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ATTORNEY FOR APPELLANT:

PHILIP R. SKODINSKI
South Bend, Indiana

ATTORNEYS FOR APPELLEE:

GREGORY F. ZOELLER
Attorney General of Indiana

MICHAEL GENE WORDEN
Deputy Attorney General
Indianapolis, Indiana

IN THE
COURT OF APPEALS OF INDIANA

WILLIAM C. LANSFORD,	)	
	)	
Appellant,	)	
	)	
vs.	)	No. 71A03-1004-CR-178
	)	
STATE OF INDIANA,	)	
	)	
Appellee.	)	

APPEAL FROM THE ST. JOSEPH SUPERIOR COURT
The Honorable R.W. Chamblee, Jr., Judge
Cause No. 71D08-0909-FB-104

March 9, 2011

MEMORANDUM DECISION – NOT FOR PUBLICATION

MATHIAS, Judge

William Lansford ("Lansford") was convicted in St. Joseph Superior Court of Class B felony burglary and ordered to serve a twelve-year sentence in the Department of Correction, with two years suspended to probation. Lansford appeals his conviction and argues that he was denied a fair trial pursuant to Article One, Sections Twelve and Thirteen of the Indiana Constitution, and the Fourteenth Amendment under the United States Constitution. We affirm.

Facts and Procedural History

On September 12, 2009, eighty-six-year-old Edward Sidorowicz ("Sidorowicz") was asleep in his residence when he was startled awake by a loud crash. Sidorowicz saw an intruder, later identified as Lansford, grab his wallet from his dresser and run out of the bedroom. Sidorowicz followed Lansford, who unlocked Sidorowicz's front door and then fled from the house. Sidorowicz called 911 and reported the burglary. He also discovered that his kitchen window had been shattered and found a rock on his kitchen table.

Sidorowicz's neighbor heard glass break and proceeded outside from his residence to investigate. The neighbor, Phil Abel ("Abel"), saw Lansford walking down the street. Lansford was shouting and claimed that he had been shot. Lansford had blood on his arm, but Abel believed it looked more like a cut than a gunshot wound. Also, Abel had not heard any gunshots. South Bend Police Officer Ronald Kaszas was patrolling the area, and Abel flagged him down to report that Lansford needed help. Lansford initially told the officer that someone shot him.

Shortly thereafter, Officer Kaszas and other officers patrolling nearby began their search for the shooting suspect. Officer Kaszas asked Lansford to remain nearby, but Lansford walked away. Officer Kaszas then received the dispatch concerning the burglary at Sidorowicz's residence. The officer found Lansford, who was still in the area, and observed that he fit the description of the burglary suspect.

Officer Kaszas performed a pat down search before placing Lansford in his patrol car, and found $56 stained with blood in Lansford's back pocket. During their investigation of the burglary, the police determined that entry to Sidorowicz's home had been made by breaking the kitchen window, and they discovered a trail of footprints near the home. Sidorowicz's wallet, empty of any currency, was found inside a fenced-in area on Abel's property near the trail of footprints running between the houses.

On September 14, 2009, Lansford was charged with Class B felony burglary. Before trial, Lansford filed a motion for appointment of private investigator at public expense. Specifically, Lansford wanted to 1) "locate and interview neighbors who saw the Defendant running to flag down the police[;]" 2) "locate and interview the neighbor who assisted the Defendant in flagging down the police[;]" 3) "interview the tavern owner who paid the Defendant for the work performed[;]" 4) "locate and interview the restaurant owner where the Defendant sold flowers [] on the day of the offense." Appellant's App. p. 6. The trial court denied Lansford's motion because all of the individuals referenced in the motion were either known to the defendant or their addresses were known.

A jury trial was held on January 12, 2010. At trial, Sidorowicz testified that prior to the burglary, Lansford had been hired to do a couple of odd jobs around his house. He also stated that he saw Lansford approximately one month prior to the burglary when Lansford and his girlfriend requested a $20 loan from Sidorowicz. To identify Lansford, Sidorowicz was allowed to leave the witness stand and approach Lansford because of his poor eyesight. Lansford then stated, "yeah, it's this guy. You got to change your ways a little bit." Tr. p. 65. Sidorowicz also testified that he originally told the police that his wallet contained $86, but that the police only recovered $56. Tr. p. 66.

The jury found Lansford guilty as charged. On March 10, 2010, Lansford was ordered to serve a twelve-year sentence in the Department of Correction, with two years suspended to probation. Lansford now appeals.

Discussion and Decision

Lansford claims he was denied a fair trial pursuant to Article One, Sections Twelve and Thirteen of the Indiana Constitution, and the Fourteenth Amendment under the United States Constitution. Specifically, he argues that the following alleged errors, when considered together, resulted in a denial of a fair trial:

> 1) the denial of his request for a private investigator at public expense;
> 2) Officer Kaszas's repeated reference to the defendant by his first name;
> 3) the victim's in-court identification of the defendant;
> 4) the victim's testimony concerning the money found in Lansford's pocket;[1] and,

[1] With regard to this testimony, Lansford's argument is nonsensical. He claims that the admission of Sidorowicz's statement that the police returned the $56 to him was error because "the State invaded the providence [sic] of the jury by implying that the [Lansford] had the victim's money[.]" Appellant's Br. at 6.

