not reweigh witness credibility, we may do so if a witness's testimony is incredibly dubious. “The incredible dubiousity rule allows the reviewing court to impinge upon the factfinder's responsibility to judge the credibility of witnesses when confronted with evidence that is ‘so unbelievable, incredible, or improbable that no reasonable person could ever reach a guilty verdict based upon that evidence alone.’” *Smith v. State*, 163 N.E.3d 925, 929 (Ind. Ct. App. 2021) (quoting *Moore v. State*, 27 N.E.3d 749, 751 (Ind. 2015)). Incredible dubiousity “requires that there be: 1) a sole testifying witness; 2) testimony that is inherently contradictory, equivocal, or the result of coercion; and 3) a complete absence of circumstantial evidence.” *Moore*, 27 N.E.3d at 756. Although incredible dubiousity “provides a standard that is ‘not impossible’

to meet, it is a ‘difficult standard to meet, [and] one that requires great ambiguity and inconsistency in the evidence.’” *Id.* (quoting *Edwards v. State*, 753 N.E.2d 618, 622 (Ind. 2001)).

S.W. was the only eyewitness.

[23] The incredible dubiousity rule generally applies to cases with one testifying witness. It also applies when there are multiple testifying witnesses but the testimony of other witnesses “is lacking in specificity to establish the necessary factual basis of the crime.” *Smith*, 163 N.E.3d at 929. S.W. was not the only testifying witness, but she was the only eyewitness. And S.W.’s testimony was necessary “to prove or establish the elements of the crime.” *Id.* Wireman has shown the first factor of the incredible dubiousity test applies. But “even if the first factor is satisfied when multiple witnesses testify but only one is an eyewitness, [the defendant] must still show the remaining [incredible dubiousity] factors are met or satisfied.” *Id.*

S.W.’s testimony was not inherently contradictory, equivocal, or the result of coercion.

[24] Next, Wireman argues S.W.’s testimony was equivocal, contradictory, and not credible for several reasons. He points out that S.W. did not describe to the interviewer at the child advocacy center or the nurse conducting her physical exam all the details she testified to at trial. Wireman notes S.W. could not

remember certain details about her testimony at Yaw’s trial.⁴ And he points to details S.W. could not remember from the incidents, claiming S.W. was unsure about “what incident occurred first, what order the incidents occurred in and what time frame they occurred in relation to each other.” *Appellant’s Br.* at 22.

[25] Wireman discusses several allegedly contradictory details from S.W.’s testimony. S.W. said Wireman abused her when she was six years old at the house in Rolling Prairie, and Wireman’s abuse stopped when S.W. was eight years old. But Wireman lived at the house in Rolling Prairie from when S.W. was three to six years old—and S.W. told the interviewer at the child advocacy

⁴ Wireman states “S.W. did not recall testifying at [Yaw’s] trial that it happened with [Wireman] more than once, like twice or that she said that’s it as it pertained to [Wireman], him sticking his fingers inside of her or that she had to touch him.” *Appellant’s Br.* at 20–21. On redirect examination, the State added context to S.W.’s statements from Yaw’s trial:

Q. And when you were at the trial for Gerald Yaw, what did you primarily talk about, mainly talk about?

A. Gerald.

Q. All right. And do you recall the attorney in that matter asking you, what do you remember your dad doing?

A. I don’t know.

Q. Okay. And do you remember saying an answer of sticking his fingers inside of me. Basically that’s it.

“Question: Okay. And how many times did he do that?

Answer: More than once, like twice I can, like, remember.

Question: Okay. And then did you have to touch him?

Answer: Yes.”

Does that sound like the answers and questions that were done during Gerald Yaw’s trial?

A. I just don’t remember.

Q. Okay. Does that sound accurate?

A. Yes.

Tr. Vol. 2 at 167.

center she was four or five years old when the abuse occurred. S.W. described living with Yaw when she was six years old for about a month, but Crystal said they lived with Yaw from 2009 to 2012. Wireman said Crystal and the children lived with Yaw for about eight years.

