MEMORANDUM DECISION

IN THE

Court of Appeals of Indiana

Edbin Ceron,

Appellant-Petitioner,

v.

State of Indiana,

Appellee-Respondent.

April 1, 2024

Court of Appeals Case No.
23A-PC-1444

Appeal from the
Tippecanoe Superior Court

The Honorable
Steven P. Meyer, Judge

Trial Court Cause No.
79D02-2110-PC-24

Memorandum Decision by Senior Judge Robb
Judges Brown and Kenworthy concur.

Robb, Senior Judge.

Case Synopsis and Issues

[1] After his convictions of one count of sexual misconduct with a minor and one count of rape, Edbin Ceron initiated a direct appeal. *See Ceron v. State*, Case No. 20A-CR-1484. One of the issues Ceron sought to pursue required further development of the record. This Court granted Ceron's *Davis/Hatton* petition,[1] allowing him to withdraw his direct appeal without prejudice to pursue post-conviction relief. *See* Appellant's App. Vol. II, p. 195. Ceron now appeals from the post-conviction court's order denying his petition for post-conviction relief, as well as from his convictions, presenting several issues for our review, which we restate as:

> I. Did the trial court commit fundamental error by giving impermissibly mandatory elements instructions?
> II. Are Ceron's convictions of both rape and sexual misconduct with a minor in violation of the double jeopardy clause of the Indiana constitution?
> III. Did the trial court commit fundamental error in its management of interpreters used at Ceron's trial?

---

[1] The *Davis/Hatton* procedure involves a termination or suspension of a direct appeal already initiated, upon appellate counsel's motion for remand or stay, to allow a post-conviction relief petition to be pursued in the trial court. *Taylor v. State*, 929 N.E.2d 912, 917 n.1 (Ind. Ct. App. 2010), *trans. denied*.

IV. Was there sufficient evidence to support Ceron's convictions?

V. Did the trial court err by denying Ceron's petition for post-conviction relief?

We affirm.

Facts and Procedural History

[2] In October 2019, Ceron lived with his daughter Kimberly, his fiancée Yesenia, Yesenia's three children from a previous relationship, and a child they had in common in a home in Lafayette. Yesenia's daughter Fernanda was part of a friend group that included Yesenia's niece Crystal, a girl named Tiffany, and L.M. Crystal would often spend the night at Ceron and Yesenia's house during the week so she would have transportation to school. Each of the girls in the friend group was fourteen years old at the time but did not attend the same school.

[3] On October 15, L.M. was on fall break from her school and had stayed overnight at Ceron's house. Yesenia left early to drop her son off before going to work. Ceron took the other children, who were not on fall break, to school before returning home. Ceron went into the bedroom where L.M. remained and asked her if she wanted five dollars to buy something to eat from a gas station. L.M. said she did, and when she arose from the bed, Ceron hugged her and asked if she would kiss him. After she refused, Ceron began to kiss her on her face, cheeks, and lips.

[4] L.M. pulled away from Ceron and sat down on the bed, which was a mattress placed on the floor. Ceron knelt down on the floor in front of her and pulled down his pants and underwear revealing his erect penis. Although L.M. strenuously refused, Ceron forced her head down, her jaw open, and inserted his penis into her mouth. L.M. tried to pull away and tell him to stop, but Ceron continued to move her head up and down while saying, "[M]ake me cum." DA Tr. Vol. II, p. 199. L.M. continued to resist him.

[5] Eventually, Ceron released L.M., began masturbating, and ejaculated on the floor. He then began to touch L.M. on her waist and stomach, asking to see her underwear. At that time, L.M. heard the sound of someone honking the horn of a vehicle outside the house. The person who provided Ceron with transportation to work had arrived. Ceron put his pants back on, left sixty dollars at the end of the bed, and told her not to tell anyone what happened. He then left for work. L.M. left the house and walked to Tiffany's house, which was approximately a block away. L.M. was reluctant to disclose what had happened because she did not want to jeopardize her friendship with Crystal. Consequently, she did not tell Tiffany or anyone else at that time what had happened.

