

Patrick Germany appeals his conviction for robbery as a class C felony.¹ Germany raises one issue, which we restate as whether the evidence is sufficient to sustain his conviction. We affirm.

The facts most favorable to Germany's conviction follow. Between 10:30 a.m. and 11:00 a.m. on March 31, 2008, Jessie Perkins returned from some errands to her house on the near north side of Indianapolis. Perkins parked her car in front of her house, got out of her car, walked up the stairs to the porch of her house, and put her key in the door and started to turn the key. Germany grabbed Perkins by putting his arm around her neck and pulled her away from the door. Perkins turned her head and looked at Germany. Perkins "couldn't ever get loose" and noticed another man standing on the porch who had a gun pointed at her. Transcript at 39. Germany pulled Perkins down the porch steps by the neck. Perkins fell down onto the sidewalk leading up to her porch, and Germany took Perkins's purse and told her to shut up. Perkins began to scream for help, and Germany and the other man "took off down the street" with Perkins's purse. *Id.* at 40.

Kirk Mead's house was located across the street from Perkins's house. Mead had lived at that location with his wife and children for approximately three years. On the morning of March 31, 2008, Mead and his brother-in-law were cleaning up Mead's yard. At "about 10/10:30/11 - - somewhere around there," Mead and his brother-in-law walked to a gas station located less than a block away from his house. *Id.* at 72. Mead and his

¹ Ind. Code 35-42-5-1 (2004).

brother-in-law were walking back to Mead's house by way of an alley behind his house. While walking down the alley, Mead noticed a blue Cadillac parked in the alley and "two gentlemen approaching it" Id. at 73. Mead, who was facing the two men, noticed that they were "moving briskly, that they didn't - - they weren't running but they were in a bit of a hurry" Id. at 74. Mead noticed one of the men going towards the driver's side of the Cadillac, the other man going towards the passenger's side of the vehicle. The two men opened the doors of the vehicle.

After walking past the two men, Mead heard "a bunch of noise and ruckus" and his brother-in-law noticed his neighbor Perkins lying in her yard and screaming. Id. at 76-77. Mead and his brother-in-law ran over to Perkins and picked her up, and Perkins told them that "she'd just been robbed and that someone had stolen her purse and . . . two guys robbed her and took off this way" Id. at 77. Mead called 911. Less than thirty seconds passed between the time Mead observed the two men approach the blue Cadillac and the time he heard Perkins screaming. Mead waited with Perkins until law enforcement arrived.

Officer Mark Decker arrived at Perkins's house and questioned Perkins and Mead separately. Officer Decker obtained from Perkins a description of the two men that robbed her, and he obtained from Mead a description of the Cadillac and the two men that Mead had seen in the alley. Officer Decker started searching the area at approximately 11:20 a.m.

At about 11:53 a.m., Officer Decker noticed a light blue Cadillac matching the description provided by Mead and called for backup. The Cadillac was parked about “a quarter of a mile” from Perkins’s house, and the vehicle’s hood was up. Id. at 123. Officer Decker also noticed a white vehicle with its hood up facing the blue Cadillac, and he observed Germany “underneath the hood.” Id. at 112. Germany owned the light blue Cadillac. Germany told Officer Decker that his vehicle had broken down and that it had been in that location for about an hour. Because he had been at that location approximately twenty minutes earlier, Officer Decker knew that Germany had lied about being with his vehicle for an hour. Other police officers arrived, and Germany was placed in handcuffs.

Officer Decker notified Perkins and Mead to come to his location. While waiting for Perkins and Mead to arrive, Officer Decker walked around the area and discovered Perkins’s purse in a trash can approximately sixty feet away from where the Cadillac was parked. Perkins arrived and identified Germany as the person who robbed her. After arriving at the scene, Mead identified the Cadillac as the vehicle he had observed and immediately identified Germany as one of the men he had observed in the alley behind his house. Officer Decker asked Mead “are you sure - - that was pretty quick,” and Mead replied “I recognize him.” Id. at 118.

In April 2008, the State charged Germany with robbery involving a deadly weapon as a class B felony. In November 2008, Perkins and Mead testified at Germany’s jury trial and identified Germany as the person they observed on March 31, 2008. The

jury found Germany guilty of the lesser included offense of robbery as a class C felony. The trial court sentenced Germany to six years, with credit for time served and the remainder suspended to probation.

