2016 IL App (1st) 141056-U

FIRST DIVISION
MARCH 31, 2016

No. 1-14-1056

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 12 CR 17467
	)	
MICHAEL RUIZ,	)	Honorable
	)	Joseph M. Claps,
Defendant-Appellant.	)	Judge Presiding.

JUSTICE CUNNINGHAM delivered the judgment of the court.
Justices Connors and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's conviction for criminal sexual assault is affirmed as the victim's testimony at trial, which the trial court found credible, sufficiently established that defendant forcibly engaged in sexual intercourse with her against her will.

¶ 2 Following a bench trial, defendant Michael Ruiz was found guilty of criminal sexual assault by force and sentenced to 25 years' imprisonment as a Class X offender. On appeal, defendant alleges the evidence at trial was insufficient to prove his guilt beyond a reasonable doubt because the State presented insufficient evidence that defendant used force or threatened to

use force against the victim and because the victim's testimony was incredible. For the reasons that follow, we affirm the judgment of the trial court.

¶ 3 Defendant was charged by indictment with two counts of criminal sexual assault following a May 28, 2012, encounter with the female victim, A.E. The counts alleged defendant placed his penis into the victim's vagina by use of force or threat of force (720 ILCS 5/11-1.20(a)(1) (West 2012)) and with knowledge that the victim was unable to give knowing consent (720 ILCS 5/11-1.20(a)(2) (West 2012)).

¶ 4 At trial, the State began its case-in-chief by presenting other crimes evidence. E.R., testified that she met defendant at a nightclub in December 2007. Defendant approached E.R., and her friend, Jasmine, just before the nightclub closed and suggested that he, E.R, and Jasmine, go to another nightclub to continue their conversation and continue drinking and dancing. Upon arriving, they learned the nightclub was closed. Defendant drove Jasmine and E.R. back to E.R.'s vehicle, and the women followed defendant in E.R's vehicle to an area near Augusta and Ashland. E.R. parked her vehicle, and the women rode in defendant's vehicle to a restaurant.

¶ 5 When they had finished eating, defendant drove Jasmine home, leaving defendant and E.R. alone together in his vehicle. Defendant then attempted to touch E.R.'s breasts with his hand, but she "smacked" his hand away. Defendant also touched E.R.'s vagina with his hand, over her clothing, before E.R. "smacked" his hand away. E.R. asked defendant to take her to her vehicle multiple times. Defendant refused and instead, "drove around in circles." At one point, E.R. attempted to exit the vehicle when it was stopped at a stop light. Defendant grabbed her hair and pulled her back into the vehicle. After several hours, defendant drove E.R. to a location

approximately one mile from her vehicle, and E.R. was forced to secure a ride to her vehicle from a stranger.

¶ 6 The victim in the present case, A.E., testified that she is a flight attendant and has lived in Chicago for over three years. Prior to living in Chicago, A.E. lived in Pensacola, Florida. On May 28, 2012, defendant approached her while she was walking home from a grocery store. The two began a conversation, exchanged phone numbers, and agreed to meet later that evening at 9:30 p.m. at the corner of Kimball and Fullerton. This location was close to where the two met and close to where A.E. lived. A.E. rode the bus to this meeting place.

¶ 7 Defendant was waiting for A.E. when she arrived at the bus stop at Kimball and Fullerton. The two began to walk around the neighborhood, and A.E. suggested they should eat because she was hungry and hadn't eaten "too much" that day. Defendant agreed, but the two walked to a liquor store instead. A.E. did not know that they were going to the liquor store. Defendant asked A.E. what she wanted to drink, and A.E. replied "anything but Hennessey." Despite A.E.'s request, defendant purchased Hennessey and two shot glasses. He did not purchase mixers, soda, water, or food. Although A.E. was hungry and had her debit card with her, she did not purchase food at the liquor store.

¶ 8 After leaving the liquor store, defendant and A.E. walked to a park near Kimball and Spaulding. A.E. did not know they were walking to the park. They arrived at approximately 10:30 p.m. A.E. and defendant were the only people at the park. They sat underneath a jungle gym in the park to get more privacy and continued to talk and take "shots" of the alcohol defendant purchased. A.E. estimated that she voluntarily took approximately 7 to 10 shots over

the course of a "couple hours." Defendant poured all of A.E.'s shots. While the two were drinking, A.E. received a call on her mobile phone that lasted "a couple minutes." A.E. was not watching defendant during the time she was on the phone. After she finished her phone conversation, she and defendant continued to drink.

