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IN THE  
COURT OF APPEALS OF INDIANA

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Leon Casillas,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff*

July 11, 2022

Court of Appeals Case No.  
21A-CR-2182

Appeal from the Vanderburgh  
Circuit Court

The Honorable Celia Pauli,  
Magistrate

Trial Court Cause No.  
82C01-2002-F2-1095

**May, Judge.**

[1] Leon Casillas appeals following his convictions of Level 2 felony dealing in a narcotic drug<sup>1</sup> and Level 6 felony possession of methamphetamine,<sup>2</sup> and the finding that he is a habitual offender.<sup>3</sup> Casillas raises one issue on appeal, which we revise and restate as:

1. Whether officers violated Casillas’s rights under both the United States Constitution and the Indiana Constitution by entering his home without a warrant.

The State, in turn, raises a second issue:

2. Whether Casillas waived his challenge to the admission of evidence by failing to object at trial.

We affirm.

## Facts and Procedural History<sup>4</sup>

[2] After sunset on February 12, 2020, Detective Brandon Garland, who serves as both a detective with the Washington Indiana Police Department and a member of the Drug Enforcement Agency (“DEA”) Task Force serving the

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<sup>1</sup> Ind. Code § 35-48-4-1(a)(2).

<sup>2</sup> Ind. Code § 35-48-4-6.1(a).

<sup>3</sup> Ind. Code § 35-50-2-8(a).

<sup>4</sup> We heard oral argument in this case on May 10, 2022, at South Dearborn High School in Aurora. We commend counsel for their advocacy and thank South Dearborn High School’s faculty, staff, and students for their warm reception and hospitality.

Evansville area, and Detective James Budde, who is a detective with the Vanderburgh County Sheriff's Office and a member of the DEA Task Force, obtained information that an individual was possibly selling heroin out of a house on Tenth Avenue in Evansville. Detective Garland and Detective Budde decided to conduct a "knock and talk,"<sup>5</sup> (Supp. Tr. Vol. II at 16), to try to learn more about the activities occurring inside the residence.

[3] Casillas answered the door and conversed with Detective Garland and Detective Budde. The detectives were wearing plain clothes and protective vests identifying them as law enforcement personnel. At least three other officers were near or on the porch during the encounter. None of the officers utilized body-worn cameras to record this initial conversation. At some point, the officers entered Casillas's house.

[4] As soon as the officers entered Casillas's front room, they saw in plain view marijuana on a coffee table and a digital scale and suspected narcotics on a dresser. The officers recovered the suspected narcotics, conducted a protective

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<sup>5</sup> Detective Budde elaborated:

A knock and talk is, it's something that law enforcement will do. If we receive information about a place or an individual and we don't have probable cause for a warrant or an arrest, we're just trying to follow up on that information, it's more or less a consensual encounter with whoever that information surrounds and then we either are trying to confirm the information or rule it out.

(Supp. Tr. Vol. II at 16-17.)

sweep of the house, and then questioned Casillas. Detective John Montgomery of the Evansville Police Department activated his body-worn camera to record the interrogation of Casillas. An officer read Casillas his rights pursuant to *Miranda*,<sup>6</sup> and Casillas chose to speak with the officers without a lawyer present. Casillas admitted having heroin in the house. Casillas also admitted selling heroin, and he identified his supplier as “Fish.” (State’s Ex. 27.)

[5] The officers used the information obtained after entering Casillas’s home to support their application for a search warrant, which the trial court subsequently granted. The officers ultimately found approximately eighty grams of heroin, approximately three grams of methamphetamine, syringes, suspected drug ledgers, and other items commonly associated with drug dealing inside Casillas’s house. On February 14, 2020, the State charged Casillas with two counts of Level 2 felony dealing in a narcotic drug and one count of Level 4 felony possession of methamphetamine. The State also alleged Casillas was a habitual offender.<sup>7</sup>

[6] On August 6, 2021, Casillas filed a motion to suppress in which he argued the search of his house was unconstitutional because his consent was not valid. On August 9, 2021, the trial court held a hearing on Casillas’s motion to suppress. At the hearing, both Detective Garland and Detective Budde testified.

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<sup>6</sup> *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602 (1966), *reh’g denied*.

<sup>7</sup> The COVID 19 pandemic and court congestion caused Casillas’s trial date to be continued multiple times, slowing progression of his case.