[6] L.M. returned to Ceron's house later that week. She and Fernanda took turns using the microwave, and they sat in Fernanda's room until their food was cooked. Fernanda heated her food first. When L.M.'s food was finished, she left Fernanda's room and went to the kitchen, closely followed by Ceron. They brushed shoulders as she was retrieving her food from the microwave, and

Ceron "put his hand around [her] butt and he said not to say nothing to nobody." *Id.* at 205. According to L.M., the touching was not accidental because he "grabbed" her. *Id.*

[7] L.M. returned to Fernanda's room, where Crystal, Fernanda, and Kimberly were seated. L.M. texted Crystal, indicating that something had happened between her and Ceron, and asked for advice about whether to tell Yesenia. She texted because she did not want to make the disclosure in front of Fernanda and Kimberly. L.M. was supposed to spend the night at Ceron's house but left after texting Tiffany to confirm whether she could stay with her instead. L.M. then told family and law enforcement officers about both encounters with Ceron.

[8] The State charged Ceron with two counts of sexual misconduct with a minor and one count of rape. The matter proceeded to jury trial during which two Spanish-language interpreters, each with ten or eleven years of experience, translated. Neither of the interpreters had successfully completed the Indiana Supreme Court's certification program. Because of pandemic conditions, the interpreters sat a certain distance from Ceron, but used headsets to provide simultaneous translation. This arrangement later proved problematic when it came to transcription because people were speaking over each other.

[9] On the first day of trial, the interpreters were present and translating for Ceron during jury selection and preliminary instructions. The interpreters also translated opening statements and L.M.'s testimony the next day. The trial

court recessed upon completion of L.M.'s testimony. Before resuming, the court noted for the record that one of the interpreters informed the court that they had yet to be sworn in to interpret the proceedings truthfully and honestly. The court administered the oath to the interpreters and also asked if they had interpreted the proceedings thus far as honestly and fairly as possible. Both responded that they had and the colloquy ended. Ceron lodged no contemporaneous objection.

[10] The court held a conference at the end of the State's case to discuss instructions. Ceron lodged no objection to the instructions. He called a few witnesses and then rested his case. The jury was excused and Ceron was asked if he wanted to testify. The following is the colloquy between Ceron, his counsel, and the court.

> [Counsel]: Mr. Ceron, we spoke last week after the detective's deposition there at the jail, is that correct?
> [Ceron]: Yes.
> [Counsel]: And Ms. Ana Maria Grandlienard, the Court Interpreter, was there at that time, is that right?
> [Ceron]: Yes.
> [Counsel]: And specifically I told you that you have the right to testify and but you also had the right not to testify and we went into some, you know, discussions about it and you're[sic] ultimate decision was that you did not want to testify, is that correct?
> [Ceron]: Yes.
> [Counsel]: And is that still your decision today?
> [Ceron]: Yes.
> [Counsel]: I didn't have any other questions.
> [Court]: Mr. Ceron, is this decision made by you?
> [Ceron]: Yes.

[Court]: And have you made that decision freely and voluntarily?
[Ceron]: Yes.
[Court]: Anyone force you to make this decision?
[Ceron]: No.
[Court]: You feel that this is your own free decision made on your own part?
[Ceron]: I didn't understand.
[Court]: You feel that this is your own free decision?
[Ceron]: Yes.
[Court]: You have the constitutional right under our U.S. Constitution to testify or not to testify. You understand?
[Ceron]: Yes.
[Court]: You're exercising your right not to testify?
[Ceron]: I didn't understand.
[Court]: Are you exercising your right not to testify?
[Ceron]: Yes.

DA Tr. Vol. III, pp. 33-34.

[11] After closing arguments, the trial court read the final instructions to the jury. The first instruction read: "Under the Constitution of Indiana you have the right to determine both the law and the facts. The Court's instructions are your best source in determining the law." *Id.* at 50. The following two instructions outlining the elements of the offenses are challenged here on appeal:

> Before you may convict the Defendant, Edbin A. Ceron, of Count I, Sexual Misconduct with a Minor, the State must have proved each of the following beyond a reasonable doubt:
>
> 1. The Defendant;
> 2. knowingly performed or submitted to other sexual conduct with [L.M.] and;

3. the Defendant was at the time of the occurrence at least twenty-one (21) years of age and;
4. [L.M.] was at the time of the occurrence a child, less than sixteen (16) years of age.

