MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Ethan Coots,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

October 24, 2023

Court of Appeals Case No. 23A-CR-630

Appeal from the Jefferson Circuit Court

The Honorable Donald J. Mote, Judge

Trial Court Cause No. 39C01-2203-F2-239

Memorandum Decision by Judge Brown
Judges Vaidik and Bradford concur.

Brown, Judge.

[1] Ethan Coots appeals his convictions for dealing in methamphetamine as a level 2 felony, possession of a controlled substance or controlled substance analog as a class A misdemeanor, and possession of methamphetamine as a level 6 felony. We affirm.

Facts and Procedural History

[2] On March 13, 2022, Madison Police Officer Cameron Blankenship positioned his fully marked patrol vehicle where he could see the vehicles driving over the Madison-Milton Bridge. Officer Blankenship had determined that narcotics sales and distribution were coming from Kentucky and the bridge was a "common route that folks would travel from Kentucky into Indiana." Transcript Volume II at 7.

[3] He observed a GMC Envoy initiate a "great reduction in speed" as it passed him and that the driver, later identified as Coots, was "very stiff," in an "unnatural posture," and attempting to hide his face "behind the B pillar of the vehicle."[1] *Id.* at 96. He also observed that the passenger, later identified as Michael Edmondson, looked away from him, "was completely turned away from [him] and looking outside the passenger window" in the direction where "there's nothing to be overly curious about on that side of the road," which struck him as odd. *Id.*

[1] Officer Blankenship indicated that the B pillar was "the metal between [the] driver's window and the back." Transcript Volume II at 96.

[4] Officer Blankenship pulled out into the street and attempted to catch up to the vehicle. As soon as Officer Blankenship pulled onto the road, Coots increased his speed. Coots also swerved over the double yellow line into oncoming traffic. Officer Blankenship tried several times to read the license plate but was unable to do so because "so much moisture had accumulated between the laminate and the actual paper temporary tag." *Id.* at 98. After stopping at a stop light, Officer Blankenship was finally able to read the plate after being "just feet behind" it. *Id.* The vehicle had "two lights that were supposed to be operational" to illuminate the license plate but the "driver side light was completely inoperable" and the "right light had been flickering on and off." *Id.* at 10. Officer Blankenship initiated a traffic stop based upon his observation of the vehicle crossing the double yellow line and the license plate not being illuminated. Officer Blankenship called for a K-9 for back-up but was advised it would be approximately twenty-five minutes before the K-9 could arrive.

[5] Officer Blankenship exited his vehicle and observed Coots and Edmondson "frantically moving around the vehicle" which "raise[d] [his] alarms." *Id.* at 99. He observed Coots "was hunched over in his seat and then immediately followed by moving around the – near the center console area, and the passenger almost mimicked that behavior." *Id.* at 99-100. At some point after he was stopped behind the vehicle, Officer Blankenship recognized the vehicle as matching the description of a vehicle involved in a previous narcotics investigation.

[6] Officer Blankenship knocked on the passenger side of the vehicle. Coots and Edmondson "remove[d] themselves from near the center counsel," their posture stiffened, and they looked forward. *Id.* at 101. Officer Blankenship introduced himself, gave the reason he pulled the vehicle over, and asked for a driver's license. Edmondson provided his name. The "first thing" Coots said was: "It's not my vehicle." *Id.* at 14. This statement "raise[d] a flag" for Officer Blankenship. *Id.* Officer Blankenship asked Coots who owned the vehicle, and Coots did not provide an answer. Officer Blankenship attempted to ascertain who owned the vehicle, Edmondson "kind of took over the conversation," and Coots was "rigid, looking straight forward," and began eating a Pop Tart, which was behavior Officer Blankenship was "trained to watch out for as just a psychological reaction to nervousness or to our presence." *Id.* at 103. Edmondson indicated the vehicle belonged to Christy Brown and she had let him borrow it to go to Louisville to see his son. He also told Officer Blankenship that he had an active arrest warrant in Ohio and he "did not believe that there was any extradition rights." *Id.* at 16.

[7] At some point, Captain Daniel Sly and Officer William Wehner arrived, and Officer Blankenship asked Captain Sly to watch Coots and Edmondson. After obtaining the information from Coots and Edmondson, Officer Blankenship returned to his patrol vehicle to run their names through dispatch to determine their driving status and whether they had any outstanding warrants. Dispatch confirmed that Edmondson had an active warrant through Ohio and he should

be considered armed and dangerous. At that point, Officer Blankenship decided to remove Edmondson from the vehicle for officer safety.