Detective Garland testified Casillas was hesitant to let them inside his house at first, but he then orally gave them consent to enter. Once inside, they observed marijuana in plain view. Detective Garland testified he did not recall any officer having a weapon drawn or threatening Casillas when they were on Casillas's porch. He also testified that while he asked to talk with Casillas, he did not tell Casillas that Casillas had to let him search the house. Detective Garland further testified he did not recall Casillas ever asking the officers to leave or seeking to shut his front door on the officers. Detective Garland explained he was not wearing a body camera at the time of the encounter with Casillas because he was not allowed to utilize a body camera while working as a DEA Task Force officer.

[7] Detective Budde similarly testified he did not wear a body camera during the interaction with Casillas on the porch. He explained during direct examination by the State:

Q. Do you remember every word verbatim from the conversation that was had with Mr. Casillas at the door?

A. I don't, no.

Q. Did he ever tell you no, you can't come in?

A. No, he did not.

Q. Did you ask to come in the house?

A. We did, yes.

Q. Okay. What did you tell him that you wanted to do inside the house?

A. Well, initially we didn't really tell him, we just asked if we could come in and speak to him. And we were, I mean it was obvious even we were in plain clothes, but we had our police carriers on so we were marked law enforcement, and we just initially asked to come inside the house. I don't recall if we told him we were there on a drug investigation, but I, I do remember that we expressed that we wanted to come inside and talk to him.

Q. Okay. How would you characterize his reply to you when you asked first?

A. He was a, he was a little reluctant at first to let us in but he never told us no, and then eventually, I don't remember the exact words that we used but we just told him that we thought it would be best if we could come inside and talk to him inside the house.

\* \* \* \* \*

Q. Okay. Did Mr. Casillas end up letting you inside the home?

A. He did, yes.

(Tr. Vol. II at 18-19.) Detective Budde further testified that, when he entered Casillas's house, he observed a digital scale and what he believed were packaged narcotics. Detective Budde also testified the officers never threatened Casillas or pointed their guns at him during the interaction on the porch.

[8] Casillas testified he opened the door to his house when the officers knocked and then stepped out onto his porch. According to Casillas, one of the officers said,

“we need to come in and talk to you, Mr. Casillas.” (*Id.* at 28.) Casillas then testified that once he learned the officers did not have a warrant to arrest him or search his house, he asked them to leave. He testified one of the officers said, “this could be the difference between twenty years or a hundred years,” (*id.* at 29), and the officers pushed their way into his house when Casillas opened the door to go back inside. On cross-examination, Casillas admitted using heroin hours before the police arrived at his house and drinking alcohol when the officers arrived. Casillas also claimed he was a drug addict who used casino winnings to support his habit. The State argued Casillas’s testimony was not reliable given his admission to using heroin the day of the search, and the State pointed out the dubiousness of Casillas’s claim that he financed his drug habit with casino winnings. At the conclusion of the hearing, the trial court found the State met its burden of proving by a preponderance of the evidence that Casillas consented to allowing officers to enter his home, and the court denied Casillas’s motion to suppress.

[9] Casillas’s case then proceeded to jury trial, which commenced immediately after the evidentiary hearing on his motion to suppress. Detective Budde testified at trial about his initial encounter with Casillas: “Initially Mr. Casillas was a little reluctant to speak with us and let us in his house but ultimately he agreed to let us step inside and talk to him.” (Supp. Tr. Vol. II at 19.) Detective Budde testified he did not require Casillas to complete a consent to search form, but Detective Budde denied drawing his weapon or threatening

Casillas during the encounter. In response to the State's questions about his use of a body camera, Detective Budde testified:

Q. Okay. Were you wearing what is referred to as a body camera at that time?

A. No, I wasn't; no.

Q. Okay. To your personal knowledge was TFO Garland wearing one?

A. No, he wasn't.

Q. Okay. Why was that?

A. It's, we are assigned to the DEA Task Force so as DEA Task Force Officers we work underneath their umbrella policies and it's against DEA policy to wear body worn cameras.

Q. Okay. Were all law enforcement officers involved in this investigation part of that DEA Task Force?

A. No, they weren't.

(*Id.* at 19-20.) Detective Garland did not testify at trial.

