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IN THE
COURT OF APPEALS OF INDIANA

CONWAY JEFFERSON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A04-0701-CR-11
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Patrick Murphy, Commissioner
Cause No. 49G20-0509-CM-151297

October 3, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Conway Jefferson appeals his conviction for Invasion of Privacy,[1] a class A misdemeanor, claiming insufficiency of the evidence. Specifically, Jefferson argues that his conviction must be set aside because the testimony of the victim's daughter regarding the details of the crime was "incredibly dubious" and the fact finder should not have believed her. Appellant's Br. p. 5. Concluding that the evidence was sufficient, we affirm the judgment of the trial court.

FACTS

Jefferson and Floretta Scott-Jefferson were previously married to each other. Following their divorce, both obtained protective orders. The protective order against Jefferson prohibited him "from harassing, annoying, telephoning, contacting, or directly or indirectly communicating" with Scott-Jefferson. Ex. 1.

On August 20, 2005, Scott-Jefferson was exiting her vehicle at a gas station on Keystone Avenue in Indianapolis when Jefferson's van "cut through" the station's parking lot at a high rate of speed. Tr. p. 57-59, 79. Jefferson then yelled, "Bitch, I should have run over you." Id. at 58.

Later that evening, Jefferson again drove toward Scott-Jefferson's vehicle at a high rate of speed. After Scott-Jefferson pulled her vehicle to the side of the road, Jefferson approached, pointed a gun at her, and said, "Bitch, I ought to shoot you in the mouth." Id. at 63, 65-66.

[1] Ind. Code § 35-46-1-15.1.

As a result of these incidents, Jefferson was charged with invasion of privacy, a class A misdemeanor. The charging information alleged that Jefferson violated the protective order by "showing up at places the victim is at, and/or intentionally harassing/threatening [the] victim." Appellant's App. p. 24.

At a bench trial that commenced on December 11, 2006, Jefferson-Scott testified about Jefferson's actions and the events that occurred on August 20, 2005. Additionally, Jefferson-Scott's fourteen-year-old daughter, B.W.—who was riding in her mother's vehicle when both incidents occurred—testified that she observed the threat at the gas station and remembered seeing a gun. However, B.W. acknowledged that she did not hear what Jefferson said because she was inside the vehicle. Also, B.W. was not sure if she observed the second threat and acknowledged that she may have forgotten that there were two separate incidents. Following the presentation of evidence, Jefferson was found guilty as charged. He now appeals.

DISCUSSION AND DECISION

When reviewing a challenge to the sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of the witnesses. Jordan v. State, 656 N.E.2d 816, 817 (Ind. 1995). We look to the evidence and the reasonable inferences therefrom that support the verdict. Id. The conviction will be affirmed if evidence of probative value exists from which the fact finder could find the defendant guilty beyond a reasonable doubt. Id. The fact finder is free to accept or reject any evidence, and we will affirm unless "no rational fact finder"

could have found the defendant guilty beyond a reasonable doubt. Clark v. State, 728 N.E.2d 880, 887 (Ind. Ct. App. 2000).

We acknowledge that under limited circumstances, appellate courts may apply the "incredible dubiosity" rule to impinge upon a jury's function to judge the credibility of a witness. This rule is expressed as follows:

> If a sole witness presents inherently improbable testimony and there is a complete lack of circumstantial evidence, a defendant's conviction may be reversed. This is appropriate only where the court has confronted inherently improbable testimony or coerced, equivocal, wholly uncorroborated testimony of incredible dubiosity. Application of this rule is rare and the standard to be applied is whether the testimony is so incredibly dubious or inherently improbable that no reasonable person could believe it.

Fajardo v. State, 859 N.E.2d 1201, 1208 (Ind. 2007).

Notwithstanding Jefferson's claim that his conviction must be set aside because B.W.'s testimony was allegedly "equivocal" and "inconclusive," appellant's br. p. 5, the incredible dubiosity rule does not apply in this instance. Specifically, B.W. was not the only witness who testified in this case, and she corroborated Scott-Jefferson's testimony. Tr. p. 57-59, 79. Moreover, our Supreme Court has determined that a conviction may rest upon the uncorroborated testimony of the victim of a crime. Ludy v. State, 784 N.E.2d 459, 461 (Ind. 2003).

Scott-Jefferson's testimony established both incidents of contact and harassment in violation of the protective order. Tr. p. 57-59, 63-66. As a result, the trial court, as the trier of fact, was in the best position to weigh the evidence, judge witness credibility, and determine whether Scott-Jefferson's claims were believable. Based on Scott-Jefferson's

testimony regarding the incidents, as well as the corroborating testimony from B.W., we find that the evidence was sufficient to support Jefferson's conviction.

The judgment of the trial court is affirmed.

BAILEY, J., and VAIDIK, J., concur.