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ATTORNEY FOR APPELLANT:

CHRIS P. FRAZIER
Marion County Public Defender Agency
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

GEORGE P. SHERMAN
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

JOHNNY WILLIAMS,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

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No. 49A05-0706-CR-299

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Amy Barbar, Magistrate
The Honorable Robert R. Altice, Jr., Judge
Cause No. 49G02-0610-FC-194115

December 20, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BRADFORD, Judge

Appellant-Defendant Johnny Williams appeals his conviction, following a jury trial, for Child Molesting as a Class C felony¹ by challenging the sufficiency of the evidence to support his conviction. We affirm.

FACTS

On October 7, 2006, at approximately 1:40 p.m., Robin Robson left her children, including thirteen-year-old B.S., at her home at 2170 East Street, Indianapolis, under the care of Williams. Williams and his girlfriend, Sheila Abel, routinely served as Robson's babysitter.

Jerrita ("Renee") Marbley lived with Robson at the above address at the time. At some point Marbley left her upstairs room, and upon walking downstairs and finding Williams and B.S. in the kitchen area, observed that Williams's hands were under B.S.'s blouse near her breasts. According to B.S., Williams had lifted her shirt and bra up and used both hands to touch the "front part" of her body underneath her bra. Tr. p. 45. Marbley reported the incident to Robson, who contacted authorities that day.

Williams was charged on October 10, 2006, with child molesting. Following an April 26, 2007 jury trial, Williams was found guilty and sentenced on May 4, 2007, to four years in the Department of Correction. This appeal follows.

DISCUSSION AND DECISION

Upon appeal, Williams challenges the sufficiency of the evidence to support his conviction. In reviewing his claim, we note that our standard of review for sufficiency-of-the-evidence claims is well settled. We do not reweigh the evidence or judge the

¹ Ind. Code § 35-42-4-3 (2006).

credibility of the witnesses. *Kien v. State*, 782 N.E.2d 398, 407 (Ind. Ct. App. 2003), *trans. denied*. We consider only the evidence which supports the conviction and any reasonable inferences which the trier of fact may have drawn from the evidence. *Id.* We will affirm the conviction if there is substantial evidence of probative value from which a reasonable trier of fact could have drawn the conclusion that the defendant was guilty of the crime charged beyond a reasonable doubt. *Id.* It is the function of the trier of fact to resolve conflicts of testimony and to determine the weight of the evidence and the credibility of the witnesses. *Jones v. State*, 701 N.E.2d 863, 867 (Ind. Ct. App. 1998). The uncorroborated testimony of the victim is sufficient to sustain a criminal conviction. *Johnson v. State*, 837 N.E.2d 209, 214 (Ind. Ct. App. 2005), *trans. denied*.

A reviewing court will impinge upon the fact-finder's credibility judgments only when confronted with testimony of inherent improbability, or coerced, equivocal, wholly uncorroborated testimony of incredible dubiousity. *Kien*, 782 N.E.2d at 407. A conviction will be overturned on this basis only where a victim's testimony is so incredibly dubious or inherently improbable that it runs counter to human experience, and no reasonable person could believe it. *Id.* This exception applies only where a single witness testifies. *Id.* (citing *Bowles v. State*, 737 N.E.2d 1150, 1152 (Ind. 2000)).

Indiana Code section 35-42-4-3(b) defines the child molesting offense at issue in the following manner: "A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of . . . the child . . . with intent to arouse or to satisfy the sexual desires of . . . the older person, commits child molesting, a Class C felony."

We first observe that, contrary to Williams's claim alleging B.S.'s testimony to be incredibly dubious, B.S. was not the sole witness on her behalf. Marbley's testimony regarding her observation of Williams's hands underneath B.S.'s shirt corroborated B.S.'s account of the incident in question. Further, while B.S., who by all accounts has a mental disability, was somewhat equivocal on topics such as the number of people in her household and the color of Williams's clothes, she did not waver in her account of Williams's illicit touching. Because B.S.'s testimony was not without corroboration from another witness and because it was not inherently improbable on its merits, we decline to entertain Williams's request for relief based on his claim of incredible dubiousity.

In evaluating the sufficiency of the evidence to support Williams's conviction, we observe that both B.S. and Marbley testified that Williams, who was alone with B.S. in the kitchen, placed both of his hands underneath her shirt near her breasts and moved his hands around. While Williams testified that he often engaged in group wrestling and hugs with B.S. and her siblings, the jury was free to discredit this testimony as an explanation for his touching B.S.'s breasts with both hands underneath her shirt while they were alone in the kitchen. Given the testimony and our deference to the jury's credibility determinations, we conclude there was substantial evidence of probative value to convict Williams of child molesting.

The judgment of the trial court is affirmed.

BAKER, C.J., and DARDEN, J., concur.