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IN THE COURT OF APPEALS OF INDIANA

DONALD L. PRUITT,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 55A01-1105-CR-218
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MORGAN SUPERIOR COURT
The Honorable G. Thomas Gray, Judge
Cause No. 55D01-0804-FC-138

November 28, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

NAJAM, Judge

STATEMENT OF THE CASE

Donald L. Pruitt appeals his conviction for operating a motor vehicle after forfeiture of license for life, a Class C felony. Pruitt presents two issues for review, but we find the following issue to be dispositive: whether Pruitt waived review of the admission of evidence obtained as the result of a traffic stop on private property.

We affirm.

FACTS AND PROCEDURAL HISTORY

The relevant facts are as set out in our opinion, Pruitt v. State, 934 N.E.2d 767, 768 (Ind. Ct. App. 2010), trans. denied ("Pruitt I"):[1]

> The offense charged [operating a motor vehicle after driving privileges had been forfeited for life] emanated from a traffic stop conducted in a private parking lot in the city of Martinsville. The officer making the charge [Officer Richards] had been on routine patrol in his marked police vehicle sometime after midnight when he saw Pruitt's vehicle being operated without its headlights in a parking lot of the "Square One Pub." Appellant's App. p. 7. The officer activated his police car lights and after determining that Pruitt's driving privileges had been suspended placed him under arrest.

Square One Pub's parking lot is private property. The State charged Pruitt with operating a motor vehicle after driving privileges had been forfeited for life, a Class C felony. Pruitt filed a motion alleging that the stop was "invalid and that the evidence resulting from the stop must be suppressed." Id. The trial court denied the motion.

Pruitt initiated a permissive interlocutory appeal, and this court accepted jurisdiction. On appeal, Pruitt asserted that the traffic stop was invalid for two reasons: (1) because the police officer had mistakenly believed that driving on private property

[1] In the argument section of its brief, the State referred to Pruitt I as analogous to the present case. To be clear, the facts in Pruitt I are identical, because that case presents our decision in an interlocutory appeal arising from the same set of facts and the same parties as in the present appeal.

after dark without headlights constitutes a traffic violation; and (2) because the property owner had not contracted with the city under Indiana Code Section 9-21-18-7 to enforce traffic regulations on the bar's private property. This court disagreed on both counts and, therefore, held that there was sufficient evidence of probative value to support the trial court's denial of the motion to suppress. Id. at 770.

Following our decision in Pruitt I, the case proceeded to trial by jury. During the trial, the State offered into evidence Officer Richards' testimony that he had initiated a traffic stop in the pub parking lot after he observed Pruitt driving in the lot without his headlights illuminated. This testimony was admitted without objection. The officer also testified that he had learned during the stop that Pruitt was an habitual traffic violator and that Pruitt's license had been suspended for life. The jury found Pruitt guilty of operating a motor vehicle after forfeiture of license for life, a Class C felony, and the trial court sentenced him to four years executed. Pruitt appeals his conviction.

DISCUSSION AND DECISION

Pruitt first contends that the trial court abused its discretion when it admitted into evidence Officer Richards' testimony about what he learned during the traffic stop about Pruitt's driving status. A trial court is afforded broad discretion in ruling on the admissibility of evidence, and we will reverse such a ruling only upon a showing of an abuse of discretion. Bentley v. State, 846 N.E.2d 300, 304 (Ind. Ct. App. 2006), trans. denied. An abuse of discretion involves a decision that is clearly against the logic and effect of the facts and circumstances before the court. Id. In reviewing the admissibility of evidence, we consider only the evidence in favor of the trial court's ruling and any

unrefuted evidence in the defendant's favor. Dawson v. State, 786 N.E.2d 742, 745 (Ind. Ct. App. 2003), trans. denied.

But "[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) (citations omitted). "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." Id. (citation omitted). Pruitt did not object to the admission of Officer Richards' testimony about the traffic stop. Because Pruitt did not make a contemporaneous objection, he has waived for review any claim regarding the admission of Officer Richards' testimony. See id.

Pruitt asks that we consider the issues presented despite his having waived them. In support, he points out that the "waiver rule does not always have to be applied with unyielding rigidity." Appellant's Brief at 9 (citing Camm v. State, 908 N.E.2d 215 (Ind. 2009). But Pruitt does not expand on that argument, nor has he otherwise persuaded us that any exception to the waiver rule should be applied in this case. Thus, we decline to review the propriety of the admission of Officer Richards' testimony and affirm Pruitt's conviction.[2]

Affirmed.

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

[2] Waiver notwithstanding, even if we were to review Pruitt's claims, Pruitt would not prevail. Although he couches the issues in the current appeal as constitutional violations, those alleged violations are based on the same facts and premises that we considered in Pruitt I. Thus, his claims would be barred under the law of the case doctrine. Godby v. Whitehead, 837 N.E.2d 146, 152 (Ind. Ct. App. 2005), (appellate courts will not revisit legal issues already determined on appeal in the same case), trans. denied.