

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

William Charles Summers, Jr.,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

December 15, 2023

Court of Appeals Case No.
23A-CR-1535

Appeal from the Wayne Superior
Court

The Honorable Darrin M.
Dolehanty, Judge

Trial Court Cause No.
89D03-2210-F6-400

Memorandum Decision by Chief Judge Altice
Judges Weissmann and Kenworthy concur.

Altice, Chief Judge.

Case Summary

- [1] William Charles Summers, Jr., appeals his conviction for domestic battery, a Level 6 felony, challenging the sufficiency of the evidence. Summers claims that the conviction must be set aside because the victim’s testimony was “incredibly dubious” and there was no credible evidence that he committed the charged offense. *Appellant’s Brief* at 2, 17.
- [2] We affirm.

Facts and Procedural History

- [3] During the early morning hours of October 9, 2022, thirteen-year-old Z.S. was playing video games at his grandmother’s house in Cambridge City. Summers, Z.S.’s father, was also at the residence. At some point, Summers, who was intoxicated, wanted to watch television, and ordered Z.S. out of the room. Summers was slurring his speech and acting aggressively toward Z.S. In response, Z.S. told Summers to leave him alone and “go back to bed.” *Transcript* at 116. Summers then grabbed a step ladder and threw it at Z.S., striking him on the shoulder. Z.S. ran down the hall to wake his grandmother, Peggy Summers, for help.
- [4] Upon entering Peggy’s bedroom, Z.S. screamed that his “dad was going to kill [him].” *Id.* at 84. Summers then walked into the bedroom and stated that he was “going to kill [Z.S.]” *Id.* at 86. Summers hit Z.S. on the head and arms

with his fists as he tried to push Z.S. down on the bed. Peggy grabbed Summers by the hair, shoved him, and ordered him out of the house.

[5] Z.S. then ran from the residence and hid outside near a container of pool toys. Z.S.'s head hurt, and he could not see out of his right eye because blood from a laceration on his head had dripped into that eye.

[6] At some point, Summers called the police and reported that Z.S. had threatened to kill him. When the officers arrived, Z.S. approached them and they noticed that Z.S. had a "fairly deep laceration" on his right eyebrow. *Id.* at 69, 74, 135. Z.S. told the officers that Summers threw a ladder at him and repeatedly hit him in the face with his fists. One of the officers believed that Z.S.'s eye injury was "very consistent with a punch to the face." *Id.* at 74.

[7] Summers was arrested at the scene and charged with domestic battery on a person less than fourteen years old, a Level 6 felony. Following a jury trial on May 2, 2023, Summers was found guilty as charged, and the trial court subsequently sentenced him to one year of incarceration.

[8] Summers now appeals.

Discussion and Decision

[9] When reviewing challenges to the sufficiency of the evidence, we neither reweigh the evidence nor assess the credibility of the witnesses. *Vasquez v. State*, 174 N.E.3d 623, 628 (Ind. Ct. App. 2021), *trans. denied*. We look to the evidence most favorable to the judgment, and the reasonable inferences

therefrom, and determine whether substantial evidence of probative value supports each element of the crime. *Id.* If a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt, then we must affirm. *Id.* In other words, we will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt. *Love v. State*, 73 N.E.3d 693, 696 (Ind. 2017).

[10] In this case, Summers was charged with domestic battery on a person less than fourteen years old in accordance with Ind. Code § 35-42-2-1.3(a)(1), (b)(4). To obtain a conviction, the State was required to prove that Summers—who is at least eighteen years old—knowingly or intentionally touched a family or household member, who is less than fourteen years old, in a rude, insolent, or angry manner. *Id.*

[11] The sole issue Summers presents on appeal is that his conviction cannot stand because Z.S.’s testimony was “incredibly dubious.” *Appellant’s Brief* at 17. Therefore, Summers maintains that the State failed to present any credible evidence that he touched Z.S. “in a rude or angry manner.” *Id.* at 2, 17. The only exception to the usual rule against reweighing the credibility of witnesses on appeal is the incredible dubiousity rule. *Love v. State*, 761 N.E.2d 806, 810 (Ind. 2002). We will impinge upon the jury’s duty to judge witness credibility only where a sole witness presents inherently contradictory testimony which is equivocal or the result of coercion “and there is a complete lack of circumstantial evidence of the appellant’s guilt.” *Tillman v. State*, 642 N.E.2d 221, 223 (Ind. 1994).

[12] Notwithstanding Summers’s contention that the incredible dubiousity rule bars his conviction, the evidence at trial demonstrated that Summers was intoxicated, became angry with Z.S., and threw a step ladder at him. Peggy testified that she heard Summers say that he was “going to kill” Z.S. *Transcript* at 86. Z.S. unequivocally testified that Summers struck him in the face and arms several times, and a police officer who arrived at the scene testified that the “fairly deep laceration” to Z.S.’s eye was consistent with a “punch in the face.” *Id.* at 69, 74. There is nothing about Z.S.’s testimony that is inherently improbable. And there was ample circumstantial evidence of Summers’s guilt.

[13] In sum, Z.S.’s testimony—along with the other corroborating evidence presented at trial—established that Summers struck Z.S. in the face and caused the laceration to Z.S.’s eye. Thus, Summers’s argument that his conviction must be reversed under the incredible dubiousity rule fails. *See Tillman*, 642 N.E.2d at 223. The evidence sufficiently established that Summers committed the charged offense.

[14] Judgment affirmed.

Weissmann, J. and Kenworthy, J., concur.