

Orlin Ortiz-Flores appeals his conviction for Rape,¹ a class B felony, and Criminal Confinement,² a class D felony, challenging the sufficiency of the evidence supporting each conviction.

We affirm.

The facts favorable to the convictions are that late in the evening on March 28, 2008, H.S. met a man called Enrique at an Indianapolis pub, had some drinks with him, and left the establishment with him. H.S. was intoxicated when she left. Enrique told H.S. he wanted to stop by a friend's apartment, and she agreed. Once inside the house, the two went into a bedroom and engaged in consensual sexual intercourse. After they were finished, H.S. put her clothes back on and asked Enrique to get her something to eat. After Enrique left the room, Ortiz-Flores came out of the bedroom closet and a third man, Dennis Madrid-Vargas, entered the bedroom from the living room. Ortiz-Flores held H.S. down while Madrid-Vargas took off H.S.'s pants, put on a condom, and had vaginal intercourse with H.S. All the while, H.S. was "crying and screaming" and telling them to stop. *Transcript* at 31. After Madrid-Vargas finished, the men switched places and Ortiz-Flores put on a condom and had vaginal intercourse with H.S. while Madrid-Vargas held her down. When Ortiz-Flores was finished, he put on his pants and walked into another room. Madrid-Vargas went into the closet. H.S. got dressed and attempted to leave the apartment, but Ortiz-Flores "put his hand in front of the door and wouldn't let [her] leave." *Id.* at 34. Ortiz-Flores prevented H.S.

¹ Ind. Code Ann. § 35-42-4-1 (West, PREMISE through 2009 Public Laws approved and effective though 4/20/2009).

² I.C. § 35-42-3-3 (West, PREMISE through 2009 Public Laws approved and effective though 4/20/2009).

from leaving for “maybe half an hour”, during which time H.S. was “[j]ust freaking out, like running around the apartment and screaming and yelling at both of them and trying to leave.” *Id.* at 46. Eventually, Enrique returned to the apartment and H.S. was permitted to leave with him.

H.S. went to a friend’s apartment, called the police, and provided the apartment number of the site of the attack. She then went to Wishard Hospital and was examined by Laura Maloy, a sexual assault nurse. H.S. reported experiencing vaginal and pelvic pain. During a physical examination, Maloy noted scrapes and bruises on H.S.’s arm, knee, tailbone, and buttocks. She also noted a laceration on H.S.’s vagina. After the examination, H.S. gave a statement to Detective Tiffany Wood of the Indianapolis Metropolitan Police Department. H.S. later positively identified Ortiz-Flores and Madrid-Vargas as the men who sexually assaulted her.

Ortiz-Flores challenges his conviction on grounds of insufficient evidence. He does not challenge the quantum of proof with respect to any particular element of either offense, but instead contends that, in light of his claim that the sex was consensual, certain parts of H.S.’s testimony render her entire account of the incident incredible. In so doing, Ortiz-Flores invokes the incredible dubiousity rule.

Our standard of review for challenges to the sufficiency of evidence is well settled.

When considering a challenge to the sufficiency of evidence to support a conviction, we respect the fact-finder’s exclusive province to weigh conflicting evidence and therefore neither reweigh the evidence nor judge witness credibility. *McHenry v. State*, 820 N.E.2d 124 (Ind. 2005). We consider only the probative evidence and reasonable inferences supporting the verdict, and “must affirm ‘if the probative evidence and reasonable inferences drawn from

the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.” *Id.* at 126 (quoting *Tobar v. State*, 740 N.E.2d 109, 111-12 (Ind. 2000)).

Gleaves v. State, 859 N.E.2d 766, 769 (Ind. Ct. App. 2007). The uncorroborated testimony of one witness may be sufficient by itself to sustain a conviction on appeal. *Gleaves v. State*, 859 N.E.2d 766. In order for Ortiz-Flores to prevail on his claim that H.S.’s testimony is not worthy of belief, we must conclude that H.S.’s testimony “is inherently contradictory, wholly equivocal or the result of coercion, and there must also be a complete lack of circumstantial evidence of the defendant’s guilt.” *Clay v. State*, 755 N.E.2d 187, 189 (Ind. 2001).

The facts set forth at the outset of this opinion closely track H.S.’s version of the assault. So far as we can discern, the only “inherently contradictory” evidence that Ortiz-Flores brings to our attention is the fact that H.S. claimed to have screamed and cried throughout the assault and subsequent confinement, yet five other people staying in another bedroom in the same apartment at the time claim not to have heard anything unusual. This is perhaps not surprising in light of the fact that all five were staying in an apartment where Ortiz-Flores lived, and presumably were acquaintances of his, if not friends. Moreover, four of the five testified that they were asleep at the time. Ortiz-Flores’s other claims of inherently unbelievable testimony amount to nothing more than instances in which her testimony conflicts with that of another witness (i.e., H.S. claimed intercourse was forced, he claimed it was consensual, H.S. claimed the incident included nonconsensual sex with Madrid-Vargas, while Madrid-Vargas denied having sex with H.S.). We reiterate that it was the fact-finder’s task to weigh conflicting evidence, and it chose to believe H.S. *Gleaves v.*

State, 859 N.E.2d 766. We will not revisit that determination. *Id.*

The facts set out above, which are based largely upon H.S.'s testimony, establish every element of the two offenses of which Ortiz-Flores was convicted. That testimony is not inherently contradictory, nor was there a complete lack of circumstantial evidence of Ortiz-Flores's guilt. *See Clay v. State*, 755 N.E.2d 187. The evidence was sufficient to support the convictions.

Judgment affirmed.

BAKER, C.J., and RILEY, J., concur.