[10] At the beginning of the second day of trial and outside of the presence of the jury, the State asked the court to revisit its motion in limine prohibiting Casillas from arguing for jury nullification. The State explained, “[W]e would ask the Court to not allow argument in closing in regards to the inadmissibility of



evidence or that the jury should not convict Mr. Casillas because of the illegality of the knock-and-talk.” (*Id.* at 72.) Casillas responded:

Judge, we discussed this back in chambers and I think that my record was extremely clear at the motion to suppress hearing, especially the time of this, I mean it was the morning of the trial. I mean I would like at least the record to reflect that I disagree with the Court’s ruling and want to preserve that issue of the validity of his consent to search his home and I guess really not the consent to search the home but him allowing law enforcement into the home voluntarily which led to a judicially issued warrant. So, I think as long as that, the record can reflect that that issue be preserved at this point, which I believe that it is, I wouldn’t plan to make that argument and pass the decision off to the jury in my closing arguments. So, I don’t have an objection to that.

(*Id.*) The following colloquy then occurred:

THE COURT: Okay. Anything else?

[State:] Just I expect that we will want to readdress the 404(b) issue.

THE COURT: Yes. So, I believe that the suppression issue is preserved for appeal and we’ll show that the State’s motion in limine regarding jury nullification is granted. I understand that Defense might reference the knock-and-talk during closing which I think you’re entitled to do but as far as challenging the validity of the knock-and-talk—

[Defense Counsel:] Yes, Your Honor. And I, I’m sorry.

THE COURT: No, go ahead.

[Defense Counsel:] I believe that I will mention it. I think just chronologically it's relevant but again I mean it goes to the ultimate issue of whether it's valid or invalid. I know we elicited some of that through testimony through cross examination, and just to be very clear about it, I do anticipate my client testifying to the fact that he did not invite the officers into this home, so I do think that that's going to come out but as far as to the ultimate issue and arguing to the jury or making a legal determination, I don't think that will be a problem.

(*Id.* at 72-73.)

[11] Casillas testified at trial that he and a friend were at his house drinking beer and preparing to go to a local casino when the police knocked on his door. Casillas stated:

[The detectives] knocked on the door. I opened it up. I seen who it was, so I stepped out on to the porch. They said Mr. Casillas, we need to come in and talk to you. I said do you have a warrant for my arrest. He said no. I said do you have a warrant to search my house. He said no. I said well you need to get off of my property then. And I walked to the end of the porch and I asked them to leave. They said no, we need to come in and talk to you. I said no you don't, I said if you want to talk to me talk to me right here, I was on my porch. And they said no we need to come inside and talk to you. I said no you don't and I walked to my door, opened it up and I was going to get my phone to call the cops, and they pushed their way in.

(*Id.* at 81) (errors in original). Casillas also testified that when he answered the door there were three or four officers on the porch and two in the yard. He said the officers told him they received a tip he was moving drugs. Casillas denied

letting the officers into his home. He explained: “I opened the door and tried to shut it and they pushed their way in. They pushed the door open.” (*Id.* at 83.)

[12] Casillas acknowledged officers found a large amount of heroin in his house, but Casillas testified he was merely a heavy drug user rather than a dealer. Casillas explained he admitted selling heroin during the subsequent interrogation only because he felt pressured to do so by the interrogating officers. Casillas also denied that the notebooks found in his house were drug ledgers. He stated he used one of the notebooks to track the drugs he purchased for his personal use and the other notebook to document poker and dice game scores with his friends.

[13] The jury returned verdicts of guilty of one count of Level 2 felony dealing in a narcotic drug and of Level 6 felony possession of methamphetamine. The jury was unable to reach a verdict on the second count of Level 2 felony dealing in a narcotic drug, and the State chose to dismiss that count. Casillas then admitted the habitual offender enhancement applied to him. The trial court sentenced Casillas to concurrent terms of nineteen years for Level 2 felony dealing in a narcotic drug and one year for Level 6 felony possession of methamphetamine. The trial court enhanced Casillas’s sentence for dealing in a narcotic drug by six years because of the habitual offender finding. Thus, Casillas received an aggregate sentence of twenty-five years.

## Discussion and Decision

## I. Waiver

[14] While Casillas frames his appeal as a challenge to the denial of his pre-trial motion to suppress, his appeal is more properly characterized as a challenge to the admission of the evidence at trial because he appeals following his trial and conviction. *See Gerth v. State*, 51 N.E.3d 368, 372 (Ind. Ct. App. 2016). Therefore, we first address the State’s argument Casillas waived his challenge to the constitutionality of the entry by failing to timely object at trial. The State acknowledges the colloquy at the beginning of the second day of trial regarding Casillas’s objection to the constitutionality of the warrantless entry of his home, but the State argues this objection was untimely because the evidence had already been admitted at trial.