The sole issue is whether the evidence is sufficient to sustain Germany's conviction. When reviewing the sufficiency of the evidence to support a conviction, we must consider only the probative evidence and reasonable inferences supporting the verdict. Drane v. State, 867 N.E.2d 144, 146 (Ind. 2007). We do not assess witness credibility or reweigh the evidence. Id. We consider conflicting evidence most favorably to the trial court's ruling. Id. We affirm the conviction unless "no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt." Id. (quoting Jenkins v. State, 726 N.E.2d 268, 270 (Ind. 2000)). It is not necessary that the evidence overcome every reasonable hypothesis of innocence. Id. at 147. The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict. Id.

The offense of robbery as a class C felony is governed by Ind. Code § 35-42-5-1, which provides that "[a] person who knowingly or intentionally takes property from another person or from the presence of another person: (1) by using or threatening the use of force on any person; or (2) by putting any person in fear, commits robbery, a Class C felony. Thus, the State was required to prove that Germany knowingly or intentionally took Perkins's purse from Perkins or her presence by putting Perkins in fear or by using or threatening the use of force on her.

Germany argues that the evidence was insufficient “to establish beyond a reasonable doubt that [he] was the individual who committed the crime.” Appellant’s Brief at 6. Germany essentially argues that the in-court identifications of him by Perkins and Mead were unreliable and points to discrepancies in their testimony. With respect to Perkins’s testimony, Germany argues that Perkins only saw him “[long] enough to describe in general what he was wearing and what type of hair he had.” *Id.* at 8. With respect to Mead’s testimony, Germany points out that Mead testified that he made very little eye contact with the two men that he observed walking toward a vehicle parked in an alley and that the men had their hoods up.

Identification testimony need not necessarily be unequivocal to sustain a conviction. *Heeter v. State*, 661 N.E.2d 612, 616 (Ind. Ct. App. 1996). Elements of offenses and identity may be established entirely by circumstantial evidence and the logical inferences drawn therefrom. *Bustamante v. State*, 557 N.E.2d 1313, 1317 (Ind. 1990). The unequivocal identification of the defendant by a witness in court, despite discrepancies between his description of the perpetrator and the appearance of the defendant, is sufficient to support a conviction. *Emerson v. State*, 724 N.E.2d 605, 610 (Ind. 2000), *reh’g denied*. Inconsistencies in identification testimony impact only the weight of that testimony, because it is the jury’s task to weigh the evidence and determine the credibility of the witnesses. *Gleaves v. State*, 859 N.E.2d 766, 770 (Ind. Ct. App. 2007) (citing *Badelle v. State*, 754 N.E.2d 510 (Ind. Ct. App. 2001), *trans. denied*). As with other sufficiency matters, we will not weigh the evidence or resolve questions of

credibility when determining whether the identification evidence is sufficient to sustain a conviction. Id. Rather, we examine the evidence and the reasonable inferences therefrom that support the verdict. Id.

Here, the record reveals that the jury heard from two witnesses who identified Germany. The record reveals that Perkins testified that she had a chance to see Germany for a total of what “could have been a minute.” Transcript at 41. When asked how long she had a chance to look at Germany after she had fallen, Perkins testified: “Well I looked up at him.” Id. at 41. When asked the same question during cross-examination, Perkins testified “five seconds or something.” Id. at 56. Perkins pointed to Germany and testified that “he was the one grabbed me around the neck.” Id. at 42. After Officer Decker called Perkins to the location where he found Germany, Officer Decker asked Perkins to observe Germany’s face because he “wanted her to not just look at the clothing but also the face.” Id. at 139. Perkins identified Germany as the person who robbed her. When asked if she was “positive this is the right guy” during cross-examination, Perkins testified: “I don’t lie. . . . I want - - don’t want to see somebody go to prison that was innocent. I’m not that kind of person.” Id. at 62-63. When asked during redirect examination if there was “any doubt in [Perkins’s] mind this is the guy,” Perkins testified: “No - - no doubt in my mind.” Id. at 63.

The record also reveals that Mead testified that he did not “look out and stare” at the two men because “perhaps there was a drug deal going down at this location here and then - - but I didn’t, you know, try and intervene or anything like that for my own

personal safety.” Id. at 74, 88. Mead also testified: “Well we have a penchant for violence and trouble in this particular area right here so I’m always careful to pay attention to who’s there” Id. at 73. Also, although Mead did testify that he observed that the men’s hoods were up, he also testified that he was able to observe “they’re [sic] hairstyles - - one had short hair and the other one had rather bushy hair.” Id. at 75. After arriving at the location where Officer Decker found Germany, Mead identified the Cadillac as the vehicle he had observed and immediately identified Germany as one of the men he had observed in the alley behind his house. Officer Decker asked Mead “are you sure - - that was pretty quick,” and Mead replied “I recognize him.” Id. at 118. Mead testified during direct examination that he was “a hundred percent positive” and during redirect examination that he was “a hundred percent sure” that Germany was one of the men he observed approaching the blue Cadillac in the alley. Id. at 84, 97.

