

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Chamis Bell Raab (Losey),
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

August 9, 2022

Court of Appeals Case No.
22A-CR-479

Appeal from the Clay Circuit
Court

The Honorable Joseph D. Trout,
Judge

Trial Court Cause No.
11C01-1908-CM-740

Altice, Judge.

Case Summary

- [1] Chamis Raab appeals her conviction for possession of paraphernalia, a class C misdemeanor, challenging the sufficiency of the evidence. Raab argues that the conviction must be set aside because the State failed to prove that a metal grinder seized from her purse by police qualified as “paraphernalia” as defined in Ind. Code § 35-48-4-8.3(b). The State concedes the error.
- [2] We reverse.

Facts and Procedural History

- [3] On August 20, 2019, Detective James Switzer with the Clay County Sheriff’s Office stopped a blue Volkswagen Beetle after observing that the driver had failed to properly signal when making a turn. Raab was the front seat passenger in the vehicle driven by Josh Parson. As Detective Switzer was preparing a citation for the traffic infraction, Detective William Nevill, a K-9 handler who overheard the stop on his police radio, arrived at the location. Detective Nevill’s police dog, Astro, approached Parson’s vehicle, performed a “sniff test,” and alerted to the presence of drugs. *Transcript Vol. II* at 34, 69.
- [4] As Detective Switzer was questioning Raab, he smelled raw marijuana emanating from the passenger side of the vehicle. After ordering Raab and Parson to exit the vehicle, Detective Switzer searched the car and found marijuana on the rear driver’s side floorboard. He also found a metal grinding

device in Raab's purse that contained green plant material that he believed to be marijuana from its appearance and smell.

- [5] Detective Switzer arrested Raab and transported her to the Clay County Jail. On the way to the jail, Raab told Detective Switzer that she had additional marijuana in her possession. During a search at the jail, a quarter-sized piece of marijuana was seized from Raab's bra.
- [6] On August 23, 2019, the State charged Raab with possession of marijuana, a Class B misdemeanor, and possession of paraphernalia, a Class C misdemeanor. Following a bench trial on February 7, 2022, Raab was found guilty as charged. The trial court sentenced Raab to a term of 180 days on the marijuana charge and to sixty days on the paraphernalia charge. The trial court ordered those sentences to run concurrently and suspended the entire sentence to probation.
- [7] Raab now appeals, challenging the sufficiency of the evidence only with regard to her possession of paraphernalia conviction.

Discussion and Decision

- [8] In addressing Raab's challenge to the sufficiency of the evidence, we note that this court neither reweighs the evidence nor assesses the credibility of witnesses. *Sharp v. State*, 42 N.E.3d 512, 516 (Ind. 2015). We only consider the "evidence supporting the judgment and any reasonable inferences that can be drawn from that evidence," and a "conviction may be based upon an inference if reasonably

drawn from the evidence.” *Perkins v. State*, 57 N.E.3d 861, 864 (Ind. Ct. App. 2016). The conviction will be affirmed “if there is substantial evidence of probative value supporting each element of the offense such that a reasonable trier of fact could have found the defendant guilty beyond a reasonable doubt.” *Willis v. State*, 27 N.E.3d 1065, 1066 (Ind. 2015).

[9] Raab was charged with violating the possession of paraphernalia statute, I.C. § 35-48-4-8.3(b)(1), which provides that “A person who knowingly or intentionally possesses an instrument, a device, or another object that the person intends to use for . . . introducing into the person’s body a controlled substance . . . commits a class C misdemeanor.” In construing this statute, this court has held that a grinder is not paraphernalia as defined in I.C. § 35-48-4-8.3 because it “merely *prepares* a substance for introduction into the body *by other means*.” *Granger v. State*, 113 N.E.3d 773, 775 (Ind. Ct. App. 2018) (emphasis added).

[10] In this case, Detective Switzer testified at trial that “a marijuana smoker” will use a grinder to “*grind marijuana to make it more of a fine material for the purpose of smoking*.” *Transcript* at 48 (emphasis added). Like the circumstances in *Granger*, the State failed to present any evidence that the grinder found in Rabb’s purse could be used for *introducing* the marijuana into her body. Thus, we agree with Raab’s assertion—and the State’s acknowledgment—that the grinder does not fall within the statutory definition of paraphernalia. Accordingly, we reverse Raab’s conviction for class C misdemeanor possession of paraphernalia.

[11] Reversed.

Vaidik, J. and Crone, J., concur.