MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Daniel L. Meredith,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

June 8, 2022

Court of Appeals Case No. 21A-CR-2665

Appeal from the

Jackson Superior Court

The Honorable Amy Marie Travis, Judge

Trial Court Cause No. 36D01-2101-CM-28

Mathias, Judge.

[1] Daniel L. Meredith appeals his conviction for Class A misdemeanor invasion of privacy. Meredith raises a single issue for our review, namely, whether the State presented sufficient evidence to support his conviction. We affirm.

Facts and Procedural History

[2] In February 2020, "Danny Hicks" petitioned for and received an order for protection against Meredith. Ex. Vol. 1, p. 5. Thereafter, Meredith stalked Hicks, and, on November 12, 2020, Meredith pleaded guilty to two charges, in two different cause numbers, of Level 6 felony stalking of "Danny Hicks." *Id.* at 19, 23. The trial court ordered Meredith to serve an aggregate sentence of four years, which the court suspended to probation.

[3] On January 8, 2021, Hicks twice observed Meredith on Hicks's property. The first time occurred around 2:00 a.m. or 2:30 a.m., and Hicks observed Meredith drive a blue or black vehicle into Hicks's driveway and near one of Hicks's boats. Later that morning, Hicks observed Meredith outside one of Hicks's windows.

[4] The State charged Meredith with Class A misdemeanor invasion of privacy for violating the order for protection. At the ensuing jury trial, Hicks testified that he was the person who had obtained the order for protection against Meredith. He further testified that he twice observed Meredith on his property despite the order for protection.

[5] Meredith also testified at his trial. Meredith admitted that he knew Hicks and had twice pleaded guilty to stalking "Danny Hicks." Tr. Vol. 2, pp. 162-63. He

further admitted that had been to Hicks's property at some point and was familiar with it, but he denied having been there on January 8. Much of Meredith's testimony in his own defense was directed toward asserting that the victim identified by the State at trial had the legal name of "Dan" Hicks, and, thus, that person could not have been the person identified as "Danny" in the order for protection. *See id.* at 153.

[6] The jury found Meredith guilty as charged. The court entered its judgment of conviction and sentenced him accordingly. This appeal ensued.

Discussion and Decision

[7] Meredith asserts on appeal that the State failed to present sufficient evidence to support his conviction. As our Supreme Court has made clear:

> For sufficiency of the evidence challenges, we consider only probative evidence and reasonable inferences that support the judgment of the trier of fact. On sufficiency challenges, we will neither reweigh evidence nor judge witness credibility. We will affirm the conviction unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.

Hall v. State, 177 N.E.3d 1183, 1191 (Ind. 2021).

[8] Meredith presents two specific arguments on appeal. First, his appellate counsel states that "Meredith has specifically directed counsel to challenge the sufficiency of the evidence supporting the determination that the witness who testified was 'Danny Hicks' as listed in the protective order" when the witness's name was "Dan" Hicks. Appellant's Br. at 12. We acknowledge the difficult

position the client has put counsel in with this frivolous argument. We conclude that the State presented sufficient evidence to establish that Hicks was the same person identified in the order for protection.

[9] Meredith's second argument on appeal is that Hicks's testimony was incredibly dubious. Indiana's "'incredible dubiosity' rule" permits appellate courts to invade the fact-finder's "province for judging witness credibility only in exceptionally rare circumstances." *McCallister v. State*, 91 N.E.3d 554, 559 (Ind. 2018). Those rare circumstances exist if a sole witness gives testimony that was "coerced, equivocal, and wholly uncorroborated" and was "'inherently improbable' or of dubious credibility; and there must have been no circumstantial evidence of the defendant's guilt." *Id.*

[10] The incredible-dubiosity rule does not apply here for two reasons. First, Meredith's own testimony places him at Hicks's property, demonstrates his familiarity with Hicks's property, and demonstrates that he knew Hicks as Danny Hicks and that he had previously stalked him. Moreover, Meredith's testimony likely inspired the jury to find Meredith not credible when Meredith argued that someone named Dan could not be known as Danny. In all of these respects, Meredith's own testimony corroborated key components of Hicks's testimony, and, thus, the incredible-dubiosity rule does not apply.

[11] Second, the incredible dubiosity rule does not apply because there was nothing about Hicks's testimony that suggests it was coerced, equivocal, inherently improbable, or of dubious credibility. Meredith argues that Hicks's testimony is

incredibly dubious because Hicks lacked precision in whether he first saw Meredith at 2:00 a.m. or 2:30 a.m.; because the precise distance between Meredith and Hicks when Hicks first saw him the morning of January 8 was disputed; because Hicks was unsure of which of his boats he had seen Meredith next to; because Hicks had a video home security system but testified he was unsure how to use it to record video; and because Hicks could not say if Meredith's car was blue or black.

[12] But these discrepancies are not a basis for invoking the incredible-dubiosity rule. Nothing in those discrepancies suggests that Hicks's testimony was coerced, and those discrepancies do not render Hicks's testimony equivocal, inherently improbable, or of dubious credibility. Rather, it was for the fact-finder to consider and weigh the evidence before it. For all of these reasons, we reject Meredith's arguments on appeal and affirm his conviction for Class A misdemeanor invasion of privacy.

[13] Affirmed.

Brown, J., and Molter, J., concur.