

Following a jury trial, Cedric Price appeals his conviction for Dealing in Cocaine¹ as a class A felony. Price presents the following consolidated and restated issues for review:

1. Did the trial court err in admitting cocaine and digital scales into evidence over Price's chain of custody objection?
2. Did the State present sufficient evidence to support Price's dealing in cocaine conviction?

We affirm.

The facts most favorable to the conviction reveal that on March 30, 2006, the Howard County Drug Task Force was conducting surveillance and an investigation of Price's brother, Stacey Price, and his residence at 944 East Havens Street in Kokomo. That afternoon, members of the Task Force arrested Stacey during a traffic stop. While officers were arresting Stacey, a female approached the scene and attempted to talk to Stacey. Detective Brad Reed stopped the female and instructed her to leave. Detective Reed, Drug Enforcement Agency (DEA) Agent Robert Bella, and some other police officers then drove to 944 East Havens Street to secure the residence while officers obtained a search warrant.

As they arrived at the residence, Detective Reed saw the same female exiting the front door of the residence and entering her vehicle to leave. Detective Reed also saw Price exiting the back door of the residence and carrying some shopping bags. Detective Reed, concerned that Price was removing evidence from the residence, exited his vehicle, approached Price, and spoke to him. Price ignored Detective Reed and walked away.

¹ Ind. Code Ann. § 35-48-4-1 (West, PREMISE through 2007 1st Regular Sess.).

Detective Reed walked toward Price, announced he was a police officer, and told Price to stop. Price then dropped the shopping bags near the back door of the residence and sprinted away down an alley. Detective Reed and Agent Bella chased after Price and, as they were running, Agent Bella saw Price throw something on the ground near 914-1/2 East Havens Street. Detective Walter Adams, who was part of the Task Force investigation, then apprehended Price a short distance from where he threw the objects on the ground.

Detective Reed took his camera to 914-1/2 East Havens and photographed a black vinyl pouch, knotted plastic baggies containing an off-white, rock-like substance, a razor blade, and set of red digital scales. Detective Reed took these items into custody and secured them in a plastic bag.

Detective Reed returned to the residence at 944 East Havens and took photographs of the shopping bags that Price dropped near the residence when he fled. Included in the shopping bags was a cigarette package containing plastic baggies with the corners cut out and mail with Price's name on it. Detective Reed took these items and secured them separate from the items he had recovered earlier.

Detective Reed also assisted in the execution of the search warrant for the residence. Among the items found inside the residence was a set of silver digital scales with a residue on it. Detective Reed photographed the silver scales, took custody of them, and secured them separate from the items he had recovered earlier.

Detective Reed took all the evidence collected to the Kokomo Police Department, where the detective individually bagged, sealed, and tagged all the items obtained during

the investigation and placed them in the Kokomo Police Department property room. Agent Bella later checked out the baggies of the off-white rock-like substance and the silver scales with the residue from the property room and took the items to a DEA laboratory in Chicago for testing. Chemical analysis of the rock-like substance revealed it to be 16.5 grams of cocaine. Analysis of the silver scales revealed that residue on the scales was cocaine and that Price's left thumbprint was on the scales.

The State charged Price with Count I, dealing in cocaine as a class A felony, which was based on possession of three grams or more of cocaine with intent to deliver; Count II, possession of cocaine as a class A felony, which was based on possession of three grams or more of cocaine within 1,000 feet of a public park; and Count III, resisting law enforcement as a class A misdemeanor. The State later dismissed the resisting law enforcement charge.

A jury trial was commenced in March 2007. Price filed a motion in limine, requesting the trial court to prohibit the State from introducing evidence of: (1) his prior convictions; (2) scales, illegal drugs, weapons, or any other items seized as a result of a search warrant executed at 944 East Havens; (3) the audio or video surveillance of the drug buy between a confidential informant and Stacey; and (4) the presence of children in a park that was located near where Price led police on a foot chase. The trial court heard arguments and granted Price's motion in limine in part and denied it in part. Specifically, the trial court granted his motion to exclude evidence of his criminal convictions, the weapons found in the house during the execution of the search warrant, and the surveillance of his brother's drug buy with the confidential informant. The trial court

denied the remaining parts of his motion in limine and specifically held that the scales and cocaine were relevant to the intent to deal.

Price also moved to exclude evidence of a fingerprint laboratory report that the State had disclosed after the jury had already been sworn. Alternatively, Price moved for a mistrial and a continuance based on the State's failure to follow discovery rules. The trial court denied Price's motion to exclude the evidence but granted his motion for mistrial.

Another jury trial was commenced in April 2007. During trial, Price made a chain of custody objection to State's Exhibit 30—the 16.5 grams of cocaine found outside after Price tossed it while running from police; State's Exhibit 31—the silver digital scale with cocaine residue found inside the residence; and State's Exhibit 33—the cocaine residue taken from Exhibit 31. The trial court overruled Price's objection and admitted these exhibits into evidence. The jury found Price guilty of dealing in cocaine and possession of cocaine as charged. The trial court merged the possession conviction into the dealing conviction and sentenced Price to twenty-two years in the Indiana Department of Correction. Price now appeals his conviction for dealing in cocaine.

1.

