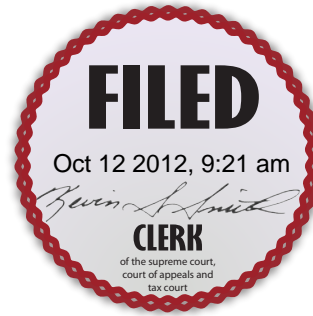


Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE  
COURT OF APPEALS OF INDIANA**

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ROBIN McFARLAND, )  
 )  
Appellant-Defendant, )  
 )  
vs. ) No. 49A02-1203-CR-239  
 )  
STATE OF INDIANA, )  
 )  
Appellee-Plaintiff. )

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APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Marc T. Rothenberg, Judge  
Cause No. 49F09-0910-FD-46425

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**October 12, 2012**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**CRONE, Judge**

Robin McFarland appeals her conviction for class D felony theft following a bench trial. She argues that the trial court abused its discretion in admitting State's Exhibit 1, a six-photo array including McFarland's photograph, because the out-of-court identification procedure was unduly suggestive.

At trial, McFarland initially made an objection to the admission of Exhibit 1 based on inadequate foundation, which the trial court sustained. Tr. at 24-25. Later, McFarland objected to the admission of Exhibit 1 on the ground that there were other photo arrays shown to the State's witness that the defense had not seen. *Id.* at 48. The trial court granted a continuance to permit the defense to examine the other photo arrays, which were the photo arrays prepared regarding the other suspects in the crime. When trial resumed, defense counsel stated that he had had a chance to review the other photo lineups and had no objection to the admission of Exhibit 1. *Id.* at 56-57. Exhibit 1 was admitted.

McFarland specifically stated that she had no objection to Exhibit 1. When a party expressly agrees to the admission of evidence, any error in its admission is invited error. *Oldham v. State*, 779 N.E.2d 1162, 1171 (Ind. Ct. App. 2002), *trans. denied* (2003). "Invited errors are not subject to appellate review, and a party therefore may not invite error, and then subsequently argue that the error requires reversal." *Id.* As any admission of Exhibit 1 was invited error, it does not constitute reversible error. We therefore affirm McFarland's conviction.

Affirmed.

RILEY, J., and BAILEY, J., concur.