If the State failed to prove each of these elements beyond a reasonable doubt, you *must* find the Defendant, Edbin A. Ceron, not guilty of Sexual Misconduct with a Minor, a Level 4 Felony, as charged in Count I.

If the State proved each of these elements beyond a reasonable doubt, you *must* find the Defendant, Edbin A. Ceron, guilty of Sexual Misconduct with a Minor, a Level 4 Felony, as charged in Count I.

* * * *

Before you may convict the Defendant, Edbin A. Ceron, of Count III, Rape, the State must have proved each of the following beyond a reasonable doubt:

1. The Defendant;
2. knowingly or intentionally;
3. Caused [L.M.], another person, to perform or submit to other sexual conduct;
4. When [L.M.] was compelled by force or imminent threat of force.

If the State failed to prove each of these elements beyond a reasonable doubt, you *must* find the Defendant, Edbin A. Ceron, not guilty of Rape, a Level 3 Felony, as charged in Count III.

> If the State proved each of these elements beyond a reasonable doubt, you *must* find the Defendant, Edbin A Ceron, guilty of Rape, a Level 3 Felony, as charged in Count III.

DA App. Vol. 2, pp. 113, 115 (emphasis added).

[12] The jury found Ceron guilty of Level 3 felony rape[2] and Level 4 felony sexual misconduct with a minor,[3] but acquitted him of sexual misconduct with a minor as a Level 5 felony. Ceron filed a direct appeal, which was dismissed without prejudice to pursue post-conviction proceedings.

[13] Ceron's petition for post-conviction relief alleged that the trial court fundamentally erred by failing "to properly qualify and administer the oaths to the interpreters," which denied Ceron due process under the Fourteenth Amendment and article 1, section 12 of the Indiana Constitution. Appellant's App. Vol. 2, p. 200. The court denied Ceron's petition, concluding that Ceron had not established that an objection to the procedure used by the trial court to remedy this oversight would have been sustained or that Ceron had suffered "any substantial harm . . . prior to the administration of the oath." *Id.* at 224. Moreover, the court found that the record "does not lead [to] a conclusion that the interpretations were the result of gross incompetence, knowing

---

[2] Ind. Code § 35-42-4-1 (2022).

[3] Ind. Code § 35-42-4-9 (2019).

misinterpretation, or misrepresentations[,]" citing the county interpreter's review of the record. *Id.* at 225.

Discussion and Decision

[14] Ceron now appeals and we address each of the direct appeal and post-conviction claims in turn.

I. Claim of Instructional Error

[15] We first observe that Ceron did not object at trial to the instructions which were given. As such, he must and does argue that the court committed fundamental error. "The fundamental error exception permits an appellate court to review a 'claim that has been waived by a defendant's failure to raise a contemporaneous objection.'" *Benefield v. State*, 945 N.E.2d 791, 801 (Ind. Ct. App. 2011) (quoting *Brown v. State*, 929 N.E.2d 204, 207 (Ind. 2010)). "'Fundamental error is defined as an error so prejudicial to the rights of a defendant that a fair trial is rendered impossible.'" *Id.* (quoting *Perez v. State*, 872 N.E.2d 208, 210 (Ind. Ct. App. 2007), *trans. denied*). "The fundamental error exception is 'extremely narrow, and applies only when the error constitutes a blatant violation of basic principles, the harm or potential for harm is substantial, and the resulting error denies the defendant fundamental due process.'" *Id.* (quoting *Mathews v. State*, 849 N.E.2d 578, 587 (Ind. 2006)).

[16] Our standard of review upon claims of instructional error is well settled:

> The purpose of jury instructions is to inform the jury of the law applicable to the facts without misleading the jury and to enable

> it to comprehend the case clearly and arrive at a just, fair, and correct verdict. In reviewing a trial court's decision to give a tendered jury instruction, we consider (1) whether the instruction correctly states the law, (2) is supported by the evidence in the record, and (3) is not covered in substance by other instructions. The trial court has discretion in instructing the jury, and we will reverse only when the instructions amount to an abuse of discretion. To constitute an abuse of discretion, the instructions given must be erroneous, and the instructions taken as a whole must misstate the law or otherwise mislead the jury. We will consider jury instructions as a whole and in reference to each other, not in isolation.

