

Linda Jones (“Jones”) appeals her conviction in Allen Circuit Court of Class D felony possession of paraphernalia. She raises one issue: whether the trial court abused its discretion when it admitted evidence seized as the result of a warrantless search of her purse. Concluding that the erroneous admission of the evidence was harmless, we affirm.

Facts and Procedural History

On March 21, 2006, Fort Wayne Police Officer Lisa Woods (“Officer Woods”) responded to a report of a disturbance at the apartment of Latasha Jones (“Latasha”). Latasha told Officer Woods that when she arrived home, a naked man she did not know came out of the bedroom and “acted like he was high on drugs.” Tr. p. 9. The man fled the apartment. When Officer Woods arrived at the apartment, Latasha’s mother, Jones, was in the living room. Officer Woods later followed Jones into what she believed was Jones’s bedroom. Officer Woods asked Jones if she knew the man, but Jones was “being very evasive” and did not want to answer her questions. Tr. p. 11.

As Officer Woods questioned her, Jones was holding her purse, which was open and contained several prescription pill bottles. Suspecting that Jones might suffer from mental illness, Officer Woods asked her if she was taking any of the prescriptions. As Jones took the bottles out of her purse to hand them to Officer Woods, a “Chore Boy or a Brillo pad” fell out of the purse and onto the bed. Tr. p. 14. Jones immediately denied knowing “what it was, and then she grabbed her purse and pulled it in closer to her.” Tr. p. 14. Now suspecting that narcotics or paraphernalia were in the purse, Officer Woods took the purse from Jones, dumped its contents on the floor, and discovered broken pieces of a crack pipe and more scouring pad material.

On March 24, 2006, the State charged Jones with possession of paraphernalia as a Class D felony due to a previous conviction. A bench trial commenced on September 6, 2006, and the trial court convicted Jones as charged. The trial court sentenced Jones to one and one-half years with the entire sentence suspended to probation. Jones now appeals.

Discussion and Decision

Jones argues that the trial court abused its discretion when it admitted, over her objection, the evidence recovered from her purse which was obtained in violation of the Fourth Amendment. However, a Fourth Amendment error is subject to constitutional harmless error analysis. Hawkins v. State, 626 N.E.2d 436, 440 (Ind. 1993).

Here, the items themselves were merely cumulative of Officer Woods's testimony that she found a crack pipe and scouring pad among the contents of Jones's purse and that such items were commonly used to ingest narcotics. Jones failed to object to this testimony. See tr. pp. 15-16, 21-22. Therefore, the admission of the items recovered from her purse was harmless error. See Chappel v. State, 591 N.E.2d 1011, 1015 (Ind. 1992) (an alleged constitutional error in admitting evidence may be found harmless where the evidence is merely cumulative).

Affirmed.

DARDEN, J., and KIRSCH, J., concur.