¶ 9 Defendant kissed A.E.'s neck and chest area while the two were at the park. A.E. stated that she voluntarily kissed defendant, but "when it got too much" she said "no." She explained that she wanted to eat, and was starting "not to feel very good." She also stated that she wanted to go home and asked defendant to hail a taxi for her. Defendant stopped touching her and left the park to hail a taxi. While defendant was gone, A.E. was "slumped over on a bench" and "peed and pooped" on herself. After approximately 10 to 15 minutes, defendant returned and explained he could not find a taxi. Instead, he suggested the two walk back to his house.

¶ 10 On the walk back, A.E. and defendant hailed a taxi, "got in" and then "got right back out" because defendant "had to go home for some reason." A.E. exited the taxi with defendant even though she was feeling sick and wanted to go home because she "had no control," "felt *** somewhat helpless," and was not thinking rationally. A.E. testified it never occurred to her to stay in the taxi. She simply followed defendant out. A.E. and defendant walked the rest of the way to defendant's home. A.E.'s home was three to four blocks from the park. Defendant's home was nine blocks away. A.E. was stumbling and she could not walk straight. A.E. initially testified that she did not try to get on a bus even though she had her CTA card because the "bus stops running at midnight." On cross-examination, A.E. stated it was approximately 11 p.m. when she and defendant left the park and she did not ride the bus because she "didn't see a bus."

A.E. never attempted to call someone to "give her a ride" although she had her mobile phone with her.

¶ 11 A.E. and defendant arrived at defendant's home sometime after midnight. The two walked upstairs to the attic, and defendant told A.E. "just to go lay down on the bed." A.E. lay down in the bed – which was a mattress on the floor – fully clothed because she "wasn't feeling good." Her "head was hurting" and she "felt like [she] could throw up." She was lying on her side. Defendant came to lay next to A.E. on the mattress. He was not wearing a shirt. A.E. told defendant that she "just want[ed] to go to sleep or just cuddle." Defendant ignored this request and instead tried to "kiss" and "touch" A.E. He "wanted to have sex," but A.E. told him "no."

¶ 12 Defendant then rolled A.E. from her side onto her back, got "on top" of her with his legs in between hers, pushed her shoulders down using "a lot of pressure," and told her "we can either do this the easy way or the hard way." A.E. testified that she could not move due to the amount of force defendant applied to her shoulders; however, she did not try to move because she was scared that while defendant was pinning her down, he "might have hurt [her]" because of "what he said, that we can do this the easy way or the hard way." A.E then told defendant "yes" and explained "out of fear, I consented."

¶ 13 A.E. did not attempt to call out, scream for help, or struggle, nor did she see defendant with any weapons. At that point, A.E.'s dress "got taken off." She did not remove her dress, and stated that she "believe[d] defendant took [the dress] off [her]." However, she could not remember exactly how her dress was removed. Defendant then inserted his penis into A.E.'s vagina for approximately five minutes. After ejaculating, defendant "got off [A.E.]" and fell

asleep. A.E. also "passed out." A.E. estimated that defendant weighed approximately 170 to 180 pounds and is 5 foot 10 inches to 5 foot 11 inches tall. A.E. is 5 foot 7 inches and weighed approximately 140 pounds.

¶ 14 A.E. awoke the next day, "a little after 5 a.m." She was "on call" to work that day. A.E. immediately walked over to a chair, found a plastic bag, and vomited into it. A.E. did not attempt to walk out quietly and the first thing she did was vomit. She was still naked and the dress she had been wearing the night before was "on the side of the bed." It had not been torn. A.E. did not find her underwear. Defendant awoke while A.E. was vomiting and asked if she was "okay." After A.E. vomited, she dressed, and defendant "walked her out" before going back inside.

¶ 15 A.E. walked to a corner near defendant's house and called 911. A.E. initially testified that she realized that her identification card, debit card, and CTA card were missing from her purse while she was on the phone with 911. On re-direct examination, A.E. stated she first realized her identification card was missing while she was looking for her CTA card just after leaving defendant's home, but prior to calling 911. A.E. did not take her identification card out of her purse at any point that night and it was in her purse when she and defendant were at the park. She never saw defendant touch her purse or any of the items missing. The parties stipulated that the record keeper for A.E.'s mobile phone company would testify that four calls were placed from A.E.'s mobile phone to the mobile number registered to defendant from 5:30 a.m to 5:34 a.m. The 911 call was placed at 5:34 a.m. A.E. testified that she did not remember calling defendant four times prior to contacting 911. She also could not remember if defendant sent a

text message to her mobile phone explaining that he found her belongings and could return them to her.

