

MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

Timothy J. Burns
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General

Kelly A. Loy
Assistant Section Chief
Criminal Appeals
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Micah Danaher,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

April 18, 2023
Court of Appeals Case No.
22A-CR-2704

Appeal from the
Marion Superior Court

The Honorable
Helen Marchal, Judge

The Honorable
Matthew Symons, Magistrate

Trial Court Cause No.
49D26-2203-CM-6161

Memorandum Decision by Judge Vaidik
Judges Tavitas and Foley concur.

Vaidik, Judge.

[1] In March 2022, a car in which Micah Danaher was a passenger was stopped for an infraction. When Indianapolis Metropolitan Police Department Officer Alyssa Hunter approached the car, she smelled marijuana and saw that there were six people inside. She called for backup, and additional officers arrived on the scene. Officer David Woloszyn searched Danaher and found a 40 caliber Glock 23 in his pocket. Danaher did not have a license to carry the gun. Officer Hunter took the gun to the property room.

[2] The State charged Danaher with Class A misdemeanor carrying a handgun without a license.¹ At the time, the statute provided that, subject to exceptions that Danaher does not say apply here, “a person shall not carry a handgun in any vehicle or on or about the person’s body without being licensed under this chapter to carry a handgun.” Ind. Code § 35-47-2-1 (version effective until June 30, 2022). At the bench trial, Officers Woloszyn and Hunter testified to the above events. When the State sought to admit the actual gun into evidence, Danaher objected on grounds that the State hadn’t listed the gun on its witness and exhibit list. The trial court “reluctantly” admitted the gun, finding that the notice requirement was “barely” met as the gun was mentioned in the probable-cause affidavit. Tr. p. 51. The court found Danaher guilty.

¹ The State also charged Danaher with Class B misdemeanor possession of marijuana, but the trial court granted Danaher’s Trial Rule 41(B) motion to dismiss that count.

[3] Danaher now appeals, arguing the trial court erred in admitting the gun and that “without the admission of that exhibit, there would have been a failure of proof” for the charge of carrying a handgun without a license. Appellant’s Br. p. 10. But as the State points out (and Danaher doesn’t dispute), “it was not necessary for the State to introduce the handgun in order to obtain a conviction for carrying a handgun without a license.” *Skaggs v. State*, 751 N.E.2d 318, 320-21 (Ind. Ct. App. 2001) (citing *Wilson v. State*, 330 N.E.2d 356 (Ind. Ct. App. 1975)), *reh’g denied, trans. denied*. Thus, even assuming the trial court erred in admitting the actual gun, the testimony of both officers was sufficient to prove that Danaher carried the gun.

[4] Affirmed.

Tavitas, J., and Foley, J., concur.