O'Connell v. State, 970 N.E.2d 168, 172 (Ind. Ct. App. 2012) (quoting *Munford v. State*, 923 N.E.2d 11, 14 (Ind. Ct. App. 2010)).

[17] Ceron contends that the challenged instructions on the elements of the offenses, set out above, invaded the province of the jury and denied him due process of law through the inclusion of the word "must." Although both the guilty and not guilty verdict language of the instructions include the word "must," his challenge is limited solely to the portion of the instruction related to a guilty verdict.

[18] We begin with the instruction for sexual misconduct with a minor and observe that it follows Indiana Criminal Pattern Jury Instruction Number 3.3500 (2023).[4] *See* DA Appellant's App. Conf. Vol. II, p. 113. We have held that "the

[4] The language at the bottom of this Indiana Pattern Criminal Jury Instruction reads:

preferred practice is to use the pattern jury instructions." *Gravens v. State*, 836 N.E.2d 490, 493 (Ind. Ct. App. 2005), *trans. denied.* The Indiana Pattern Jury Instructions have the "apparent approval of the Indiana Supreme Court as [is] evidenced by the preferred treatment given such instructions in [Indiana Trial Rule 51(E)]." *Id.* (quoting *Cochrane v. Lovett*, 166 Ind. App. 684, 337 N.E.2d 565, 570 n.6 (1975)). However, the Supreme Court does not require it. *See Ramirez v. State*, 174 N.E.3d 181, 199 (Ind. 2021).

[19] As for the instruction for rape, we observe that it follows Indiana Pattern Criminal Jury Instruction Number 3.2900 (2023)[5], except it replaces "should" with "must." *See* DA Appellant's App. Conf. Vol. II, p. 215.

[20] Ceron contends that the use of the word "must" in these instructions invaded the province of the jury and violated his due process rights. Put differently, Ceron seems to argue that he has a constitutional right to jury nullification and that it was denied here. Jury nullification has been defined in many ways, including that "the jury has the right to return a verdict of not guilty despite the law and the evidence where a strict application of the law would result in

---

> If the State failed to prove each of these elements beyond a reasonable doubt, you must find the Defendant not guilty of sexual misconduct with a minor, a Level 5/4/1 felony, charged in Count____.

[5] The Indiana Pattern Criminal Jury Instruction Number 3.2900 reads in pertinent part as follows:

> If the State failed to prove each of these elements beyond a reasonable doubt, you *should* find the Defendant not guilty of rape a Level 3/1 felony, charged in Count _____. (emphasis added).

injustice and violate the moral conscience of the community." *Holden v. State*, 788 N.E.2d 1253, 1254 (Ind. 2003).

[21] Article 1, section 19 of the Indiana Constitution provides that, "[i]n all criminal cases whatever, the jury shall have the right to determine the law and the facts." Ceron says, "[i]nherent in this constitutional provision is the principle that any instruction that binds the conscience of the jury to a finding of guilty if it finds certain facts is flatly prohibited." Appellant's Br. p. 20 (citing *Pritchard v. State*, 230 N.E.2d 416, 420 (Ind. 1967)). *Pritchard* held that "[w]here the jury have been instructed under the Constitution that the jury have the right to determine the facts and the law, another instruction, mandatory in nature, taking that right and power away from them is not cured by the former." 230 N.E.2d at 421. However, notwithstanding article 1, section 19 of the Indiana Constitution, "a jury has no more right to ignore the law than it has to ignore the facts in a case." *Holden*, 788 N.E.2d at 1255. Consequently, this argument fails.

