

## MEMORANDUM DECISION

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## IN THE COURT OF APPEALS OF INDIANA

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A.G.,  
*Appellant-Defendant,*

v.

State of Indiana,  
*Appellee-Plaintiff.*

August 24, 2021

Court of Appeals Case No.  
21A-JV-249

Appeal from the Huntington  
Circuit Court

The Honorable Davin G. Smith,  
Judge

Trial Court Cause No.  
35C01-2009-JD-42

**Riley, Judge.**

## STATEMENT OF THE CASE

[1] Appellant-Defendant, A.G.O. appeals her adjudication as a juvenile delinquent based on the trial court's finding that she committed acts that would be Class B misdemeanor maintaining a common nuisance, Ind. Code § 35-45-1-5(b)(1)(C); Class B misdemeanor possession of marijuana, I.C. § 35-48-4-1 1(a)(1); and Class C misdemeanor possession of paraphernalia, I.C. § 35-48-4-8.3(b)(3); if committed by an adult.

[2] We affirm.

## ISSUE

[3] A.G.O. presents one issue on appeal which we restate as follows: Whether the juvenile court abused its discretion by admitting certain evidence.

## FACTS AND PROCEDURAL HISTORY

[4] In July 2020, seventeen-year-old A.G.O., and nineteen-year-old G.O. were dating. On July 19, 2020, A.G.O. was staying at G.O.'s apartment because her father was in Florida on vacation. On that day, Officer Brock Armstrong (Officer Armstrong) of the Huntington City Police Department was off duty and browsing on Facebook. While scrolling, he saw a Facebook video posted on G.O.'s account, showing what the officer believed to be an underage party. Officer Armstrong knew G.O. from prior encounters and knew where he lived. Officer Armstrong also recognized some of the other minors who were at the party. Because Officer Armstrong was off duty, he contacted Officer Evan

Rhoades (Officer Rhoades) and reported a potential underage party which involved the consumption of alcohol and use of illegal substances.

[5] At approximately 9:48 p.m., officers arrived at the apartment located at Memorial Lane, in Huntington, Indiana, and they maintained positions outside the apartment. As Officer Rhoades approached the apartment, he heard cheering and shouting from inside which led him to believe that there was an active party inside. Upon proceeding to the door, he heard someone shout, “police are here” and scrambling inside. (Appellant’s App. Vol. II, p. 36). He then heard footsteps approaching the front door and a male individual opened the door and ran into him, after which he was apprehended. Officers positioned at the back of the apartment building stopped two other individuals from leaving. Since the door was open, Officer Rhoades was able to see the interior of the living room. There were multiple beer bottles on the coffee table, and he saw A.G.O., whom he had met during prior encounters, dash toward a bedroom which was out of his sight. At that point, Officer Rhoades stepped into the apartment to detain A.G.O. As he was walking out with A.G.O., Officer Rhoades saw two more individuals inside the house and there were “rolling papers” which “makes it easier to roll marijuana on,” and several beer bottles sitting on the coffee table. (Transcript Vol. III, pp. 50, 73). To preserve the integrity of the crime scene, officers ordered everyone out of the apartment while they requested a search warrant.

[6] After a search warrant was obtained, the officers re-entered the apartment. In the living room, officers recovered a rolling tray, a grinder that later tested

positive for marijuana, a pipe with dark marijuana residue, and a burnt marijuana cigarette. Officers also recovered a pink bong used to smoke marijuana. In a safe in the living room, officers recovered a small Ziploc bag that had “420 written on it” containing a light-colored residue, “two roaches,” and “two bags of marijuana [] or plant material that [] looked like [] marijuana.” (Tr. Vol. III, p. 84). In the bedroom which G.O. and A.G.O. shared, officers found a plastic bag that tested positive for THC.

[7] On September 21, 2020, the State filed a Petition Alleging Delinquency, claiming that A.G.O. had committed Class B misdemeanor maintaining a common nuisance, if committed by an adult; Class B misdemeanor possession of marijuana, if committed by an adult; and Class C misdemeanor possession of paraphernalia, if committed by an adult. On January 11 through 13, 2021, the juvenile court held a fact-finding hearing. A.G.O.’s counsel asked the juvenile court to suppress all evidence obtained by Officer Rhoades’ warrantless entry into the apartment. The juvenile court denied the motion to suppress by concluding that the combination of G.O.’s Facebook video which was presented, even without audio; the fact that the door was opened by one of the occupants; Officer Rhoades’ drug training and his observation of the remnants of the party in the living room; and Officer Rhoades’ knowledge of the fact that G.O. was underage, rendered Officer Rhoades’ warrantless entry reasonable and did not violate A.G.O.’s Fourth Amendment rights. At the close of the hearing, the juvenile court issued a dispositional order adjudicating A.G.O. a

delinquent for maintaining common nuisance, and possession of marijuana and paraphernalia.

[8] A.G.O. now appeals. Additional facts will be provided as necessary.

## DISCUSSION AND DECISION

[9] A.G.O. argues that the officers' warrantless entry of the apartment violated her rights under the Fourth Amendment to the United States Constitution.

According to A.G.O., Officer Rhoades entered the residence illegally to seize her, and "only sought a search warrant after he saw things inside that residence, which he used to support probable cause for that warrant." (Appellant's Br. p. 12). A.G.O. therefore claims the juvenile court erred by not granting her motion to suppress all evidence obtained as a result of that illegal entry.

