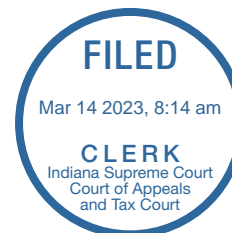


MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



ATTORNEY FOR APPELLANT

Darren Bedwell
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Samuel J. Dayton
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Charles R. Stanley,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

March 14, 2023

Court of Appeals Case No.
22A-CR-1109

Appeal from the Perry Circuit
Court

The Honorable M. Lucy Goffinet,
Judge

Trial Court Cause No.
62C01-2104-F4-211

Memorandum Decision by Judge Weissmann
Judges May and Crone concur.

Weissmann, Judge.

- [1] Charles R. Stanley appeals his convictions for possession of methamphetamine and possession of paraphernalia, which arose from a vehicle search that he claims was illegal. At trial, Stanley generally objected to the admission of any evidence arising from the search. But when that specific evidence was introduced, he consistently stated that he did not object to its admission. By doing so, he waived any error. We therefore affirm his convictions.

Facts

- [2] Perry County Sheriff's Deputy AnnaJean Dellaire saw Stanley pull up to a gas station pump in a gray truck. The truck's license plate was expired and belonged to a different vehicle. Stanley, who later reported that he was working at the gas station, walked repeatedly from the front to the back of the truck before driving the truck to another pump. He continued this pattern of walking before proceeding to park the truck next to the station building. He then walked around the building, pointed to the station's security cameras, and entered the building.
- [3] When the gas station attendant rushed out of the building, Deputy Dellaire believed a robbery was in progress. She walked toward the building and saw Stanley leaving it. He hesitated when he saw Deputy Dellaire and seemed to deliberately avoid her as he walked. When Deputy Dellaire greeted Stanley, he immediately crouched down in the middle of the parking lot and reported that he had a suspended license. He gave Deputy Dellaire a false birthdate, which

prevented her from confirming his identity. Unable to confirm Stanley's identity, Deputy Dellaire placed Stanley in handcuffs. She then obtained his permission to search his pocket. She found his wallet and driver's license, which led to her discovery that he was a habitual traffic violator.

[4] Deputy Dellaire attempted to read the VIN number on the truck to determine its registered owner. The VIN number was obscured by some items on the dashboard, so she opened the truck's door and moved the items. Other officers arrived and helped Deputy Dellaire obtain the VIN number, which showed that the truck was registered to someone other than Stanley. Stanley could not provide a valid registration or proof of insurance.

[5] One of the officers alerted Deputy Dellaire that he had seen a pipe in the cupholder of the truck's center console. A later search of the interior of the truck yielded methamphetamine and a pipe containing methamphetamine. The State charged Stanley for Level 4 felony possession of methamphetamine, Level 6 felony operating a vehicle as a habitual traffic violator, and Class C misdemeanor possession of paraphernalia. Stanley later admitted during a recorded telephone call from jail that he had possessed methamphetamine and was a "meth head" and "meth dealer." State's Exhibit 6, 12:38-12:50.

[6] Stanley filed a pre-trial motion to suppress all the evidence arising from the vehicle search, claiming it violated his right to be free from unreasonable searches under the Fourth Amendment to the United States Constitution. After

a hearing, the trial court found the vehicle search was reasonable and denied Stanley's motion to suppress.

- [7] A jury found Stanley guilty as charged. The trial court entered judgment of conviction on all three counts and sentenced Stanley to 10 years imprisonment. The trial court later granted Stanley leave to file this belated appeal, in which he challenges only his methamphetamine and paraphernalia convictions.

Discussion and Decision

- [8] Stanley argues that the trial court erred in admitting the evidence obtained from the vehicle search because the search violated his Fourth Amendment rights. We need not address the merits of this claim, however, because Stanley waived his claim by affirmatively stating that he did not object when this evidence was introduced at trial.
- [9] A trial court has broad discretion to admit evidence and will be reversed on appeal only when it abuses that discretion. *Phillips v. State*, 174 N.E.3d 635, 641 (Ind. Ct. App. 2021). When the evidentiary issue rests on resolution of constitutional claims, we employ a *de novo* standard of review. *Id.*
- [10] Given that the trial court denied Stanley's pre-trial motion to suppress, Stanley was required to contemporaneously object to the challenged evidence when it was introduced at trial to preserve the alleged error. *Brown v. State*, 929 N.E.2d 204, 207 (Ind. 2010). Yet, when the State sought to introduce State's Exhibit 1, consisting of Deputy Dellaire's body camera recording of the search, Stanley responded, "No objection, Your Honor." Tr. Vol. II, p. 117. The State

proceeded to play the bodycam footage to the jury without any objection from Stanley.

