MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

Michael P. DeArmitt
Columbus, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General

Jodi Kathryn Stein
Supervising Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Daniel T. Elifritz,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

January 26, 2022

Court of Appeals Case No. 21A-CR-1069

Appeal from the Bartholomew Superior Court

The Honorable James D. Worton, Judge

Trial Court Cause No. 03D01-1712-F6-6678

Vaidik, Judge.

Case Summary

[1] Daniel T. Elifritz appeals his convictions for Level 6 felony possession of methamphetamine, Class B misdemeanor possession of marijuana, and Class C misdemeanor possession of paraphernalia. We affirm.

Facts and Procedural History

[2] On November 28, 2017, Columbus Police Department Officer Drake Maddix was on patrol when he stopped Elifritz because the trailer he was pulling didn't have a license plate. Officer Maddix stopped Elifritz right as he was parking on the street in front of his house. When Officer Maddix exited his patrol car, Elifritz had already exited his truck, leaving the driver's door open. As Officer Maddix approached, he could see into the passenger compartment of the truck and observed on the driver's seat a small plastic baggie containing a white-powder residue. Officer Maddix, who had recently attended a drug training, "immediately" suspected the residue to be methamphetamine. Tr. p. 10. However, Officer Maddix didn't say anything to Elifritz at the time because he wanted Elifritz to remain "calm" and "cooperative" during the stop. *Id.*

[3] Officer Maddix asked Elifritz for his license and registration, and Elifritz gave him his license. Officer Maddix had Elifritz wait at the back of the trailer while he went to his patrol car to run Elifritz's information. A few minutes later, Officer Maddix returned to the back of the trailer and tried to locate its VIN. As Elifritz helped Officer Maddix search for the VIN, Officer Maddix asked him if

he could ask him a question by the driver's door. Officer Maddix then directed Elifritz's attention to the plastic baggie on the driver's seat. Elifritz picked up the baggie and handed it to Officer Maddix. Officer Maddix asked Elifritz if he used drugs, and Elifritz responded, "I have." Body Cam at 0:07:40-0:07:45. Officer Maddix had Elifritz wait at the back of the trailer again. Once there, Officer Maddix asked if the residue would "test for anything," and Elifritz responded, "It may." *Id.* at 0:07:58-0:08:00. When Officer Maddix queried "probably meth?," Elifritz responded, "It could be." *Id.* at 0:08:00-0:08:03. Officer Maddix handcuffed Elifritz and returned to his patrol car to perform a field test on the residue. The residue tested positive for meth.

[4] At this point, Officer Maddix informed Elifritz of his *Miranda* rights, and Elifritz said he understood them. Officer Maddix then asked Elifritz for permission to search his truck, and he declined. Officer Maddix told Elifritz he could search the truck even without his consent because the meth gave him probable cause to do so. During the search of the truck, Officer Maddix found three glass smoking pipes near the center console. During a later search incident to arrest, Officer Maddix found a pill bottle containing 2.92 grams of meth and marijuana on Elifritz's person.

[5] The State charged Elifritz with Level 6 felony possession of methamphetamine, Class B misdemeanor possession of marijuana, and Class C misdemeanor possession of paraphernalia. Elifritz moved to suppress the evidence on grounds his *Miranda* and Fourth Amendment rights were violated, but the trial court

denied his motion. A bench trial was held, and the court found him guilty as charged.

[6] Elifritz now appeals.

Discussion and Decision

[7] Elifritz contends the trial court erred in admitting the meth and marijuana found on his person and the glass smoking pipes found in his truck. Specifically, Elifritz argues he was subjected to a custodial interrogation without *Miranda* warnings when Officer Maddix asked him about the plastic baggie on the driver's seat. As a result, Elifritz's argument continues, the evidence found on his person and in his truck was "the fruit of a custodial interrogation conducted without proper *Miranda* warnings" and therefore inadmissible. Appellant's Br. p. 12.[1]

[8] The State argues Elifritz wasn't in custody when Officer Maddix asked him about the plastic baggie and therefore wasn't entitled to *Miranda* warnings. However, the State points out that even if Elifritz was entitled to *Miranda* warnings, the remedy would be suppression of his statements, not the physical

[1] Elifritz doesn't make a separate argument that the evidence is inadmissible under the Fourth Amendment. But even if he had, it would not have been successful. Officer Maddix had probable cause to conduct a warrantless search of Elifritz's truck based on his observation of the plastic baggie with white-power residue (which field tested positive for meth) in plain view on the driver's seat. During the search of Elifritz's truck, Officer Maddix discovered the three glass smoking pipes. Based on the meth residue and smoking pipes, Officer Maddix had probable cause to arrest Elifritz and conducted a search incident to arrest, finding the 2.92 grams of meth and marijuana on Elifritz's person.

evidence. *See United States v. Patane*, 542 U.S. 630, 636, 641-42 (2004) (plurality opinion) (explaining that a *Miranda* violation occurs only when the improperly obtained statement is introduced at trial, and the "complete and sufficient remedy" for any *Miranda* violation is suppression of the statement, not "the physical fruit of a voluntary statement"). As this Court recently explained, "While the Fifth Amendment prohibits the State from using a defendant's unwarned, custodial **statements** against him in a criminal trial, it does not prohibit the State from using **the physical fruits** of unwarned but voluntary statements against the defendant." *Brown v. Eaton*, 164 N.E.3d 153, 166 n.16 (Ind. Ct. App. 2021) (emphases added) (citing *Patane*, 542 U.S. at 637-38), *trans. denied*; *see also Delatorre v. State*, 903 N.E.2d 506, 508 (Ind. Ct. App. 2009) (explaining that even if the defendant's statement was obtained in violation of *Miranda,* "the gun would not have to be suppressed" under *Patane*), *trans. denied*; *Hirshey v. State*, 852 N.E.2d 1008, 1015 (Ind. Ct. App. 2006) (explaining that "*Miranda* only requires suppression of statements, not physical evidence," under *Patane*), *trans. denied*. Notably, Elifritz didn't file a reply brief responding to the State's claim that his argument that "his un-*Mirandized* statements warranted suppression of the physical fruits of those statements" is "fundamentally incorrect." Appellee's Br. p. 19. Even assuming there was a *Miranda* violation, Elifritz would not be entitled to the exclusion of the meth and marijuana found on his person and the glass smoking pipes found in his truck. Therefore, the trial court did not err by admitting the evidence, and we affirm Elifritz's convictions.

[9] Affirmed.

Najam, J., and Weissmann, J., concur.