¶ 16 A.E. was in pain and her vagina was sore while she was standing outside waiting for the police to arrive. She was crying when the police arrived because she was "sad," "hurt," and "emotional and scared" after being "raped." An ambulance transported A.E. to a hospital where a sexual assault examination was performed. A.E also provided a urine sample. Police officers followed her to the hospital and questioned her about the events of the previous night. A.E. sent a text message to defendant while at the hospital "to see if he responded" to help the police apprehend defendant or to "tell them where [defendant was]."

¶ 17 After being released from the hospital, A.E. met with a detective at a police station and identified defendant from a photo array. She did not return home following the incident for approximately two weeks. Instead, she stayed with "a friend" because she was "scared" and was afraid that if she returned home she would "run into" defendant. She explained that defendant knew where she lived because "he had [her] stuff" and her "ID was missing." Her identification was a Florida identification card containing a Florida address. Approximately three months later, on August 29, 2012, A.E. identified defendant from a lineup at the police station.

¶ 18 Chicago Police Officer Aaron Levine and his partner responded to A.E.'s 911 call. The officers met with A.E. at approximately 5:45 a.m. on the corner near defendant's home. Officer Levine testified that A.E. appeared to be in a "distraught state" and looked as if she had been crying. Officer Levine did not observe any visible injuries, torn or ripped clothing, or detect an odor of feces or urine when he reported to the scene. The paramedic who transported A.E. to the

hospital testified that A.E. was "very upset, crying, [a] little guarded, and shaking," and that she was a "little hesitant to answer questions." The paramedic did not notice if A.E. was wearing torn clothing or observe any visible injuries.

¶ 19 A.E. provided Officer Levine with defendant's name and identified defendant's residence as the scene of the alleged sexual assault. The officers called emergency medical services and followed A.E. to the hospital once the crime scene was "secured." His partner conducted an interview with A.E. inside the hospital and passed along the information he received to Officer Levine. Officer Levine used this information to coordinate the investigation into the incident.

¶ 20 Officer Sanchez arrived at defendant's home to assist with defendant's apprehension. Upon entering the residence, the officers walked upstairs to the attic. The attic was unsecured with no doors. Officer Sanchez testified that the attic appeared "uninhabitable," and contained a mattress lying on the ground, a work bench, and a plastic bag with liquid "coming out of the bag." According to Officer Sanchez, the attic looked like "storage" and contained "junk." When the officers didn't find anyone in the attic, they went downstairs to the second floor. A woman named Sylvia Lopez answered the door and informed the officers that defendant was not at home. She allowed the officers to enter the apartment. They did not find defendant upon searching the residence.

¶ 21 A.E. testified that she had felt differently this time than previous times when she had consumed alcohol. She explained that she "felt like [she] had no control" and "had never felt that sick before." A.E. stated she never saw defendant with anything other than Hennessey, including cough syrup or other "suspicious looking" liquid, nor did she taste cough syrup or "any funny

taste" when she and defendant were drinking. A.E. did not take any cold medication, including cough drops or cough syrup, prior to her meeting with defendant. The last time she had a cold was approximately "a few months" prior to the incident, and she had not taken any cough medicines, including cough syrup or cough drops, within "a few months" prior to the offense.

¶ 22 The parties stipulated to the testimony of emergency room physician, Doctor Vasquez, and registered nurse (RN) Jennifer Somborg. Doctor Vasquez and RN Somborg performed A.E.'s sexual assault examination. If called to testify, Doctor Vasquez would state that A.E. presented to the hospital with no visible signs of trauma. The genital cultures and urine sample obtained during the examination were placed into a sexual assault evidence collection kit. A proper chain of custody was maintained over these items at all times. The stipulated testimony of Investigator Mary Embers confirmed that she obtained a buccal swab from defendant and submitted the swab to the Illinois State Police Crime Lab for DNA analysis. A proper chain of custody was maintained over this sample at all times.

¶ 23 The stipulated testimony of forensic scientists Christine Weathers and Christine Caccamo established that, to a reasonable degree of certainty, semen was identified on the vaginal, anal, cervical, and thigh swabs collected from A.E.'s sexual assault examination. The semen from the samples was matched to defendant's DNA profile. The parties also stipulated to the testimony of Christina Woods, an expert in the field of forensic toxicology, that A.E.'s urine sample tested positive for dextromethorphan. This drug can be used as a "date rape" drug as it is found in approximately 120 over-the-counter cold medicines. The amount of dextromethorphan in A.E.'s

system was not determined. The drug's side effects include drowsiness, dizziness, and vomiting, which are likely more severe when the drug is consumed with alcohol.