[15] “As a general rule, the failure to object at trial results in a waiver of the issue on appeal.” *Benson v. State*, 762 N.E.2d 748, 756 (Ind. 2002). “A pre-trial motion to suppress does not preserve an error for appellate review; rather, the defendant must make a contemporaneous objection providing the trial court with an opportunity to make a final ruling on the matter in the context in which the evidence is introduced.” *D.A.L. v. State*, 937 N.E.2d 419, 421 (Ind. Ct. App. 2010). The rule requiring a contemporaneous objection “is no mere procedural technicality; instead, its purpose is to allow the trial judge to consider the issue in light of any fresh developments and also to correct any errors.” *Shoda v. State*, 132 N.E.3d 454, 461 (Ind. Ct. App. 2019). Thus, a post hoc objection to the admission of evidence is typically insufficient to preserve the issue for appeal. *See Brown v. State*, 929 N.E.2d 204, 207 (Ind. 2010) (holding defendant

failed to preserve objection when he did not object at time evidence was offered for admission at trial but later read objection into the record), *reh'g denied*.

[16] However, in the instant case, the trial court was aware of Casillas's objection to the warrantless entry into his house, and the trial court gave no indication that its ruling on the constitutionality of the entry was unsettled. After referencing an unrecorded conversation that occurred in chambers,<sup>8</sup> Casillas stated, "I would like at least the record to reflect that I disagree with the Court's ruling and want to preserve that issue of the validity of his consent . . . allowing law enforcement into the home voluntarily which led to a judicially issued warrant." (Supp. Tr. Vol. II at 72.) The trial court replied, "Okay . . . I believe that the suppression issue is preserved for appeal[.]" (*Id.*) Moreover, the State did not contest the timeliness of Casillas's objection before the trial court. Therefore, the State may not challenge the objection's timeliness for the first time on appeal. *See Craig v. State*, 883 N.E.2d 218, 220 (Ind. Ct. App. 2008) (holding State may not challenge the unverified nature of a motion to withdraw guilty plea for the first time on appeal). Thus, we hold Casillas's objection to the evidence derived from the warrantless entry into his home was not waived. *See Bailey v. State*, 131 N.E.3d 665, 676 (Ind. Ct. App. 2019) (holding defendant adequately preserved objection to his arrest and the subsequent searches of his property), *reh'g denied, trans. denied*.

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<sup>8</sup> The record is silent as to when exactly this in-chambers conversation occurred.

## II. Constitutionality of Entry

[17] Having concluded the objection was not waived, we move to Casillas's argument that the officers' entry into his house was unconstitutional, making the subsequently-issued warrant to search "fruit of the poisonous tree," (Appellant's Br. at 14), such that the trial court erred in admitting the evidence found. Our standard of review following admission of evidence after the denial of a motion to suppress is well-settled:

When ruling on the admission of evidence at trial following denial of a motion to suppress, a trial court must consider the foundational evidence presented at trial. It also considers evidence from the suppression hearing that is favorable to the defendant only to the extent it is uncontradicted at trial. A trial court is in the best position to weigh the evidence and assess witness credibility, and we review its rulings on admissibility for an abuse of discretion and reverse only if a ruling is clearly against the logic and effect of the facts and circumstances and the error affects a party's substantial rights. However, the ultimate determination of the constitutionality of a search or seizure is a question of law that we review de novo.

*Gerth v. State*, 51 N.E.3d 368, 372 (Ind. Ct. App. 2016) (internal citations and quotation marks omitted) (cleaned up).

[18] The Fourth Amendment to the United States Constitution provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and

particularly describing the place to be searched, and the persons or things to be seized.

“The physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed.” *Harper v. State*, 3 N.E.3d 1080, 1083 (Ind. Ct. App. 2014) (quoting *Payton v. New York*, 445 U.S. 573, 585, 100 S. Ct. 1371, 1379 (1980)). Therefore, the Amendment presumes officers of the government will obtain a warrant before entering a home to search or to arrest. *See, e.g., Payton*, 445 U.S. at 585, 100 S. Ct. at 1379 (noting “the warrantless arrest of a person is a species of seizure required by the Amendment to be reasonable”).