[22] Ceron is not questioning the elements of the offense. Instead, his argument at trial was that the events did not happen. The instructions set out the elements of the offenses the State was required to prove beyond a reasonable doubt. And the jurors acquitted him on one count. Instructions such as those challenged here, that "only generally require[] that the jury convict if the State had proved each element of the crime" are permissible. *White v. State*, 675 N.E.2d 345, 348 (Ind. Ct. App. 1996), *trans. denied.* Here, as in *Mitchem v. State*, 503 N.E.2d 889, 891 (Ind. 1987), the instructions, "generally referred to material allegations concerning elements of the crime rather than specific allegations." "The

distinguishing feature of *Pritchard* was that the instruction given therein was a mandatory instruction which would, in fact, bind the minds and consciences of the jury to return a verdict of guilty upon finding of certain facts, hence invading the constitutional province of the jury." *Id.* Thus, because the instructions here did not point the jury to specific facts that must be proved to reach the mandated verdict, they were not impermissible mandatory instructions.

[23] We conclude that Ceron has not established any harm nor has he demonstrated that the trial court committed fundamental error.

II. Double Jeopardy Violation

[24] Ceron contends that his convictions of rape and sexual misconduct with a minor violate Indiana's prohibition against double jeopardy. He relies on *Richardson v. State*, 717 N.E.2d 32 (Ind. 1999); however, *Richardson* was expressly overruled by *Wadle v. State*, 151 N.E.3d 227, 235 (Ind. 2020) in resolving claims of substantive double jeopardy.

[25] Our Supreme Court explained in *Wadle*:

> Substantive double jeopardy claims come in two principal varieties: (1) when a single criminal act or transaction violates a single statute but harms multiple victims, and (2) when a single criminal act or transaction violates multiple statutes with common elements and harms one or more victims. Our decision today in *Powell v. State*, 151 N.E.3d 256 (Ind. 2020), implicates the former scenario; this case implicates the latter. In either circumstance, the dispositive question is one of statutory intent.

> *See Paquette v. State*, 101 N.E.3d 234, 239 (Ind. 2018) (single statutory offense/multiple victims); *Emery v. State*, 717 N.E.2d 111, 112-13 (Ind. 1999) (multiple statutory offenses/single victim).

151 N.E.3d at 247-48. *Wadle* controls here because Ceron violated multiple statutes. *See id.*

[26] The first step under *Wadle* is to determine if the statutory language of either statute permits multiple punishments either expressly or by implication. *Id.* at 248. Here, neither the sexual misconduct with a minor or rape statutes appear to authorize multiple punishments. *See* I.C. §§ 35-42-4-1; 35-42-4-9. Therefore, we move to the next step in the analysis which applies the included-offense statute. *Wadle*, 151 N.E.3d at 248; Ind. Code § 35-31.5-2-168 (2012). Indiana Code section 35-38-1-6 (1983) prohibits entry of conviction and sentence for both an offense and an included offense. In Section 35-31.5-2-168 (2012), our legislature has defined an "included offense," in relevant part, as an offense "established by proof of the same material elements or less than all the material elements required to establish the commission of the offense charged[.]" Our Supreme Court recently clarified that "courts must confine their Step 2 analysis to (1) the included-offense statute (whether the offenses are 'inherently' included), and (2) the face of the charging instrument (whether the offenses 'as charged' are factually included)." *A.W. v. State*, No. 23S-JV-40, at *12 (Ind. March 12, 2024). Stated even more succinctly, "Step 2 does **not** allow courts to examine evidence adduced at trial[.]" *Id.* at *13.

[27] Here, Ceron's double jeopardy argument fails because the two crimes are neither legally nor factually included. Rape is established through evidence that Ceron knowingly or intentionally caused another person to perform or submit to other sexual conduct when the other person is compelled by force or imminent threat of force. *See* I.C. §35-42-4-1(a)(1). Sexual misconduct with a minor is established through evidence that Ceron, who was at least twenty-one years old, knowingly or intentionally performed or submitted to other sexual conduct with L.M. who was younger than sixteen. *See* I.C. § 35-42-4-9(a)(1). Thus, the rape statute includes an element of force which is lacking in the offense sexual misconduct with a minor. And the sexual misconduct with a minor statute includes an age element not present in the rape statute.