¶ 24 Defendant moved for directed finding following the parties' stipulations. The trial court granted defendant's motion with regard to Count 1, criminal sexual assault with knowledge the victim was unable to consent, and denied the motion as to Count 2 – criminal sexual assault by use of force or threat of force. In so finding, the trial court stated that the victim clearly testified that she gave her consent out of fear.

¶ 25 The trial court found defendant guilty of the remaining count for criminal sexual assault by force or threat of force. In so finding, the court noted that there is no dispute that a sexual act occurred. Rather, the only inquiry was whether the act occurred by defendant's use of force or threat of force, which depended on the credibility of A.E.'s testimony. The trial court concluded that A.E. testified credibly despite the inconsistencies in her testimony, and that to adopt defendant's position, it would have to reject A.E.'s testimony that defendant "is on top of her and said we can do this the easy way or the hard way, that that never happened and she is making that part up." In determining A.E. testified "convincingly and credibly," the trial court considered A.E.'s "manner while testifying, *** the reasonableness of her testimony," and the "propensity evidence" presented by the State.

¶ 26 The trial court also concluded that the circumstantial evidence suggested that more likely than not, it was defendant who administered the dextromethorphan to A.E. at some point during the time leading up to the commission of the offense. It also stated that A.E.'s actions the following morning "[were] driven by the fact that she had no bus pass, *** no ID, and that these

items were in her purse. Someone had to remove them. It wasn't her that removed it." The court subsequently denied defendant's motion for new trial and the cause proceeded to sentencing. Defendant was sentenced to 25 years' imprisonment as a Class X offender based upon his criminal background and was credited 564 days' of presentence incarceration time served.

¶ 27 On appeal, defendant contends the evidence was insufficient to prove he sexually assaulted the victim, A.E., beyond a reasonable doubt because (1) the State presented insufficient evidence to demonstrate that defendant used force or threat of force during the commission of the offense, and (2) A.E.'s testimony was "improbable and unsatisfactory."

¶ 28 When a defendant challenges the sufficiency of the evidence to sustain a conviction, the relevant question on review is whether, after considering the evidence in the light most favorable to the State, any rational trier of fact could have found the essential elements of the crime proven beyond a reasonable doubt. *People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011); *People v. Collins*, 106 Ill. 2d 237, 261 (1985). It is not the function of this court to retry the defendant. *People v. Tenney*, 205 Ill. 2d 411, 428 (2002). The trial court, as finder of fact, is responsible for determining the credibility of witnesses, the weight to be given their testimony, and the reasonable inferences to be drawn from the evidence. *People v. Jackson*, 358 Ill. App. 3d 927, 941 (2005). The credibility of the complaining witness is best determined by the trier of fact, having had the opportunity to hear the testimony and observe the witnesses' demeanor in order to consider conflicts or inconsistencies in the testimony. See *People v. Curtis*, 296 Ill. App. 3d 991, 999 (1998); *People v. Nelson*, 148 Ill. App. 3d 811, 821 (1986). A conviction will only be overturned where the evidence is so improbable, unsatisfactory, or inconclusive that it creates a

reasonable doubt of defendant's guilt. *Beauchamp*, 241 Ill. 2d at 8. The testimony of a single witness, if positive and credible, is sufficient to sustain a conviction. *People v. Singuenza-Brito*, 235 Ill. 2d 213, 228 (2009).

¶ 29 To sustain a conviction for criminal sexual assault by use of force or threat of force, the State had to prove beyond a reasonable doubt that defendant committed an act of sexual penetration without consent from the victim by using force or threat of force. *People v. Carlson*, 278 Ill. App. 3d 515, 520 (1996). Force, the essence of criminal sexual assault, requires "something more than the force inherent in the penetration itself." *People v. Denbo*, 372 Ill. App. 3d 994, 1007 (2007). Use of force or threat of force has been defined as:

"(1) when the accused threatens to use force or violence on the victim or on any other person, and the victim under the circumstances reasonably believed that the accused had the ability to exercise that threat; or

(2) when the accused has overcome the victim by use of superior strength or size, physical restraint or physical confinement." 720 ILCS 5/12-12(d) (West 2006).