Price argues that the trial court abused its discretion by admitting scales and cocaine into evidence.² We initially note that Price's arguments pertaining to the

² Price frames part of his argument as one of trial court error in denying his motion in limine. However, the pre-trial denial of a motion in limine is a preliminary ruling, and this denial alone is insufficient to preserve error for an incorrect ruling on the motion. *Earlywine v. State*, 847 N.E.2d 1011 (Ind. Ct. App. 2006). To preserve an error regarding the denial of a motion in limine, a party must make a specific

admission of evidence are not a model of clarity. Price does not specifically identify the exact exhibit numbers of the items he alleges were erroneously admitted, and his argument does not identify any specific objection that he may have made during trial. For example, Price contends the trial court erred in admitting “items in the home” and then mentions a scale and cocaine. Only after combing through the record does it become apparent that Price is referring to the silver digital scale (State’s Exhibit 31) and the cocaine residue contained on that scale (State’s Exhibit 33) and that he objected to these two exhibits based on chain of custody.

On appeal, Price first argues that these exhibits were prejudicial and cites to Ind. Evidence Rules 402, 403, and 404. Price has waived any such argument because he did not raise such an objection at trial. *See Grace v. State*, 731 N.E.2d 442 (Ind. 2000) (holding that grounds for an objection must be specific and any grounds not raised in the trial court are not available on appeal).

Price also challenges the admission of the silver scales and cocaine into evidence, arguing that the State failed to establish a proper chain of custody. Although not entirely clear, we assume that Price’s challenge to the chain of custody of the cocaine includes both the 16.5 grams of cocaine and the cocaine residue found on the silver scale. We will extend Price the benefit of the doubt and include both in our analysis.

In order to establish a proper chain of custody, the State must give reasonable assurances that the evidence remained in an undisturbed condition. *Troxell v. State*, 778

objection when the evidence is introduced at trial. *Hightower v. State*, 866 N.E.2d 356 (Ind. Ct. App. 2007), *trans. denied*. Thus, we will review Price’s argument as one of error in the admission of evidence.

N.E.2d 811 (Ind. 2002). The State, however, does not need to establish a perfect chain of custody; once the State “strongly suggests” the exact whereabouts of the evidence, any gaps go to the weight of the evidence and not to admissibility. *Id.* at 814 (citations omitted). There is a presumption of regularity in the handling of evidence by officers, and there is a presumption that officers exercise due care in handling their duties. *Troxell v. State*, 778 N.E.2d 811. To successfully challenge the chain of custody, a defendant must present evidence that does more than raise a mere possibility that the evidence may have been tampered with. *Id.*

Here, the State established a proper chain of custody. Detective Reed testified that he took the scales and cocaine into custody, packaged them, sealed them, and placed them into the property room at the Kokomo Police Department. Tamara Burge, the property room supervisor, testified that she received the sealed evidence from Detective Reed and entered it into the police department’s property system, where it was stored until later released to Agent Bella. Agent Bella testified that he checked out the scales and cocaine, which were still both sealed, from the police department’s property room, sealed and tagged them in his own DEA bag, and had them in his possession until he transported them to the DEA laboratory in Chicago for testing. DEA forensic chemist, Heather Miller, testified regarding the procedure for the admission and storing of evidence in the DEA lab’s evidence vault, and she testified that she obtained the scales and cocaine in a sealed condition from the evidence vault, performed the required analyses on each item, and returned them to the evidence vault in a sealed condition. DEA fingerprint specialist, Joseph Ambrozich, testified that he conducted fingerprint

analyses on the silver scale and the baggies containing the 16.5 grams of cocaine and that the evidence was sealed when he retrieved it from the DEA lab and resealed after he finished his analyses.

Contrary to Price's suggestion, the evidence presented provides reasonable assurances that the evidence remained in an undisturbed condition. Because the State established an adequate foundation for the chain of custody, the trial court did not abuse its discretion in admitting the cocaine and scales into evidence.³

2.

Price also argues that the evidence was insufficient to support his conviction for dealing in cocaine. When considering a challenge to the sufficiency of evidence supporting a conviction, we neither reweigh the evidence nor judge witness credibility. *McHenry v. State*, 820 N.E.2d 124 (Ind. 2005). This review “respects ‘the jury’s exclusive province to weigh conflicting evidence.’” *Id.* at 126 (quoting *Alkhalidi v. State*, 753 N.E.2d 625, 627 (Ind. 2001)). We will consider only the probative evidence and reasonable inferences supporting the verdict, and we “must affirm ‘if the probative evidence and reasonable inferences drawn from the evidence could have allowed a reasonable trier of fact to find the defendant guilty beyond a reasonable doubt.’” *Id.* (quoting *Tobar v. State*, 740 N.E.2d 109, 111-12 (Ind. 2000)).

³ Price also makes a cursory suggestion that the trial court erred in admitting fingerprints. Price, however, makes no mention of the specific exhibit he challenges. Furthermore, he makes no argument, let alone cogent argument, and provides no citation to authority regarding why any fingerprints were erroneously admitted into evidence. Thus, we conclude Price has waived any argument relating to the admission of fingerprints.

In order to convict Price of class A felony dealing in cocaine, the State was required to prove beyond a reasonable doubt that Price possessed three grams or more of cocaine with intent to deliver. Price simply argues that absent the admission of the evidence as argued above, the evidence is insufficient to support his conviction. Because we have already held that the trial court did not err in admitting the challenged evidence, we also hold that the evidence was sufficient to support Price's conviction.

Judgment affirmed.

MATHIAS, J., and ROBB, J., concur.