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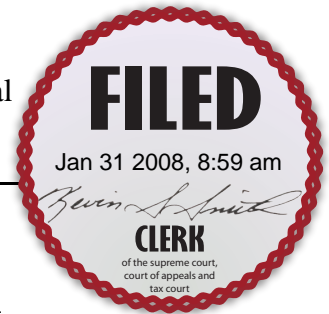
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**IN THE  
COURT OF APPEALS OF INDIANA**

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ISMAEL SALIFOU-BOUBAKER, )  
 )  
Appellant-Defendant, )  
 )  
vs. )  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

No. 49A05-0706-CR-320

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Tanya Walton-Pratt, Judge  
Cause No. 49G01-0602-FB-21591

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**January 31, 2008**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**MAY, Judge**

Ismael Salifou-Boubaker appeals his conviction of rape, arguing there was insufficient evidence that the intercourse was non-consensual. We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On October 23, 2004, around 10:15, a friend drove S.H. to Landsharks Bar on Broad Ripple Avenue, where they met several friends to celebrate S.H.'s birthday. S.H.'s friends left Landsharks around 1:30 a.m., but S.H. stayed. Because she was a regular at Landsharks, she was confident she could get a ride from another regular, a staff member, or a cab. Through the course of the evening, S.H. had approximately five and a half drinks, and she had her last drink around 2:00 a.m. She felt "a little buzzed," and would not have driven, but she was able to "walk and talk and function." (Tr. at 51.)

Landsharks closed at 3:00 a.m. S.H. remained at Landsharks for a while to talk to the staff and other regulars. Two people discussed giving S.H. a ride home. Instead, she decided to go for a walk to clear her mind.

S.H. walked down Broad Ripple Avenue and then followed the path along Westfield Boulevard. She heard footsteps behind her, and someone called out to her. She turned, and Salifou-Boubaker approached her. Salifou-Boubaker asked her what she was doing, and she explained she was taking a walk to clear her head. S.H. was not initially alarmed by Salifou-Boubaker, and they talked and walked for a while. At the corner of Westfield Boulevard and Central Avenue, S.H. stopped, took Salifou-Boubaker's hands, and told him she wanted to be alone.

S.H. started to walk away, but Salifou-Boubaker grabbed her. He picked her up and carried her over a bridge. S.H. kicked and screamed. Salifou-Boubaker told her to “shut up,” punched her, and threw her down. (*Id.* at 67.) S.H. continued to resist, and Salifou-Boubaker responded by punching her in the head and grabbing her throat. Salifou-Boubaker eventually managed to remove S.H.’s pants and underwear and penetrated her vagina with his penis.

S.H. spoke to Salifou-Boubaker throughout the assault:

I told [him he] was hurting me. I told him he was raping me. Once he was inside me, I told him I had AIDS. I told him I was a good person. I didn’t deserve it. I didn’t know why he was doing this to me.

(*Id.* at 71.)

After a while, Salifou-Boubaker told S.H., “I can’t do this,” and lifted her off the ground. (*Id.* at 73.) He said he was sorry and kissed her on the forehead. S.H. replied, “You’re sorry for raping me, for dragging me, threatening me . . . [you’ll] pay for it.” (*Id.*) Salifou-Boubaker walked away.

S.H. dressed and called one of her roommates, Brent Taylor. While she was on the phone with Taylor, she walked to a nearby church because there was a light there. She remained on the phone with Taylor until he arrived a short time later. According to Taylor, S.H. sounded “desperate” and “terrified.” (*Id.* at 148.) When he picked her up, S.H. was “shaking. I can [sic] clearly tell that she was scared . . . . [H]er hair was a mess. She looked dirty or bruised . . . . [H]er shirt was – had been ripped on the side. Her pants were well soiled.” (*Id.* at 149-50.)

Taylor took S.H. home and called the police. Officer Derrick Hannon responded to the call and observed S.H. “appeared upset as she was crying.” (*Id.* at 173.) S.H. was taken to St. Vincent’s Hospital, where she was examined by Allison Dorris. Dorris noticed S.H. was “crying” and “shaky,” but did not recall that S.H. appeared intoxicated. (*Id.* at 187.) S.H. had fresh abrasions and bruising on her neck, face, back, chest, arms, and legs. Her nails were broken, and she had a mild concussion.

Police later suspected Salifou-Boubaker, who voluntarily provided a DNA sample. His DNA matched the DNA found in S.H.’s rape kit. Salifou-Boubaker fit S.H.’s general description of her attacker, but she was not able to identify him in a photographic array.

Salifou-Boubaker was tried by jury and found guilty of rape.

### **DISCUSSION AND DECISION**

In reviewing the sufficiency of the evidence, we do not reweigh the evidence or judge the credibility of witnesses. *Dinger v. State*, 540 N.E.2d 39, 39 (Ind. 1999). We consider the evidence most favorable to the verdict, along with all reasonable inferences, to determine whether a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt. *Id.* at 39-40. The testimony of a single witness can sustain a conviction. *Hobbs v. State*, 548 N.E.2d 164, 168 (Ind. 1990).

Salifou-Boubaker argues the evidence is insufficient to establish he compelled S.H. to have intercourse with him by force. S.H. was the only person who could testify whether the intercourse was voluntary, and according to Salifou-Boubaker, she was too intoxicated to accurately recall what happened. As evidence that S.H. could not be a credible witness, Salifou-Boubaker notes that S.H. could not recall his name or identify

him in a line-up, she made the unfortunate decision to walk by herself late at night, she did not realize the attack took place on a roadway until she revisited the scene, and she did not seek shelter while she waited for Taylor to pick her up.

However, the jury heard evidence concerning the amount of alcohol S.H. consumed, her own perceptions of her ability to function, and the observations of others, and could properly conclude S.H. was not too intoxicated to describe what happened to her. *See Kilpatrick v. State*, 746 N.E.2d 52, 61 (Ind. 2001) (“It is for the trier of fact to resolve conflicts in the evidence and to decide which witnesses to believe or disbelieve”). Because S.H. had never met Salifou-Boubaker before and the attack happened at night, it is not surprising that she would not be able to positively identify Salifou-Boubaker. Neither are we surprised she did not know she had been attacked on a roadway. It is also not unreasonable that she waited in a lighted area while on the phone with a trusted friend instead of banging on strangers’ doors at that time in the morning. S.H.’s testimony was corroborated by her injuries, her appearance, and her demeanor. The evidence was sufficient, and we affirm the conviction.

Affirmed.

KIRSCH, J., and RILEY, J., concur.