¶ 30 Our courts have held that, if the victim had the use of her mental faculties and physical powers, the evidence must show resistance sufficient to demonstrate that the act was against her will. *People v. Walker*, 154 Ill. App. 3d 616, 625 (1987). Nonetheless, force does not depend on "actual physical damage to bodily tissue," nor is it required that "the victim physically resist before it may be said that a [sexual assault] has occurred." *Nelson*, 148 Ill. App. 3d at 820-21 (citing *People v. Szudy*, 108 Ill. App. 3d 599, 606 (1982); *People v. Patterson*, 90 Ill. App. 3d 775, 781 (1980)). There is no definite standard establishing the amount of force the State must

demonstrate in order to prove criminal sexual assault – "each case must be considered on its own facts." *People v. Vasquez*, 233 Ill. App. 3d 517, 527 (1992) (citing *People v. Bolton*, 207 Ill. App. 3d 681, 686 (1990)). "If circumstances show resistance to be futile or life endangering or if the victim is overcome by superior strength or fear, useless or foolhardy acts of resistance are not required." *Bolton*, 207 Ill. App. 3d at 686. The determination of the issue of force or consent is a question of fact within the province of the fact finder. *People v. Fosdick*, 166 Ill. App. 3d 491, 498-99 (1988).

¶ 31 Defendant contends that the State failed to prove he used force or threatened to use force during the commission of the sexual act. He argues A.E. never testified that she consented to unwanted sexual intercourse because defendant used force against her, only that she was afraid he would hurt her. Defendant also argues that defendant did not threaten A.E. with force because he did not use a weapon, physically injure A.E, or make an "explicitly violent threat." He does not dispute, however, that he and the victim engaged in sexual intercourse. The State generally responds that the evidence sufficiently demonstrated defendant used force, or alternatively, that he threatened to use force during the commission of the offense.

¶ 32 Here, the testimony of A.E, which the trial court found credible, established defendant invited A.E. on a date, purchased liquor, and took her to a secluded location. The two then drank alcohol and defendant poured approximately 7 to 10 shots for the victim. As the trial court reasonably concluded, the evidence suggested that at some point during that time, defendant slipped a sedative (dextromethorphan) into A.E.'s drinks. When A.E. wanted to go home and asked for defendant's assistance to hail a taxi, defendant told her he was unable to find one and

instead walked with A.E. back to his apartment. Once there, in the attic, defendant directed her to lie on the mattress and attempted to initiate sexual contact.

¶ 33 Despite A.E.'s intoxicated state, she refused, at which point defendant rolled her onto her back, got on top of her, pinned her down by exerting "a lot" of pressure onto her shoulders, and told her, "we can do this the easy way or the hard way," which A.E. understood as a threat of physical violence. We acknowledge that A.E. testified that she did not resist once defendant pinned her to the mattress by her shoulders out of fear that defendant would injure her. At this point, however, defendant had already used the force necessary to compel A.E.'s acquiescence to unwanted sexual intercourse sufficient to sustain a conviction for criminal sexual assault by use of force or threat of force.

¶ 34 Nonetheless, defendant relies on *Walker*, 154 Ill. App. 3d 616, *People v. Warren*, 113 Ill. App. 3d 1, 5 (1983), and other similar cases to support the proposition that A.E.'s lack of resistance belies the trial court's finding that force was used in the commission of the offense. The *Walker* court, quoting *Warren*, 113 Ill. App. 3d at 6, expressly stated that sufficient evidence of resistance is required only "*if* [the] complainant had the use of her faculties and physical powers." (Emphasis added.) *Walker*, 154 Ill. App. 3d at 625. Therefore, the amount of resistance required will depend on the victim's ability to use her mental and physical faculties.

¶ 35 The evidence at trial established that A.E. consumed approximately 7 to 10 shots of Hennessey, and that the "date rape" drug, dextromethorphan, was detected in her system following the incident. Although defendant challenges the trial court's inference that the drug was administered by defendant, A.E. testified that she felt differently than other times she had

consumed alcohol and had never felt that ill when drinking alcohol before. Regardless, A.E. stated that she did not "feel well" after drinking, urinated and defecated on herself at the park, had a staggered gait when walking with defendant to his home, "passed out" after the sexual act, felt like she had "no control," and vomited the next morning. Based upon this evidence, there can be no question that A.E's "faculties and physical powers" were severely limited due to her intoxicated state.