[8] Officer Blankenship approached the passenger side of the vehicle. As he was asking Edmondson to step out of the vehicle, Edmondson leaned forward, and Officer Blankenship observed a baggie of marijuana in Edmondson's front jacket pocket. Officer Blankenship detected the odor of marijuana and asked Edmondson if it was marijuana. Edmondson confirmed that it was marijuana.

[9] Officer Blankenship then asked Coots to exit the vehicle. Coots again said that it was not his vehicle and that Edmondson had asked him to give him a ride. Officer Blankenship asked Coots about Christy Brown, and Coots indicated he did not know her and asked who she was. After handcuffing Coots and Edmondson, Officer Blankenship called off the K-9. Whenever Officer Blankenship asked Coots about his movements near the center console, Coots kept reaffirming that it was not his vehicle and that he "was just asked to drive." *Id.* at 106.

[10] Officer Blankenship explained to Coots that he had evidence to believe there were drugs in the vehicle. Officer Blankenship told Officer Wehner that the vehicle was "known to be used in narcotics usage." Transcript Volume III at 72. He and Officer Wehner searched the vehicle and discovered a bag wedged between the driver's seat and the center console that contained "a large chunk of a crystal-like substance" determined to contain approximately forty-five grams of methamphetamine. Transcript Volume II at 108. Officer Blankenship

gave Coots *Miranda* warnings and returned to search the vehicle further and found a glass pipe typically used to smoke methamphetamine and a cut straw typically used to snort methamphetamine both of which had residue that field tested positive for methamphetamine.

[11] Officer Blankenship conducted a search of Coots and discovered pills stamped as Methadone and methamphetamine in a "fanny pack-like bag." *Id.* at 111. Coots referred to the contents of the bag as meth and Methadone and admitted that they belonged to him. After Officer Blankenship told Coots that he could not say "with 100 percent certain[ty] whose meth it was because both of them were in that kind of confined area together" and they would both be going to jail for constructive possession, Coots stated that "it was his and he would take it." *Id.* at 116.

[12] On March 14, 2022, the State charged Coots with: Count I, dealing in methamphetamine as a level 2 felony; Count II, possession of methamphetamine as a level 3 felony; Count III, possession of a controlled substance or controlled analog as a class A misdemeanor; and Count IV, possession of paraphernalia as a class C misdemeanor.

[13] On October 7, 2022, Coots filed a motion to suppress the evidence collected during the stop and subsequent search. At the hearing on the motion, the State presented the testimony of Officers Blankenship and Wehner. The prosecutor argued that Coots did not have standing to challenge the search. Coots's counsel asserted that, while Coots "may not have had direct permission,"

Edmondson indicated that they knew the owner, had permission from the owner to have the vehicle, and "given that they did not have, I believe, a valid license at the time, that it would be reasonable that the owner . . . would have allowed him to have someone else drive the vehicle if she was allowing him to use the vehicle." *Id.* at 46.

[14] On November 7, 2022, the court denied the motion. It found that Coots did not have a reasonable expectation of privacy in the vehicle. It also found that, even if he had standing, his challenge to the search failed because the initial stop of the vehicle was lawful, the officers properly ordered Edmondson to exit the vehicle, and the officers had probable cause to search the vehicle after detecting the odor of marijuana.

[15] On January 20, 2023, the court dismissed Count IV. On January 23, 2023, the State filed an amended Count III, possession of a controlled substance or controlled substance analog as a class A misdemeanor, and Count IV, possession of methamphetamine as a level 6 felony.

[16] On January 23, 2023, the court held a jury trial. The State presented the testimony of Officers Blankenship and Wehner and a forensic scientist employed by the Indiana State Police Laboratory. Coots's counsel stated she had no objection to the admission of Officer Blankenship's bodycam video, the black bag found on Coots's person, the bag containing methamphetamine, the baggie containing methamphetamine found on Coots's person, the glass smoking pipe, the cut straw, and a certificate of analysis. The jury found Coots

guilty as charged. The court vacated the judgment on Count II due to double jeopardy concerns and sentenced him to an aggregate sentence of fifteen years.