[10] Because A.G.O. appeals following the completion of a fact-finding hearing, her claim is reviewed as a challenge to the admission of the evidence. *Clark v. State*, 994 N.E.2d 252, 254 (Ind. 2013). Questions regarding the admission of evidence are generally entrusted to the discretion of the juvenile court, and we review the court's rulings only for an abuse of that discretion. *See J.D.P. v. State*, 857 N.E.2d 1000, 1006 (Ind. Ct. App. 2006), *trans. denied*. An abuse of discretion occurs when a trial court's ruling is clearly against the logic and effect of the facts and circumstances before it or when it misinterprets the law. *Williams v. State*, 43 N.E.3d 578, 581 (Ind. 2008). When a challenge to a ruling on the admission of evidence is predicated on the constitutionality of the search

or seizure of evidence, it raises a question of law that is reviewed *de novo*.

*Thomas v. State*, 81 N.E.3d 621, 624 (Ind. 2017).

- [11] The Fourth Amendment to the United States Constitution protects citizens against unreasonable searches and seizures by prohibiting them without a warrant supported by probable cause. U.S. Const. amend. IV. “The fundamental purpose of the Fourth Amendment to the United States Constitution is to protect the legitimate expectations of privacy that citizens possess in their persons, their homes, and their belongings.” *Taylor v. State*, 842 N.E.2d 327, 330 (Ind. 2006). This protection has been “extended to the states through the Fourteenth Amendment.” *Bradley v. State*, 54 N.E.3d 996, 999 (Ind. 2016). “As a deterrent mechanism, evidence obtained in violation of this rule is generally not admissible in a prosecution against the victim of the unlawful search or seizure absent evidence of a recognized exception.” *Clark v. State*, 994 N.E.2d 252, 260 (Ind. 2013). “When a search is conducted without a warrant, the State has the burden of proving that an exception to the warrant requirement existed at the time of the search.” *Bradley*, 54 N.E.3d at 999.
- [12] A.G.O. focuses her argument on whether exigent circumstances existed to justify a warrantless search of the residence. “A well-recognized exception [to the presumption that warrantless searches and seizures inside the home are unreasonable] is the existence of exigent circumstances.” *Jones v. State*, 54 N.E.3d 1033, 1036 (Ind. Ct. App. 2016) (citing *Collins v. State*, 822 N.E.2d 214, 218 (Ind. Ct. App. 2005), *trans. denied*), *trans. denied*.

- [13] Under the exigent circumstances rule, a warrantless entry into a dwelling may be justified by hot pursuit of a fleeing felon, imminent destruction of evidence, the need to prevent a suspect's escape, or the risk of danger to the police or to other persons inside or outside the dwelling. *Minnesota v. Olson*, 495 U.S. 91, 100 (1990). The exigent circumstances rule justifies a warrantless search when the conduct of the police preceding the exigency is reasonable; that is, even if police behavior was the catalyst for the exigent circumstances, no warrant is required for the search as long as the police did not create the exigency by engaging in conduct that violates the Fourth Amendment. *Kentucky v. King*, 563 U.S. 452, 462 (2011).
- [14] A.G.O. claims that Officer Rhoades was uninvited, since G.O. told him that he was not allowed inside. She adds that during Officer Rhoades' brief time inside the residence, Officer Rhoades saw beer bottles and paraphernalia used to smoke marijuana on the table, and Officer Rhoades used that information to obtain a search warrant. A.G.O. maintains that there was no testimony from Officer Rhoades showing that he saw her "with anything in her hands while she was walking down the hallway and [Officer Rhoades] gave no support showing he had an objective and reasonable fear that evidence was about to be destroyed." (Appellant's Br. p. 12).
- [15] A.G.O.'s argument that Officer Rhoades' warrantless entry was not justified by exigent circumstances is unavailing. Contrary to her assertion, we find the situation here was ripe for exigent circumstances. As noted above, the police officers responded to a report that an underage party involving alcohol and

marijuana was occurring at G.O.'s apartment. Once at the apartment, officers heard shouting and cheering, which confirmed that a party was ongoing. They also heard people saying that police were at the door and heard scrambling inside, and one person escaped through the front door and two others at the back of the apartment. Because the front door was open, Officer Rhoades could see that the coffee table had multiple beer bottles on it, confirming his suspicion of an underage party that involved alcohol. Actual exigent circumstances arose once A.G.O., who was in the living room, ran toward the bedroom. At that point, Officer Rhoades stepped into the apartment to detain her. Further, at the fact-finding hearing, Officer Rhoades testified that after detaining A.G.O. and while walking out with her, he saw two other individuals in the living room, and he saw that in addition to the beer bottles, "rolling papers," which are used for smoking marijuana, were sitting on the coffee table. (Tr. Vol. III, p. 51). Officer Rhoades testified that to "preserve" the integrity of the crime scene, he ordered everyone out of the apartment while he requested a search warrant. (Tr. Vol. III, p. 52). Only after obtaining the search warrant did officers re-enter and search the apartment.

[16] A.G.O.'s arguments that Officer Rhoades' conduct was not justified by exigent circumstances are fruitless. A.G.O.'s behavior of running away from Officer Rhoades helped create an exigent circumstance. Further, with four suspects already having fled and two individuals in the apartment, another exigent circumstance arose. According to Officer Rhoades, there was an imminent threat to the destruction of evidence. Accordingly, we hold that exigent



circumstances were present in the instant case and Officer Rhoades' warrantless entry was permissible and proper under the Fourth Amendment. We therefore find no abuse in the juvenile court's discretion in admitting evidence obtained from the search.

## **CONCLUSION**

- [17] Based on the foregoing, we conclude that the juvenile court did not abuse its discretion by admitting evidence recovered from the search.
- [18] Affirmed.
- [19] Najam, J. and Brown, J. concur