¶ 36 We also acknowledge that A.E. was not completely incapacitated as she was conscious during the offense, had some understanding of the nature of the events taking place and arguably had limited use of her physical powers. It was nevertheless evident that her capability to resist was severely diminished as it depended upon her ability to control her mental and physical powers. Therefore, under these circumstances, we disagree with defendant's assertion that the evidence at trial indicates A.E. did not resist merely because she did not try to move after defendant pinned her down by her shoulders. Despite A.E.'s addled mental and physical condition, she did resist by asking defendant if they could just "sleep" or "cuddle," and telling him "no" when he began initiating sexual contact. See *Nelson*, 148 Ill. App. 3d at 820-21 (victim is not required to physically resist before it may be said that sexual assault may occur). Defendant, however, thwarted the little resistance A.E. gave by resorting to the application of physical force and verbal threats when A.E. did not consent to sexual intercourse despite her condition.

¶ 37 Defendant makes much of what he considers the lack of significant disparity between defendant and A.E.'s height and weight (3 inches and 30 to 40 pounds). He argues that because

A.E. did not attempt to move after being pinned to the mattress and due to the lack of a significant height and weight difference, the evidence does not suggest defendant forced A.E. to have sex, rather that the sex was consensual. As we have previously stated, A.E. was intoxicated and drugged at the time of the offense to the point that it severely affected her cognitive and physical abilities. Therefore, any advantage A.E. may have been afforded by the alleged lack of a significant disparity in height and weight was nullified because she was not capable of using her physical powers to their full potential. In fact, she was barely able to walk.

¶ 38 In light of these circumstances, we find that the trial court could reasonably conclude that defendant's act of rolling A.E. onto her back, getting on top of her, pinning her to the bed by exerting "a lot" of pressure on her shoulders, and telling her "we can do this the easy way or the hard way," was sufficient to establish defendant used force or threat of force in the commission of the offense.

¶ 39 Defendant also argues that the evidence was insufficient to establish his guilt because A.E.'s testimony as to force and lack of consent was "improbable and unsatisfactory from beginning to end" and "utterly lacking in credibility." Defendant argues A.E.'s actions on the night of the offense defy logic. He also highlights several inconsistencies in A.E.'s testimony. Defendant concludes the inconsistencies and contradictions demonstrate that A.E. "opportunistically molded her testimony and changed relevant timelines" and "deliberately lied." Defendant also accuses the trial court of relying on two "speculative" facts that had no bearing on A.E.'s credibility when it determined A.E. testified credibly, specifically that defendant administered the sedative to A.E. and stole the belongings from her purse.

¶ 40 The credibility of witnesses is the province of the trier of fact. *Curtis*, 296 Ill. App. 3d at 999. Given the trial court's verdict, it necessarily found A.E.'s testimony credible that defendant forcibly engaged in sexual intercourse with her against her will. The trial court's determination is entitled to great deference. *Id.* We find nothing in the record to show that the trial court's finding was unreasonable given the facts of this case.

¶ 41 Defendant does not dispute that he engaged in sexual intercourse with the victim on the night in question. This is corroborated by the physical evidence collected from the sexual assault examination. Further, a police officer and emergency medical technician testified that A.E. was "distraught" and "had been crying" when they reported to the scene following the incident, which served to corroborate her statement that the sexual intercourse was not consensual. E.R.'s testimony also lends credibility to A.E.'s version of events as it demonstrates defendant's tendency and intent to commit sex crimes. See *People v. Ward*, 2011 IL 108690, ¶ 25 (propensity evidence relevant and admissible to show a defendant's propensity to commit sex crimes). Thus, the trial court could reasonably find that A.E. testified credibly, despite noting that her testimony also included "many mistakes." We will not substitute our judgment for that of the trial court on this question. See *Tenney*, 205 Ill. 2d at 428.

¶ 42 Moreover, the "speculative" facts – that defendant drugged A.E. and stole items from her purse – that defendant argues were incorrectly relied upon by the trial court were reasonable inferences drawn from the evidence and only mentioned by the trial court after its conclusion that the victim testified credibly. Thus, the record does not demonstrate the trial court relied upon improper facts when it determined A.E. was a credible witness.

¶ 43 In conclusion, because A.E.'s testimony, which the trial court found credible, established beyond a reasonable doubt that defendant sexually assaulted A.E. when he forcibly engaged in sexual intercourse with her against her will, therefore we cannot find the evidence is so improbable, unsatisfactory, or inconclusive that it creates a reasonable doubt of defendant's guilt. See *Beauchamp,* 241 Ill. 2d at 8.

¶ 44 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 45 Affirmed.