

## MEMORANDUM DECISION

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

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Bobby J. Glasscock,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

August 30, 2022

Court of Appeals Case No.  
21A-CR-2785

Appeal from the  
Marion Superior Court

The Honorable  
Grant W. Hawkins, Judge

Trial Court Cause No.  
49D31-1705-MR-17196

**Vaidik, Judge.**

## Case Summary

- [1] Bobby J. Glasscock appeals his conviction for murder, arguing the trial court erred by admitting evidence obtained from his phone. We disagree and affirm.

## Facts and Procedural History

- [2] On September 9, 2016, Hallie Bullard, Glasscock's ex-girlfriend, was found stabbed to death in her home in Indianapolis. Surveillance footage from a neighbor showed that around 4:15 that morning a man with Glasscock's build parked a pickup on Bullard's street and then approached and entered Bullard's home. About thirty minutes later, the man left Bullard's home and briefly rummaged through her car before getting back in the pickup and leaving.
- [3] At the time of the killing, Bullard had a protective order against Glasscock, who lived in Marion. On September 13, detectives from the Indianapolis Metropolitan Police Department went to Marion to speak to Glasscock. Accompanied by Marion police officers, they went to Glasscock's house, where they saw two pickups outside. While police spoke to Glasscock's wife at the front door, Glasscock exited through the back door. Officers took him into custody and brought him to the Marion Police Department to be interviewed. The detectives advised Glasscock of his rights, and he signed a form agreeing to speak with them.
- [4] During the interview, Glasscock asked the detectives several times to look at his phone because it contained communications between him and Bullard. The

detectives eventually told Glasscock that he was in trouble because surveillance video appeared to show him and his pickup at Bullard's home the night of the murder. Glasscock then said he would need an attorney. The detectives told Glasscock he would be released but that they were going to keep his phone. Glasscock first said he had no problem with that and provided his passcode but then asked if he could keep the SIM card. The detectives said no.

[5] On September 24, detectives requested and received a search warrant for Glasscock's phone. An analysis of the phone revealed multiple communications between Glasscock and Bullard on September 8, the day before the murder. In one message, Glasscock stated: "I love u can't wait to see u and hold u even if it's my last time. But at lease I know I did one thing to prove my love for u. I hope ye happy that I did this for u babe and no I truely love u." Ex. 103 p. 15. No location data was found for September 8 or September 9, and there was no outgoing activity on the phone between 10:31 p.m. on September 8 and 8:26 a.m. on September 9.

[6] In addition to the surveillance footage and the information from Glasscock's phone, testing of a spot of blood found near Bullard's body and a swab from Bullard's fingernails revealed Glasscock's DNA. The State charged Glasscock with murder. Glasscock moved to suppress the evidence from his phone, arguing that the seizure of the phone on September 13 violated the Fourth Amendment to the U.S. Constitution and Article 1, Section 11 of the Indiana Constitution and that the issuance of the search warrant on September 24 did

not “purge the taint” of the illegal seizure. Appellant’s App. Vol. II pp. 129-38. The trial court denied the motion.

[7] The case proceeded to a jury trial in August 2021. Glasscock renewed his objection to the evidence from his phone. The trial court overruled the objection and admitted the evidence. The jury found Glasscock guilty, and the court sentenced him to sixty-three years in the Department of Correction.

[8] Glasscock now appeals.

## Discussion and Decision

[9] Glasscock contends the trial court erred by admitting the evidence obtained from his phone, renewing his argument that the seizure of the phone violated the Fourth Amendment and Article 1, Section 11. We review such constitutional claims de novo. *Guilmette v. State*, 14 N.E.3d 38, 40-41 (Ind. 2014).

### I. Fourth Amendment

[10] The Fourth Amendment prohibits warrantless searches and seizures of personal property unless one of “a few specifically established and well-delineated exceptions” applies. *Ramirez v. State*, 174 N.E.3d 181, 190 (Ind. 2021). The State relies, as it did in the trial court, on the “exigent circumstances” exception, which applies when exigent circumstances, such as the imminent destruction of evidence, “make law enforcement needs so compelling that a warrantless search or seizure is objectively reasonable.” *Id.* Glasscock argues

this exception doesn't apply because his actions during the interview—asking the detectives to look at his phone and giving them the passcode—showed that he “believed his phone contained exculpatory, rather than inculpatory, evidence that he would have no reason to delete.” *Id.* at 27. As such, Glasscock contends the detectives had no reason to believe that he would delete or attempt to delete any relevant information from the phone. We disagree.