[28] We have recently held that there was no double jeopardy violation when the strangulation and domestic battery statutes both had a least one element not found in the other statute. *See Baker v. State*, 223 N.E.3d 1142, 1148 (Ind. Ct. App. 2023). Consequently, because the two charging informations in this case tracked the relevant statutes and their different elements, they are not included offenses. Thus, we need not reach the third step of the *Wadle* test. And Ceron's arguments to the contrary about "the very same act," which rely on *Richardson*, are no longer valid arguments under *Wadle*. *See Woodcock v. State*, 163 N.E.3d 863, 871 (Ind. Ct. App. 2021) ("common law rules are incorporated into the *Wadle* analysis and no longer exist independently."), *trans. denied*. We find no error here.

III. Interpreters' Oath

[29] Ceron states in his brief that "[i]t is also clear from the testimony that Ceron originally indicated that he wished to testify, before stating that he did not understand twice and then indicating that he did not." Appellant's Br. p. 30. He argues that he "suffered substantial harm or, at minimum, the potential for it[]" because the "interpretation was subject to grave doubt." *Id.*

[30] We first observe that the trial court erred by failing to administer the interpreters' oath at the outset of Ceron's trial. *See* Ind. Code § 34-45-1-5 (1998). However, Ceron did not object to the trial court's initial failure or to the trial court's administration of the oath after L.M.'s testimony. Nor did he object to the trial court's questioning of the interpreters, which led to their affirmation that they had truthfully translated the proceedings to that point and would continue to do so. Similarly, Ceron did not object at trial about the trial court's failure to inquire for the record about the translators' qualifications. On appeal, Ceron pursues the only remaining available argument, *viz.*, that the court's management of the interpreters amounted to fundamental error.[6]

[31] Ceron required the use of interpreters at trial. "An interpreter enables a non-English speaking defendant to understand the trial, provides a means of communication between the defendant and his attorney, and translates the

[6] Ceron concedes that once the oath was administered, it was administered in accordance with Indiana Code section 34-45-1-5 (1998). Appellant's Br. p. 27, n.6.

defendant's testimony if he testifies." *Martinez Chavez v. State*, 534 N.E.2d 731, 737 (Ind. 1989). "The interpreter is necessary to implement fundamental notions of due process such as the right to be present at trial, the right to confront one's accusers, and the right to counsel." *Id.*

[32] "It follows from the importance of the interpreter's task that he should possess the requisite ability to properly translate the proceedings for the benefit of the defendant." *Mariscal v. State*, 687 N.E.2d 378, 382 (Ind. Ct. App. 1997), *trans. denied.* According to Indiana Rule of Evidence 604 "[a]n interpreter must be qualified and must give an oath or affirmation to make a true translation." And in *Cruz Angeles v. State*, 751 N.E.2d 790, 795 (Ind. Ct. App. 2001), *trans. denied*, we held that "both the defendant's rights and our judicial system would be better served if trial courts have guidelines to employ when appointing translators." In that case, we set forth the two-step procedure wherein the court first administers the statutory oath and then considers a number of factors when making the determination whether the interpreter has the necessary qualifications. *Id.*

[33] Here, the record reveals that once the trial court was informed that the oath had not been given, the court immediately administered the oath to the interpreters. The court next questioned the interpreters to ensure that the translations to that point had been "honest[]" and "fair[] . . .[a]s if [they] had been under oath." DA Tr. Vol. II, pp. 211-12. We do not find the trial court's remedy to be an abuse of discretion, let alone fundamental error. Nor has Ceron cited authority showing that the same constituted error or fundamental error.

[34] As for the interpreters' qualifications, the record generated during the post-conviction proceedings reveals no fundamental error. During the hearing, Ana Maria Grandlienard, the senior interpreter for the Tippecanoe County Courts, testified. Grandlienard had passed the Supreme Court's certification process in 2006 and had been employed with the court, either part time or full time since 2004. She was familiar with the two interpreters who translated during Ceron's trial, and had worked with each of them for ten or eleven years. She testified that she has had no complaints about those two interpreters' translation capabilities during that time. Grandlienard said that she had observed the interpreters enough times to have confidence to assign them to interpret trials despite their lack of certification. And Grandlienard testified on cross-examination that she had reviewed the record of Ceron's trial, in particular, the colloquy between Ceron and the trial court about his right to testify and his decision whether to do so. She generated her own transcript of that portion of the record and confirmed what was in the official transcript.