Discussion

[17] Coots asserts that the trial court erred in denying his motion to suppress. He argues there was significant time that Officer Blankenship could have prepared and issued the traffic citation, there were no legitimate signs of criminal activity, and it was not until Officer Blankenship deemed it necessary to remove the occupants that there was any suspicion of criminal activity.

[18] To the extent Coots phrases the issue as whether the trial court improperly denied his motion to suppress, "[w]here a defendant does not perfect an interlocutory appeal from a trial court's ruling on a motion to suppress, but objects to the admission of the evidence at trial, the issue on appeal is more appropriately framed as whether the trial court abused its discretion by admitting the evidence at trial." *Danner v. State*, 931 N.E.2d 421, 426 (Ind. Ct. App. 2010), *trans. denied*; *see also Clark v. State*, 994 N.E.2d 252, 259 (Ind. 2013).

[19] Generally, we review the trial court's ruling on the admission or exclusion of evidence for an abuse of discretion. *Roche v. State*, 690 N.E.2d 1115, 1134 (Ind. 1997), *reh'g denied*. We reverse only when the decision is clearly against the logic and effect of the facts and circumstances. *Joyner v. State*, 678 N.E.2d 386, 390 (Ind. 1997), *reh'g denied*. We may affirm a trial court's decision regarding the admission of evidence if it is sustainable on any basis in the record. *Barker v. State*, 695 N.E.2d 925, 930 (Ind. 1998), *reh'g denied*. We review *de novo* a ruling

on the constitutionality of a search or seizure, but we give deference to a trial court's determination of the facts, which will not be overturned unless clearly erroneous. *Campos v. State*, 885 N.E.2d 590, 596 (Ind. 2008); *see also Carpenter v. State*, 18 N.E.3d 998, 1001 (Ind. 2014) (holding that the ultimate determination of the constitutionality of a search or seizure is a question of law that we consider *de novo*).

[20] Generally, in ruling on admissibility following the denial of a motion to suppress, the trial court considers the foundational evidence presented at trial. *Carpenter*, 18 N.E.3d at 1001. If the foundational evidence at trial is not the same as that presented at the suppression hearing, the trial court must make its decision based upon trial evidence and may consider hearing evidence only if it does not conflict with trial evidence. *Guilmette v. State*, 14 N.E.3d 38, 40 n.1 (Ind. 2014). It also considers the evidence from the suppression hearing that is favorable to the defendant only to the extent it is uncontradicted at trial. *Carpenter,* 18 N.E.3d at 1001.

[21] At trial, Coots's counsel specifically stated she had no objection to the admission of Officer Blankenship's bodycam video, the black bag found on Coots's person, the bag containing methamphetamine, the baggie containing methamphetamine found on Coots's person, the glass smoking pipe, the cut straw, and the certificate of analysis. Accordingly, we conclude that Coots waived his argument. *See Taylor v. State*, 86 N.E.3d 157, 161 (Ind. 2017) (holding that "we will not review claims, even for fundamental error, when appellants expressly declare at trial that they have no objection"), *reh'g denied*,

cert. denied, 139 S. Ct. 591 (2018); *Halliburton v. State*, 1 N.E.3d 670, 679 (Ind. 2013) ("The appellant cannot on the one hand state at trial that he has no objection to the admission of evidence and thereafter in this Court claim such admission to be erroneous."); *Brown v. State*, 929 N.E.2d 204, 207 (Ind. 2010) ("A contemporaneous objection at the time the evidence is introduced at trial is required to preserve the issue for appeal, whether or not the appellant has filed a pretrial motion to suppress."), *reh'g denied*.[2]

[22] For the foregoing reasons, we affirm Coots's convictions.

[23] Affirmed.

Vaidik, J., and Bradford, J., concur.

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[2] Even assuming Coots had not waived his argument, we cannot say reversal is warranted. As Officer Blankenship was asking Edmondson to step out of the vehicle for officer safety, Edmondson leaned forward, and Officer Blankenship observed a baggie of marijuana in Edmondson's front jacket pocket. Officer Blankenship detected the odor of marijuana, and Edmondson confirmed that it was marijuana. The video taken from Officer Blankenship's body camera reveals that his discovery of the marijuana and odor occurred approximately five and one-half minutes after he initially knocked on the passenger side window. Under the circumstances, Officer Blankenship did not extend the stop beyond the duration necessary to investigate the infractions and had probable cause to search the vehicle.