[19] “However, there are several exceptions to the warrant requirement.” *Tigner v. State*, 142 N.E.3d 1064, 1069 (Ind. Ct. App. 2020). One such exception is when a homeowner voluntarily and knowingly consents to letting officers enter.<sup>9</sup> *See, e.g., Knight v. State*, 570 N.E.2d 1281, 1282 (Ind. 1991) (consent to enter valid when home of appellant’s mother was entered “only upon her invitation”). Where the State alleges a citizen consented to entry, the State carries the burden

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<sup>9</sup> Like the Fourth Amendment to the United States Constitution, Article I, Section 11 of the Indiana Constitution also protects Hoosiers from unreasonable search or seizure and requires warrants to be supported by probable cause. The federal and state provisions have distinct analyses for determining unreasonableness, as the state inquiry is a balancing test focused on “the totality of the circumstances.” *McIlquham v. State*, 10 N.E.3d 506, 511 (Ind. 2014) (citing *Litchfield v. State*, 824 N.E.2d 356, 361 (Ind. 2005)). However, consent is an exception to the warrant requirement under both the federal and state provisions, and the analysis of whether consent was voluntarily and freely given is the same under both constitutions. *See State v. Cunningham*, 26 N.E.3d 21, 25 (Ind. 2015) (holding the voluntariness of consent is resolved in the same manner under both the Indiana and Federal Constitutions). Accordingly, as the issue before us is whether Casillas validly consented to officers’ entry, we need not separately analyze the officers’ entry of Casillas’s home under the Indiana Constitution. *See McIlquham*, 10 N.E.3d at 511 (conducting single analysis applicable to both constitutions).

of proving consent was voluntary. *McIlquham v. State*, 10 N.E.3d 506, 511 (Ind. 2014). The voluntariness of a subject’s consent is determined by considering the totality of the circumstances. *Bulthuis v. State*, 17 N.E.3d 378, 383 (Ind. Ct. App. 2014), *trans. denied*. Consent is not valid if “it is procured by fraud, duress, fear, intimidation, or where it is merely a submission to the supremacy of the law.” *Id.* If an officer implies a defendant has no option but to consent, then any purported consent is invalid. *McIlquham*, 10 N.E.3d at 511. Consent need not be explicitly given, but rather may be implied from a citizen’s non-verbal behavior, such as holding the door open for entry. *Id.* at 512.

[20] Casillas testified he did not give consent for the officers to enter his house. In contrast, Detective Garland and Detective Budde both testified that he did. Body camera footage of the encounter between Casillas and the officers on the porch would have greatly aided subsequent judicial review of the police officers’ actions. However, Detective Garland and Detective Budde each testified there was a policy in effect at the time prohibiting DEA Task Force officers from utilizing body cameras.<sup>10</sup> Thus, the trial court was required to determine

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<sup>10</sup> This asserted policy strikes us as particularly unwise, and thankfully, the policy no longer seems to be in effect. See United States Department of Justice Memorandum Body-Worn Camera Policy, June 7, 2021 [<https://www.justice.gov/dag/page/file/1402061/download>]. It is generally the burden of the party asserting the existence of a policy to place the policy into evidence. See *Trout v. Buie*, 653 N.E.2d 1002, 1006 (Ind. Ct. App. 1995) (holding plaintiff failed to designate evidence of an express jail policy depriving him of his constitutional rights), *trans. denied*. Yet, the State did not submit into evidence a written copy of the Department of Justice’s Body-Worn Camera Policy in effect at the time of the search of Casillas’s house. Therefore, based on the record before us, we cannot evaluate the actions of the officers in accordance with the exact contours and requirements of the policy in effect at time.

Nonetheless, we are not convinced this asserted policy excuses the failure of all law enforcement personnel on the scene to record the interaction with Casillas on the porch, particularly given that other portions of the



credibility from its observations of in-court testimony, and we will not reweigh the evidence or second-guess the trial court’s credibility determinations. *State v. Washington*, 898 N.E.2d 1200, 1203 (Ind. 2008) (“In the appellate review of a trial court’s motion to suppress, the reviewing court determines whether the record discloses substantial evidence of probative value that supports the trial court’s decision. We do not reweigh the evidence.”) (internal citation and quotation marks omitted), *reh’g denied*.