[35] We observe that by the time Ceron engaged in the colloquy with the court about his rights and his decision whether to testify, the two interpreters had received their oath. Furthermore, during that colloquy when Ceron stated that he did not understand, he received clarification from the interpreters and answered. In sum, Ceron has not presented evidence that the interpreters violated their oaths or inaccurately translated the proceedings. When he said he did not understand, he received clarification and answered. Furthermore, a certified interpreter reviewed the record and found no translation errors. Ceron

has not demonstrated that a fair trial was impossible. We conclude that there was no fundamental error in this regard.

IV. Sufficiency of the Evidence

[36] Ceron claims that the evidence is insufficient to support his convictions. The standard for reviewing sufficiency of the evidence claims is well settled. "We do not reweigh the evidence or assess the credibility of the witnesses." *West v. State*, 755 N.E.2d 173, 185 (Ind. 2001). "Rather, we look to the evidence and reasonable inferences drawn therefrom that support the verdict and will affirm the conviction if there is probative evidence from which a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt." *Id.* (internal quotations omitted).

[37] To obtain Ceron's conviction for Level 3 felony rape, the State was required to prove beyond a reasonable doubt that Ceron knowingly or intentionally caused L.M. to perform or submit to other sexual conduct when L.M. was compelled by force or imminent threat of force. *See* I.C. § 35-42-4-1. The information for this count alleged that the force Ceron used was to grab L.M.'s head, forcing his penis into her mouth. DA Appellant's App. Conf. Vol. II, p. 55. And to obtain Ceron's conviction for Level 4 felony sexual misconduct with a minor, the State was required to prove beyond a reasonable doubt that Ceron, who was at least twenty-one years old, knowingly or intentionally, performed or submitted to other sexual conduct with L.M. who was less than sixteen years old. *See* I.C. §35-42-4-9(a)(1). "Other sexual conduct" is defined in pertinent part as "an act

involving . . . a sex organ of one (1) person and the mouth or anus of another person. . . .” Ind. Code § 35-31.5-2-221.5 (2014).

[38] Ceron’s primary argument is that no DNA was recovered from the floor where he was alleged to have ejaculated. Appellant’s Br. p. 32. Ceron’s secondary arguments are that L.M.’s testimony “does not make logical sense and Ceron had an alibi at the time of he assault.” *Id.* Ceron also argues the facts, claiming again now on appeal, that the timeline does not support L.M.’s allegations. *Id.* at 31. Aside from these assertions, Ceron offers no additional argument.

[39] We have set out the facts supporting the convictions above and find them to be sufficient. Ceron’s arguments on appeal are requests for us to reweigh the evidence and reassess credibility. Our standard of review forbids us from doing so and we decline the invitation. *See West*, 755 N.E.2d at 185. And as for his apparent attempt to have us reject L.M.’s testimony as incredibly dubious, he has not identified any part of L.M.’s testimony to show that she was so equivocal that her testimony could not be believed or that the events simply could not have occurred. *See Rose v. State,* 36 N.E.3d 1055, 1061-62 (Ind. Ct. App. 2015) (no incredible dubiosity shown because testimony was consistent with laws of nature and human experience and testimonial inconsistencies were reconciled by jury).

[40] The evidence is sufficient to support Ceron’s convictions.

V. Post-Conviction Relief

[41] Ceron filed a petition for post-conviction relief in which his sole contention involved the initial error surrounding the qualification and administration of the oath to the interpreters who translated during his trial. Having concluded that Ceron has not established fundamental error regarding the trial court's management of Ceron's interpreters, including the court's subsequent remedial efforts, we affirm the trial court's denial of his petition for post-conviction relief.

[42] Affirmed.

Conclusion

[43] In light of the foregoing, we conclude that Ceron has not established fundamental error and therefore he is not entitled to relief from his convictions.

[44] Affirmed.

Brown, J., and Kenworthy, J., concur.

ATTORNEY FOR APPELLANT

Rebecca L. Gray
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Tyler G. Banks
Deputy Attorney General
Indianapolis, Indiana