[26] “[W]itness testimony that contradicts [a] witness’s earlier statements does not make such testimony ‘incredibly dubious.’” *Stephenson v. State*, 742 N.E.2d 463, 498 (Ind. 2001), *cert. denied*. This Court has declined to apply the incredible dubiousity rule where the witness’s testimony remains consistent “on the important facts.” *Smith*, 163 N.E.3d at 930. S.W. consistently and unequivocally testified about the facts necessary to prove the charges: Wireman used his finger to penetrate S.W.’s vagina during one incident (for the Class A felony) and Wireman inappropriately touched S.W. on three other occasions (for the Class C felonies). S.W. consistently testified about the locations of the incidents, the types of contact that occurred, her position during the incidents, and sensory details about the incidents. Although at trial S.W. said she was six years old when the abuse began and told the child advocacy center interviewer she was four or five, the jury had the opportunity to consider this inconsistency when Wireman cross-examined S.W. *See Smith v. State*, 34 N.E.3d 1211, 1222 (Ind. 2015) (“Moreover, the jury heard [the witness] admit that her story had changed, and defense counsel was able to belabor that point to the jury[.]”).

Circumstantial evidence corroborates S.W.’s testimony.

[27] Wireman argues no circumstantial evidence corroborates S.W.’s testimony. He notes no semen was detected on the purple jacket. He says the scarring outside

S.W.'s vagina and S.W.'s behavior were most likely from the trauma Yaw caused S.W. Further, Wireman claims no one ever observed him inappropriately touch S.W.

[28] S.W. described a purple rain jacket with flowers or butterflies on it, which Wireman used to wipe S.W.'s hand after the incident by the closet. Wireman's mother found a jacket matching the description. Wireman notes tests for Wireman's semen on the jacket came back negative, but the negative results did not surprise those who tested the jacket because it was made from a slick material and it had been washed. The jacket—even without Wireman's semen on it—corroborates S.W.'s testimony. S.W. also described a yarn clown blanket covering her and Wireman during the incident on the couch, and Wireman testified he owned a knitted clown blanket.

[29] Although Yaw also abused S.W. in ways that could have caused scarring to the outside of S.W.'s vagina, the nurse found the scarring on S.W. consistent with the incident S.W. described occurring on Wireman's bed. The nurse confirmed the injury also aligned with S.W.'s testimony that she felt a sharp pain during the same incident.

[30] Testimony about the victim's demeanor may be used to corroborate evidence of abuse. *See Morris v. State*, 114 N.E.3d 531, 536 (Ind. Ct. App. 2018) (finding corroborating circumstantial evidence where the victim's parent testified the victim was "distraught" after the incident), *trans. denied*. Several witnesses testified about S.W.'s demeanor when she disclosed the abuse. Mercer said

when he told S.W. and C.W. about his father's abuse, S.W. "broke down and started crying" before telling him her father and great-grandfather had molested her. *Tr. Vol. 2* at 73. Crystal said S.W. was "visibly upset" the entire time from when Crystal spoke with S.W. in the parking lot of Crystal's workplace to when they came home from the police station. *Id.* at 104. The interviewer from the child advocacy center said S.W. was talkative at first but "started to get emotional and she started crying" when S.W. spoke about her father. *Id.* at 194. The nurse who conducted S.W.'s physical examination said S.W. "would close her eyes and gaze down and look away" when talking about the abuse. *Tr. Vol. 3* at 51.

[31] As to Wireman's point that Mercer, Crystal, Wireman's mother, and C.W. never saw Wireman inappropriately touch S.W., we note child molesting crimes are by their nature perpetrated and perpetuated in secrecy. Although S.W. was the sole eyewitness to the abuse, her testimony was not inherently contradictory or equivocal and is corroborated by circumstantial evidence.

Conclusion

[32] Wireman has not shown that S.W.'s testimony was incredibly dubious. Sufficient evidence supports Wireman's convictions. Accordingly, we affirm.

[33] Affirmed.

Bailey, J., and Tavitas, J., concur.