We cannot say that it was unreasonable for a jury to believe the identification testimony of Perkins, who was physically robbed by Germany, and Mead, who saw Germany in an alley and observed Germany entering his vehicle. See, e.g., Emerson, 724 N.E.2d at 610 (holding it was reasonable for a jury to believe the testimony of witnesses who identified the defendant as the person who had robbed them).

In support of his argument that the in-court identifications of him were unreliable, Germany states that Perkins identified him “despite the fact that his hair was different.” Appellant’s Brief at 8. In addition, Germany points out that Mead testified that the man he observed in a black-hooded sweatshirt in the alley had “bushy hair,” whereas Mead

told Officer Decker that the man he observed in the black-hooded sweatshirt “had braided hair.” Appellant’s Brief at 9. We observe that defense counsel and the prosecutor questioned both Perkins and Mead regarding their recollection of Germany’s appearance and hair style on the day of the offense. To the extent that there were differences between Perkins’s and Mead’s descriptions of Germany and Germany’s actual appearance, it was the jury’s function to resolve such conflicting evidence. See Emerson, 724 N.E.2d at 610 (observing that it is the jury’s function to resolve conflicting testimony and discrepancies between the witnesses’ original out-of-court identifications); Wilder v. State, 716 N.E.2d 403, 405 (Ind. 1999) (noting that it is the duty of the fact-finder to assess the credibility of witness testimony and observing that defense counsel thoroughly cross-examined witnesses regarding their inability prior to trial to identify the defendant); Gleaves, 859 N.E.2d at 770 (observing that discrepancies were factual issues for the jury to resolve).²

² Germany also points to inconsistencies with respect to Perkins’s testimony regarding the robbery. We note that any discrepancies in Perkins’s testimony “were factual issues for the jury to resolve” in deciding the weight and credibility to assign those witnesses’ testimony. Gleaves, 859 N.E.2d at 771 (citing Miller v. State, 770 N.E.2d 763, 775 (Ind. 2002)). Defense counsel questioned Perkins as to the issues above and elicited testimony upon which the jury could rely to determine her credibility. Germany’s arguments regarding why Perkins should not be believed amount to an invitation that we reweigh the evidence, which we cannot do. See Drane, 867 N.E.2d at 146.

Germany states in his brief that he is not arguing that the identifications of him violated his due process rights, but argues that “for purposes of reliability of witness identification[,]” the fact that the witnesses first identified Germany when he was “in custody and presented in handcuffs” and were shown pictures of Germany prior to trial “does bear some consideration.” Appellant’s Brief at 10. To the extent that Germany is arguing that the witnesses’ identifications of him on the day of the offense or in court during trial were impermissibly suggestive, we note that both Perkins and Mead were cross-examined by defense counsel concerning their identification of Germany in front of the jury and thus the jury was able to assess their credibility. See Emerson, 724 N.E.2d at 609 (determining that a witness’s identification of defendant was not unduly suggestive).

In summary, the record reveals that Germany was found standing next to the blue Cadillac identified by Mead, Germany lied to Officer Decker regarding how long he had been with his vehicle, Perkins's purse was found in a trash can sixty feet from the location where Officer Decker found Germany, and both Perkins and Mead unequivocally identified Germany both on the day of the robbery and in court. Based upon our review of the record, we conclude that evidence of probative value exists from which the jury could have found that Germany committed robbery as a class C felony. See, e.g., Emerson, 724 N.E.2d at 610 (holding that unequivocal in-court identification of the defendant was sufficient to support the defendant's convictions, despite discrepancies between the State's witnesses' descriptions of the defendant and the defendant's actual appearance); Wilder, 716 N.E.2d at 405 (holding that the evidence was sufficient to support the defendant's convictions for robbery and felony murder where witnesses made in-court identifications of the defendant, the witnesses had ample opportunity to view the defendant at the time of the crimes, and the witnesses were thoroughly cross-examined by defense counsel regarding their ability to identify the defendant).

For the foregoing reasons, we affirm Germany's conviction for robbery as a class C felony.

Affirmed.

CRONE, J., and MAY, J., concur.