IN THE UTAH COURT OF APPEALS

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State of Utah, in the interest of L.R.H., a person under eighteen years of age. _____ State of Utah, Plaintiff and Appellee, v. L.R.H., Defendant and Appellant.	MEMORANDUM DECISION (Not For Official Publication) Case No. 20060852-CA F I L E D (December 20, 2007) 2007 UT App 393

Seventh District Juvenile, Monticello Department, 509817
The Honorable Mary Manley

Attorneys: Autumn Fitzgerald, Moab, for Appellant
Mark L. Shurtleff and Karen A. Klucznik, Salt Lake City, for Appellee

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Before Judges Bench, Orme, and Thorne.

ORME, Judge:

We need not decide whether Defendant was in custody when the police questioned him because we have determined that, in light of the overwhelming evidence of his guilt, even if the juvenile court erred in denying his motion to suppress, any such error was harmless beyond a reasonable doubt. See State v. Velarde, 734 P.2d 440, 444 (Utah 1986). The testimony of the State's witnesses clearly supports a determination that Defendant "threaten[ed] to commit an[] offense involving bodily injury, death, or substantial property damage, and . . . act[ed] with intent to . . . intimidate or coerce a civilian population." Utah Code Ann. § 76-5-107(1)(b)(i) (2003). Given that testimony, Defendant's statements were not crucial to the State's case against him.

As to Defendant's claim that the trial court erred "when it simultaneously heard the evidence regarding the Motion to Suppress and the evidence regarding the elements of the crime,"

we do not consider the merits of this argument because Defendant failed to specifically object to the trial court's decision to proceed as it did, and he does not argue plain error or exceptional circumstances on appeal.[1] See State v. Winfield, 2006 UT 4, ¶ 14, 128 P.3d 1171; State v. Pledger, 896 P.2d 1226, 1229 n.5 (Utah 1995).

We likewise do not consider Defendant's claim that "the trial court erred in allowing the prosecutor to testify as to the majority of the evidence through continually leading the witnesses." Defendant objected to the prosecution's leading of its witnesses only once, and the trial court sustained that objection. By failing to object, Defendant waived his right to challenge any other instances where the prosecution may have improperly led a witness. See Winfield, 2006 UT 4, ¶ 14; Pledger, 896 P.2d at 1229 n.5.

Finally, Defendant argues that the trial court employed a standard other than "beyond a reasonable doubt," as reflected in its expressed skepticism that the evidence supported a conclusion that subsection 76-5-107(1)(b)(ii) had been met and asked the prosecutor to specifically address that element during closing argument. Defendant's argument on appeal is wide of the mark. In its ruling that Defendant was guilty, the trial court specifically determined that Defendant had the requisite intent under subsection 76-5-107(1)(b)(i), not under subsection 76-5-107(1)(b)(ii). See Utah Code Ann. § 76-5-107(1)(b)(i)-(ii). Therefore, any expressed concern about whether subsection 76-5-107(1)(b)(ii) was met was wholly inconsequential given that the alternative intent element expressly relied on by the trial court

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[1]Defendant argues that he did object twice, the first time when the State started questioning a witness regarding evidence he sought to suppress and the second time when he did not think a witness's testimony was "relevant to the suppression hearing." However, we conclude that his objections were not specific enough to put the trial court on notice that he objected to proceeding with a single hearing in which both the suppression motion and his culpability would be determined. Rather, from the trial court's statements and the discussion it had with counsel after the objections, it appears that Defendant's counsel was confused about the manner in which they were proceeding and was just objecting to the admission of the testimony at issue based on his prior motion to suppress evidence. After clarification from the judge that it was appropriate for the State to ask the questions at issue because the court was hearing evidence on both the motion to suppress and the elements of the crime, counsel said, "Okay," and thus Defendant acquiesced in proceeding in that manner.

was clearly satisfied by the evidence. See State v. Villarreal, 889 P.2d 419, 425-26 (Utah 1995); Velarde, 734 P.2d at 444.

Affirmed.

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Gregory K. Orme, Judge

WE CONCUR:

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Russell W. Bench,
Presiding Judge

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William A. Thorne Jr., Judge