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IN THE
COURT OF APPEALS OF INDIANA

JOHN A. BAILEY,	)	
	)	
Appellant-Plaintiff,	)	
	)	
vs.	)	No. 82A01-1102-CR-71
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE VANDERBURGH COURT
The Honorable Carl A. Heldt, Judge
Cause No. 82C01-0808-FB-922

September 8, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

John Bailey appeals his conviction for dealing in methamphetamine, as a Class B felony, following a jury trial. He presents a single issue for our review, namely, whether the trial court abused its discretion when it admitted evidence police obtained during a warrantless entry and search of his residence.

We affirm.

FACTS AND PROCEDURAL HISTORY

On August 26, 2008, members of the Vanderburgh County Joint Drug Task Force set up surveillance outside of Bailey's residence after receiving several anonymous reports that Bailey was operating a methamphetamine lab. After awhile, the detectives approached the front door to the residence, and they smelled a strong odor of ether emanating from Bailey's trailer. Detective Mike Bishop knocked on the door while Detective Paul Jacobs peered through a window into the trailer. When Detective Bishop knocked and yelled "Police," Detective Jacobs watched as Bailey poured the clear liquid contents of a mason jar into a sink. Detective Jacobs saw other jars containing a clear liquid on a counter next to the sink.

Because of the dangers inherent in the mishandling of ether, Detective Bishop announced that he and other officers would enter the trailer if no one opened the front door. When the door remained closed, the detectives forced their way inside, apprehended four men in the trailer, and took everyone outside. Two detectives then dressed in protective gear and reentered the trailer, where they opened the windows and doors to ventilate the accumulated ether vapors. The detectives then secured a search

warrant to search Bailey's trailer and vehicle for evidence of methamphetamine manufacturing. The detectives found such evidence.

The State charged Bailey with dealing in methamphetamine, as a Class B felony. Bailey moved to suppress the evidence, alleging that the State had obtained the evidence as a result of an illegal entry and search. The trial court denied that motion and proceeded to trial. A jury found Bailey guilty as charged. The trial court entered judgment and sentence accordingly. This appeal ensued.

DISCUSSION AND DECISION

Bailey first challenged the admission of evidence through a motion to suppress but now appeals following a completed trial. Thus, the issue is appropriately framed as whether the trial court abused its discretion by admitting the evidence at trial. Lanham v. State, 937 N.E.2d 419, 421-22 (Ind. Ct. App. 2010). A trial court is afforded broad discretion in ruling upon the admissibility of evidence, and we will reverse such a ruling only when the defendant has shown an abuse of discretion. Id. at 422. An abuse of discretion involves a decision that is clearly against the logic and effect of the facts and circumstances before the court. Id. We do not reweigh the evidence, and we consider conflicting evidence in the light most favorable to the trial court's ruling. Id.

Bailey contends that the detectives violated his rights pursuant to the Fourth Amendment and Article I, Section 11 of the Indiana Constitution by conducting a warrantless entry and search and, thus, the evidence seized during the search of his residence and vehicle should have been excluded at trial. The State argues that Bailey waived any objection to the admission of the evidence found in the search by failing to

object to its admission at trial. Bailey does not deny that he failed to object to the evidence at trial, and he does not make any contention of fundamental error.

We agree with the State that Bailey failed to preserve his challenge to the admissibility of the evidence. A contemporaneous objection at the time the evidence is introduced at trial is required to preserve the issue for appeal, whether or not the appellant has filed a pretrial motion to suppress. Brown v. State, 929 N.E.2d 204, 207 (Ind. 2010); see also, Jackson v. State, 735 N.E.2d 1146, 1152 (Ind. 2000) ("The failure to make a contemporaneous objection to the admission of evidence at trial results in waiver of the error on appeal."); Wagner v. State, 474 N.E.2d 476, 484 (Ind. 1985) ("When a motion to suppress has been overruled and the evidence sought to be suppressed is later offered at trial, no error will be preserved unless there is an objection at that time.") The purpose of this rule is to allow the trial judge to consider the issue in light of any fresh developments and also to correct any errors. Brown, 929 N.E.2d at 207.

Here, Bailey did not request a continuing objection and did not make contemporaneous objections when any of the evidence related to the methamphetamine lab in his trailer was introduced at trial. Detective Matt Schnell testified, without objection, regarding the items recovered during the search of Bailey's trailer and vehicle. And Bailey expressly stated "no objection" when the State offered into evidence several photographs of items related to methamphetamine manufacture recovered during the searches. Transcript at 64. We hold that Bailey has waived the issue of whether the trial court abused its discretion when it admitted the challenged evidence at trial. And, again, Bailey neither alleges nor demonstrates fundamental error in the admission of that

evidence. Thus, we need not address whether exigent circumstances justified the warrantless entry. Accordingly we affirm Bailey's conviction.

Affirmed.

RILEY, J., and MAY, J., concur.