> 5) the victim's inconsistent statements concerning the amount of money in his wallet when it was stolen.

Appellant's Br. at 5-7.

First, we consider Lansford's denied request for a private investigator. The appointment of an expert witness for an indigent defendant is left to the sound discretion of the trial court. Booker v. State, 790 N.E.2d 491, 495 (Ind. Ct. App. 2003), trans. denied. A defendant seeking to hire an expert at public expense must first demonstrate that he is indigent. Id. Next, he must demonstrate "a need for the expert in open court before public funds will be allotted to him." Id. (citation and internal quotation marks omitted). He "cannot simply make a blanket statement that he needs an expert absent some specific showing of the benefits that the expert would provide." Beauchamp v. State, 788 N.E.2d 881, 888 (Ind. Ct. App. 2003). Instead, he must "show that the expert's services are necessary to assure an adequate defense, and he must specify precisely how the requested expert services would benefit him." Id. at 886. The trial court then makes its determination, considering the defendant's demonstrated need and "the State's compelling interest in ensuring that public funds are not spent needlessly, wastefully or extravagantly." Id.

Lansford requested a private investigator for the purpose of 1) locating and interviewing neighbors who saw Lansford "running to flag down the police" and who "assisted [Lansford] in flagging down the police;" and, 2) locating and interviewing the owner of the tavern whom Lansford worked for and the restaurant owner where Lansford sold flowers on the day of the offense. Appellant's App. p. 6. However, as the trial court

noted these individuals were either known to Lansford or their names and addresses were readily ascertainable.

Also, for the first time on appeal, Lansford claims that "part of the need for an investigator is to provide an independent witness to impeach testimony." Appellant's Br. at 5.

> Counsel alleged at the hearing on his Motion to Set Aside Jury's Verdict that Mr. Abel testified at trial that he did not see a gray van speed away from the scene. But in conversation with Appellant's counsel, he stated that he did see the gray van. This would have supported Appellant's testimony.

Id. But Lansford does not provide any cogent reason why a private investigator was necessary to assist Lansford and his counsel in addressing Mr. Abel's allegedly inconsistent statements. For all of these reasons, the trial court did not abuse its discretion when it denied Lansford's motion for a private investigator at public expense.

The other alleged evidentiary errors, i.e. the officer's repeated reference to Lansford by his first name, Sidorowicz's challenged testimony, and the in-court identification of Lansford, were not objected to at trial. Therefore, these issues are waived for the purposes of appeal. Delarosa v. State, 938 N.E.2d 690, 694 (Ind. 2010).

"But a claim waived by a defendant's failure to raise a contemporaneous objection can be reviewed on appeal if the reviewing court determines that fundamental error occurred." Id. (citing Brown v. State, 929 N.E.2d 204, 207 (Ind. 2010)).

> The fundamental error exception is "extremely narrow, and applies only when the error constitutes a blatant violation of basic principles, the harm or potential for harm is substantial, and the resulting error denies the

> defendant fundamental due process." The error claimed must either "make a fair trial impossible" or constitute "clearly blatant violations of basic and elementary principles of due process." This exception is available only in "egregious circumstances."

Id. at 694 (internal citations omitted).

In his Appellant's Brief, Lansford does not support his arguments with citation to any authority or a statement of the applicable standard of review, and has therefore waived these arguments on appeal. See Ind. Appellate Rule 46(A)(8)(a-b); Lyles v. State, 834 N.E.2d 1035, 1050 (Ind. Ct. App. 2005), trans. denied. Furthermore, Lansford does not acknowledge his failure to object to the admission of the challenged testimony and the in-court identification. Presumably, for this reason, Lansford also does not argue that the alleged evidentiary errors constitute fundamental error. Lansford has therefore not presented any argument that would lead us to conclude that he was denied a fair trial.

Moreover, the State's evidence was more than sufficient to prove that Lansford burglarized Sidorowicz's residence as charged. Lansford had previously done odd jobs at Sidorowicz's home. Lansford was found in the neighborhood immediately after Sidorowicz's neighbor heard glass shattering. Sidorowicz's kitchen window was shattered with a rock so that the perpetrator could gain entry to his home, and his wallet was stolen from the dresser in his bedroom. Sidorowicz's neighbor, Mr. Abel, observed Lansford running down the street shouting that he had been shot, but Lansford only had cuts on his arm. While investigating the burglary, the police discovered a trail of footprints near Sidorowicz's home. Sidorowicz's wallet, empty of any currency, was found inside a fenced-in area on Abel's property near the trail of footprints running

between the houses. Finally, during the pat down search, the arresting officer found $56 stained with blood in Lansford's back pocket.

Conclusion

The trial court did not abuse its discretion when it denied Lansford's request for a private investigator at public expense. Lansford also waived, both at the trial and appellate level, his claim that the alleged evidentiary errors resulted in denial of a fair trial. We therefore affirm his conviction for Class B felony burglary.

Affirmed.

FRIEDLANDER, J., and MAY, J., concur.