[21] Nonetheless, Casillas argues that even under the account of events relayed by the officers, his consent to police entry was not voluntary. Casillas points out “five or six officers wearing protective vests arrived on Casillas’s porch and knocked on the door.” (Appellant’s Br. at 13.) In addition, the officers’ purpose in conducting the “knock and talk” was “to lead Casillas ‘down that road to cooperate’ and [Detective Budde] noted that he would communicate that cooperation to the prosecutor.” (*Id.* at 13-14 (quoting Supp. Tr. Vol. II at

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operation were recorded by a body-worn camera. The State submitted body camera footage taken by Detective Montgomery of the interrogation of Casillas conducted after officers entered his house. (State’s Ex. 27.) Moreover, while the footage itself is not part of the appellate record, Detective Garland testified during the evidentiary hearing on Casillas’s motion to suppress that Detective Montgomery used his body camera to record portions of the operation before and after the officers gained entry into Casillas’s house. (*See* Tr. Vol. II at 6-7 & 10-12.) This gap in footage is unfortunate because when critical portions of law enforcement interactions go unrecorded, public confidence in police action diminishes. *See Littler v. Martinez*, No. 2:16-CV-00472, 2018 WL 4361636, at \*2 (S.D. Ind. Sept. 13, 2018) (describing decision of correctional staff not to video record use of a chemical agent and pepper ball gun on an inmate and the obstruction of the camera’s view during critical portions of the subsequent cell extraction as part of the “apparent efforts—before, during, and after the uses of force—to cover it up” and as “troubling from the Court’s perspective”).

67.) Casillas contends an average person in this situation would feel intimidated and he “simply acquiesced” after the officers “brandished their power and influence.” (*Id.* at 14.)

[22] However, a substantial police presence does not in and of itself render a person’s consent involuntary. In *Smith v. State*, we held the defendant’s consent was voluntary even though “the number of officers was unusually high for a traffic stop[.]” 713 N.E.2d 338, 343 (Ind. Ct. App. 1999), *trans. denied*. We explained “none of the officers touched Smith or physically restrained his freedom of movement before the moment he consented to the search of his car.” *Id.* Likewise, Casillas was not physically restrained before or while police entered his house. Both Detective Budde and Detective Garland denied brandishing their weapons, threatening Casillas, or telling Casillas he had to allow them to enter his house. It is unclear whether the officers informed Casillas they were there in connection with a drug investigation, but it was clear they were visiting Casillas in their professional capacity. The officers’ clothing identified them as law enforcement personnel, and they conveyed to Casillas they were there to obtain information from him.

[23] We note Casillas was not advised of his *Miranda* rights prior to the request to enter, but there is no indication he should have been read his rights pursuant to *Miranda* because he was not in custody or subject to interrogation at that point. See *Scanland v. State*, 139 N.E.3d 237, 242 (Ind. Ct. App. 2019) (“An officer is only required to give *Miranda* warnings when a defendant is both (1) in custody and (2) subject to interrogation.”). While the officers did not testify to directly

advising Casillas of his right to not consent to the entry of his house, Detective Budde characterized a “knock and talk” as “more or less a consensual encounter” primarily intended to gather information. (Supp. Tr. Vol. II at 16.) The pre-sentence investigation report indicates Casillas graduated from high school and attended two semesters of community college. As the State notes, “Casillas was over 60 years old and there is nothing in the record to suggest that he is somehow of below-average intelligence.” (Appellee’s Br. at 13.) Casillas also had numerous interactions with law enforcement before the subject encounter. The pre-sentence investigation report indicates he had six prior felony convictions. From the testimony of Detective Garland and Detective Budde, it does not appear the officers were engaged in any illegal action prior to asking to enter Casillas’s home, and we do not know if Casillas was cooperative with the officers previously. Thus, the facts and circumstances before the trial court support its finding that Casillas voluntarily consented to entry of his house. *See United States v. Walls*, 225 F.3d 858, 862-63 (7th Cir. 2006) (when police identify themselves and ask permission to speak with citizen without verbal threats or weapons drawn, sufficient evidence of consent to enter is shown when defendant opens door and allows police to enter).

## Conclusion

[24] Casillas did not waive his objection to evidence derived from the entry into his house by failure to raise a timely objection. Casillas raised the objection during an unrecorded discussion in chambers and later referenced the objection on the

record. In addition, the trial court acknowledged the objection and indicated the issue was preserved, and the State failed to challenge the timeliness of the objection before the trial court. Nonetheless, the trial court did not err in admitting the evidence derived from the entry of Casillas's house. The facts and circumstances before the trial court, including the testimony of Detective Budde and Detective Garland, support its finding that Casillas freely and voluntarily consented to the officers' entry into his home. Therefore, we affirm the trial court.

[25] Affirmed.

Bailey, J., and Weissmann, J., concur.