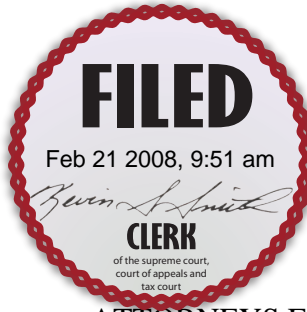


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

LAKESHA BOLER,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0707-CR-633

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Annie Christ-Garcia, Judge
Cause No. 49G21-0608-CM-134757

February 21, 2008

MEMORANDUM DECISION - NOT FOR PUBLICATION

CRONE, Judge

In challenging the sufficiency of the evidence to support her April 11, 2007 conviction for invasion of privacy,¹ Lakesha Boler makes an incredible dubiousness claim. We affirm.

When reviewing the sufficiency of evidence to establish the elements of a crime, we consider only the evidence and reasonable inferences drawn therefrom that support the conviction. *Cherrone v. State*, 726 N.E.2d 251, 255 (Ind. 2000). We do not reweigh evidence or judge the credibility of witnesses and will affirm if there is probative evidence from which a reasonable factfinder could have found the defendant guilty beyond a reasonable doubt. *Id.* “It is well-established that the trier of fact can infer the defendant’s knowledge from circumstantial evidence.” *Germaine v. State*, 718 N.E.2d 1125, 1132 (Ind. Ct. App. 1999), *trans. denied*.

The State alleged via information that on June 23, 2006, Boler violated a protective order by contacting Anthony Edgington by telephone. Appellant’s App. at 16. The evidence most favorable to the conviction reveals that on June 6, 2006, the court issued a thirty-day order restraining Boler “from any contact with” Edgington, her former boyfriend. State’s Exh. 1 at 1. The order specifically enjoined Boler from telephoning Edgington and gave notice that violation of the order “is punishable by confinement in jail, prison, and/or a fine.” *Id.* at 2, 3. Edgington had dated Boler for approximately four years and knew her voice and phone number; however, he was dating someone new, Kania Warbington, by the summer of 2006. Tr. at 6, 14, 15, 18, 28. Edgington testified that on June 23, 2006, Boler called him

¹ See Ind. Code § 35-46-1-15.1(1) (“A person who knowingly or intentionally violates ... a protective order to prevent domestic or family violence issued under IC 34-26-5 ... commits invasion of privacy, a Class A misdemeanor.”). Although Boler was originally charged with a total of three counts of invasion of privacy, the State dismissed one count, and the court found her not guilty of another. Appellant’s App. at 32, 8. As for the count on which she was convicted, Boler received a sentence of 365 days of

seven or eight times complaining that the protective order had been sent to her place of employment.² *Id.* at 6, 13-17. Warbington testified that she too had received phone calls and text messages that she believed were from Boler. *Id.* at 19-20. Warbington further testified that she called Boler on July 1, 2006 to complain about the calls, and that Boler “stated that she doesn’t know what [Edgington] was trying to prove by having her served at work[.]” *Id.* at 23.

The “incredible dubiousity” doctrine applies “where a sole witness presents inherently contradictory testimony that is equivocal or the result of coercion and there is a complete lack of circumstantial evidence of the defendant’s guilt.” *Thompson v. State*, 765 N.E.2d 1273, 1274 (Ind. 2002). “Application of this rule is rare and the standard to be applied is whether the testimony is so incredibly dubious or inherently improbable that no reasonable person could believe it.” *Love v. State*, 761 N.E.2d 806, 810 (Ind. 2002).

The consistency of Edgington’s and Warbington’s testimony alone mandates against application of the incredible dubiousity rule, which is implicated only where a *sole* witness presents inherently contradictory testimony. *See Whedon v. State*, 765 N.E.2d 1276 (Ind. 2002). We cannot say that the testimony was so equivocal or dubious that no reasonable person could believe it. To the contrary, given the evidence presented at trial, the court easily could have found that Boler knowingly or intentionally violated the restraining order. Thus, we conclude that the State presented sufficient evidence to support Boler’s conviction of invasion of privacy.

incarceration, with 361 days suspended to probation, and credit for time served. *Id.* at 13; Tr. at 43-44.

² Boler apparently worked as a foster care social worker with White’s Family Services. Sent. Tr. at

Affirmed.

BAILEY, J., and NAJAM, J., concur.