[11] But fourteen minutes later, Stanley asked the court to halt the recording. During a conference outside the jury's presence, Stanley objected to the portion "that shows that they discovered the glass pipe in the console of the vehicle." *Id.* at 118. After detailing his arguments as to the unconstitutionality of the search, Stanley "move[d] to suppress anything found within the compartment of the vehicle." *Id.* at 119. The trial court eventually took judicial notice of its ruling on Stanley's motion to suppress and overruled Stanley's objection. *Id.* at 121-22.

[12] The State later introduced the pipe and the two bags of methamphetamine seized in the search. *Id.* at 127-28, 131-134, 136-37. Stanley stated he had "[n]o objection" to admission of each of those exhibits. *Id.* at 133-34, 137. He also did not object to Deputy Dellaire's testimony about the search including her statements about recovering the pipe and methamphetamine from the truck. The forensic scientist who tested the pipe and methamphetamine also testified about those exhibits without objection from Stanley. *Id.* at 195-97.

[13] Stanley moved to exclude the pipe and methamphetamine at the close of the State's case-in-chief. The trial court ruled that those exhibits had been admitted without objection, to which Stanley responded: "Once I make my general objection when the attempt is made to first introduce it, I think that qualifies." *Id.* at 204.

[14] On appeal, Stanley again claims he preserved any error in the admission of the pipe and methamphetamine through his initial objection to the search before admission of the body camera footage, State's Exhibit 1. But Indiana's appellate courts have made clear that error in the admission of evidence is waived when the defendant first objects but later indicates he has no objection to the evidence when it is introduced into evidence. *See Halliburton v. State*, 1 N.E.3d 670, 678-79 (Ind. 2013); *Hayworth v. State*, 904 N.E.2d 684, 694-95 (Ind. Ct. App. 2009) . The *Halliburton* Court ruled:

[O]n eight separate occasions over the course of a five-day trial during which the State offered the exhibits for admission into evidence, and after inquiry by the trial court, Halliburton expressly said "no objection" or "I have no objection." 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.

Id. (internal quotation and citations omitted).

[15] Based on *Halliburton* and the line of other cases similarly ruling, we conclude that Stanley waived any error in the admission of the pipe and

methamphetamine by stating he had no objection when those exhibits were introduced.¹

[16] We affirm the trial court's judgment.

May, J., and Crone, J., concur.

¹ Stanley does not cite Indiana Evidence Rule 103, which was amended effective January 1, 2014, to provide: "Once the court rules definitively on the record at trial a party need not renew an objection or offer of proof to preserve a claim of error for appeal." Evid. R. 103(b). This amendment to Evidence Rule 103 is consistent with Indiana's longstanding practice of allowing continuing objections. See *Hayworth v. State*, 904 N.E.2d 684, 691 (Ind. Ct. App. 2009) ("Indiana recognizes continuing objections."). But even if Stanley had raised Evidence Rule 103, he would not have prevailed, as evidenced by our ruling in *Hostetler v. State*, 184 N.E.3d 1240 (Ind. Ct. App. 2022), *trans. denied*.

In *Hostetler*, officers discovered narcotics during an inventory search of the defendant's vehicle. *Id.* at 1241-42. The trial court denied Hostetler's motion to suppress alleging the search of his vehicle was illegal, prompting him to raise a standing objection at trial challenging the search. *Id.* at 1243. However, Hostetler stated "no objection" when the State introduced the narcotics at trial. *Id.* at 1244. We held that "despite the request for a continuing objection, Hostetler has waived his appellate challenge to the admission of evidence by his subsequent affirmative statements that he had no objection to the evidence." *Id.* at 1246-47. We explained that even considering the 2014 amendment to Rule 103, the best practice for a party wishing to maintain a continuing objection is to remain silent when the challenged evidence is offered at trial or to simply state the party is relying upon its continuing objection pursuant to Evidence Rule 103(b). *Id.* at 1246.

Stanley never sought nor was he granted a continuing objection after denial of his motion to suppress. He also did not remain silent when the evidence was introduced at trial. Instead, he affirmatively stated "no objection" when the body camera footage was first offered into evidence and when the State introduced the glass pipe and the two bags of methamphetamine seized during the search. Thus, in accordance with *Hostetler* and consistent with this Court's interpretation of Evidence Rule 103, Stanley's affirmative statements of "no objection" waived any previously made objection to the evidence collected during the search of his car.