[11] As the State notes,

At the end of the interview, police confronted Glasscock with evidence that he was at Bullard's hours before she was discovered dead. Because the officers had confronted Glasscock at the end of the interview, it was objectively reasonable for them to believe that at that point he might attempt to destroy evidence on his phone that would confirm his presence at Bullard's home, or delete messages on his phone that would demonstrate motive.

Appellee's Br. p. 17 (citation omitted). In other words, because Glasscock knew by the end of the interview that he was the primary suspect, he had great incentive to delete incriminating evidence from his phone. He also would have had the opportunity to do so because he was being released pending further investigation. Therefore, the exigent-circumstances exception applied, and the warrantless seizure of the phone did not violate the Fourth Amendment.<sup>1</sup>

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<sup>1</sup> Glasscock spends much of his opening brief arguing that he did not consent (or at least validly consent) to the seizure of his phone. The State does not argue the seizure was consensual, but even if it had, we would not need to reach the issue given our conclusion that exigent circumstances justified the seizure.

## II. Article 1, Section 11

[12] Glasscock also argues that the seizure of his phone violated Article 1, Section 11. Determining the legality of a search or seizure under Article 1, Section 11 requires an evaluation of “the reasonableness of the police conduct under the totality of the circumstances.” *Litchfield v. State*, 824 N.E.2d 356, 359 (Ind. 2005). Reasonableness in this context generally turns on a balance of (1) the degree of concern, suspicion, or knowledge that a violation has occurred, (2) the degree of intrusion the method of the search or seizure imposes on the citizen’s ordinary activities, and (3) the extent of law-enforcement needs. *Id.* at 361. Balancing those factors here, we conclude that the seizure of the phone at the end of the interview was reasonable.

[13] First, the detectives had at least a moderate degree of suspicion that Glasscock killed Bullard. They knew that the two had a tumultuous relationship, that Bullard had a protective order against Glasscock, and that a man with Glasscock’s build had gone to Bullard’s home in a pickup early in the morning

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In his reply brief, Glasscock makes a new Fourth Amendment argument. He contends the eleven-day delay between the seizure of the phone on September 13 and the request for the search warrant on September 24 was unreasonable. Appellant’s Reply Br. p. 5 (citing *Illinois v. McArthur*, 531 U.S. 326, 332 (2001) (holding that delay between seizure and warrant “was no longer than reasonably necessary for the police, acting with diligence, to obtain the warrant”)). Glasscock waived this argument by failing to raise it in his opening brief. See *Bowman v. State*, 51 N.E.3d 1174, 1179-80 (Ind. 2016). But even if he had raised this claim in his opening brief, he did not object on this ground in the trial court. As such, the State was never asked to explain or justify the delay, so there is no basis in the record on which to evaluate Glasscock’s claim that the delay was unreasonable. Moreover, Glasscock does not allege that, when the detectives took the phone, he asked to have it returned within a certain amount of time. Nor does he claim that, during the eleven days between the seizure and the issuance of the warrant, he requested the return of the phone or otherwise inquired about its status. On this record, we cannot say that the delay was unreasonable.

on the day she was killed. In addition, when police went to Glasscock's house before the interview, Glasscock exited the back door while officers spoke to his wife at the front door, an act that can reasonably be interpreted as an attempt to flee. Second, the degree of intrusion was low. The detectives seized the phone but did not search it until they obtained a warrant, even though Glasscock repeatedly asked them to look at the phone and gave them the passcode. Finally, the need to seize the phone was significant. Given that Glasscock knew he was a suspect and was being released, he would have had both the incentive and the opportunity to delete relevant information. The seizure of the phone pending a search warrant did not violate Article 1, Section 11.

[14] Affirmed.

Crone, J., and Altice, J., concur.