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case.

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**IN THE  
COURT OF APPEALS OF INDIANA**

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OREN MUNSON,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0703-CR-272
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Melissa Kramer, Commissioner  
Cause No. 49G16-0612-CM-239027

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**October 25, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**FRIEDLANDER, Judge**

Oren Munson appeals his conviction of Domestic Battery,<sup>1</sup> a class A misdemeanor, challenging the sufficiency of the evidence as the sole issue on appeal.

We affirm.

The facts favorable to the judgment are that Munson served six months in prison and was released on October 27, 2006. Two days later, Munson and his wife, Heather Munson, were staying at Munson's mother's house. That morning, as Heather prepared to leave for work, an argument erupted when Munson told Heather he did not want her to go to work. When she attempted to leave, he grabbed her arm and punched her in the upper lip. The inside of Heather's lip began to bleed. After Heather stopped the bleeding, she left the house to take a walk. When she returned, she decided not to go to work because Munson had threatened to blow up her workplace and Heather "wasn't going to take that chance." *Transcript* at 7. Heather left Munson and moved in with a friend on November 1, 2006.

Evidently, on or about November 11, 2006, Heather reported the incident to Milford<sup>2</sup> Tillman, an Indianapolis Police Department officer who provided security at her workplace. On November 21, 2006, Heather spoke with Detective Tiffany Haston of the Indianapolis Police Department. On January 10, 2007, Haston filed an Affidavit for Probable Cause supporting charging informations alleging Munson committed battery

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<sup>1</sup> Ind. Code Ann. § 35-42-2-1.3 (West, PREMISE through 2007 Public Laws, approved and effective through April 8, 2007).

<sup>2</sup> It is not clear from the record whether Officer Tillman's first name is "Millford" or "Millfred," as it appears both ways.

and domestic battery, both as class A misdemeanors. Because it is relevant to Munson's arguments on appeal, we reproduce that affidavit here:

On November 11, 2006 at approximately 10:31 p.m., Officer Millfred Tillman of the Indianapolis Police Department was approached by a female at 3801 N. College Avenue at the Rally's reference [sic] threatening phone calls. White female Heather Munson stated she had just received a threatening phone call from her husband, white male Oren Munson, DOB 6/25/82. She is separated from her husband due to physical abuse. She said Mr. Munson told her he was going to come to this location, which is Heather's place of employment, and bring several friends to beat her up. Heather advised that the last time she saw Mr. Munson was the day before this and he had punched her in the mouth. She advised he was armed with nun-chakus [sic] during that incident. Heather told Officer Tillman that Mr. Munson is a black belt in karate and she is very afraid of him.

I spoke to Heather on November 21, 2006. She stated that the incident in which Mr. Munson hit her actually occurred on October 29, 2006 at approximately 3:00 p.m. at 442 S. Gray Street, which is Mr. Munson's mother's house and where Heather was living. Heather said Mr. Munson accused her of cheating on him while he was in jail and punched her in her mouth, causing her lip to bleed. Heather stated she was too afraid of Mr. Munson to call the police at the time.

*Appellant's Appendix* at 11. Munson was convicted as set out above following a February 22, 2007 bench trial. He was sentenced to 365 days imprisonment, with 180 days executed and the balance to be served on probation.

Munson contends the evidence was not sufficient to support the conviction. When considering a challenge to the sufficiency of evidence supporting a conviction, we neither reweigh the evidence nor judge witness credibility. *McHenry v. State*, 820 N.E.2d 124 (Ind. 2005). This review "respects 'the [fact-finder]'s exclusive province to weigh conflicting evidence.'" *Id.* at 126 (quoting *Alkhalidi v. State*, 753 N.E.2d 625, 627 (Ind.

2001)). Considering only the probative evidence and reasonable inferences supporting the conviction, we 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.”” *McHenry v. State*, 820 N.E.2d at 126 (quoting *Tobar v. State*, 740 N.E.2d 109, 111-12 (Ind. 2000)).

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 (Ind. Ct. App. 2007). Heather claimed that Munson struck her in the mouth during an argument, causing a painful injury to her lip that resulted in bleeding. Munson, however, seeks a ruling that, by application of the principal of incredible dubiousity, Heather’s testimony is not worthy of belief. For testimony to be so inherently incredible that it is to be disregarded on this basis, “the witness must present testimony that 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. 2002).

In attacking Heather’s credibility, Munson notes that his mother, Beth Wiley, was home at the time and heard the couple arguing. Wiley passed Heather as Heather was leaving the house, and Wiley did not recall seeing Heather holding anything to her purportedly injured lip. Wiley also testified that she did not see blood on Heather’s person or in the bathroom, where Heather claimed she had cleaned the blood from her injury, nor did Wiley see any other indication that Heather had been injured. Even

accepting Wiley's testimony as true, the mere fact that Wiley did not see external evidence of the cut inside Heather's lip does not necessarily contradict Heather's claim that Munson struck and injured her in that area. Moreover, assuming for the sake of argument that Heather's and Wiley's respective testimonies were contradictory, such discrepancies were matters for the trial court to resolve in deciding the weight and credibility to assign Heather's and Wiley's respective testimonies. *See Miller v. State*, 770 N.E.2d 763 (Ind. 2002). In short, Wiley's testimony does not render Heather's claims incredibly dubious.

Munson also asserts that Heather's delay in reporting the incident and an alleged inconsistency in the day she claimed that it occurred renders her claim incredible. Heather testified that she did not return to work for a week following the incident and that after she returned, on November 11, she reported the incident to Officer Tillman. Sometime thereafter, Officer Tillman evidently told Detective Haston that Heather claimed the incident occurred "the day before this", which would have been November 10. *Appellant's Appendix* at 11. In the same affidavit in which Haston set forth the above information, she also noted that Heather told her (Haston) that the incident "actually occurred" on October 29. *Id.* Munson contends that this discrepancy renders the entirety of Heather's testimony unbelievable.

Heather maintained consistently throughout trial that Munson hit her on October 29, which is the same date she originally told Detective Haston. In fact, the only place in the record that suggests a different date is the third-person account of Officer Tillman,

referenced in Detective Haston's affidavit for probable cause, as set out above. At trial, Heather was closely cross-examined about the discrepancy, i.e., "Okay, and so if in [Officer Tillman's] report he'd written that you told him that this was the day before, that would've been mistaken?" *Transcript* at 10. Heather answered, "Yes." *Id.* As was the case with Wiley's contradictory testimony discussed above, the issue of Heather's credibility in light of this discrepancy, to the extent there was one, was a matter for the trial court to resolve. *See Miller v. State*, 770 N.E.2d 763. The court evidently believed Heather's claim that Munson struck her on October 29, and Heather's testimony was sufficient to support that determination.

Judgment affirmed.

SHARPBACK, J., and RILEY, J., concur.