



Veon Garrison appeals his convictions of possession of cocaine and possession of marijuana, arguing the drugs should have been suppressed.<sup>1</sup> We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On February 6, 2008, Detectives Michael Vitali, Patrick McCloskey, and Clifton Jones went to a residence on North Linwood Avenue in Indianapolis to execute a warrant for Garrison's arrest. Detective Vitali believed Garrison lived there because the utility bills for that address were in Garrison's name. It was actually the residence of Garrison's sister; however, she had given Garrison power of attorney, and he came to her residence regularly to check on her. He also used her garage to fix cars.

When the detectives arrived at the Linwood Avenue residence, a man was in the driveway fixing a car. The man said his name was Willie Willis and Garrison was inside. Detective Jones stayed with Willis to confirm his identity, and Detectives Vitali and McCloskey approached the door. Garrison was standing in the doorway, having just shown a customer out. Detective Vitali showed his badge and said he was looking for Mr. Garrison. Garrison acknowledged that was his name, took a step back, and invited the detectives inside.

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<sup>1</sup> Under cause number 49G14-0706-FD-108237, Garrison was charged with possession of cocaine, resisting law enforcement, and possession of marijuana. On November 2, 2007, Garrison failed to appear for a hearing, and a warrant was issued for his arrest. When executing the warrant, police found additional drugs, and Garrison was charged with possession of cocaine and possession of marijuana under cause number 49G14-0802-FD-33509. On June 30, 2008, the charges under 33509 were tried to the bench, and Garrison was found guilty of both offenses. On July 21, 2008, Garrison pled guilty to the charges under 108237 and was sentenced for his convictions under both cause numbers. Garrison filed a notice of appeal from both judgments; however, his issues on appeal relate only to the drugs supporting his convictions under 33509.

Once inside, Detective Vitali placed Garrison under arrest. Garrison then “became a little agitated and started shaking his head and eventually flipped his hat off.” (*Id.* at 11.) There were two marijuana cigarettes in the cap. Garrison was wearing boots, but he wanted to wear tennis shoes instead. He asked the detectives to retrieve them from a bedroom upstairs. The detectives found the shoes near a dresser. On the dresser, in plain view, was a plate with marijuana and cocaine on it.

Garrison became agitated again and told the detectives he had heart problems. The detectives called for medics to check on Garrison. When the medics arrived, Garrison said he had some heart medication in the upstairs bedroom. Detective McCloskey went upstairs to get it. He found a pill bottle with Garrison’s name and prescription on it; however, the bottle contained cocaine and marijuana roaches.

Garrison was charged with Class D felony possession of cocaine<sup>2</sup> and Class A misdemeanor possession of marijuana.<sup>3</sup> At trial, the drugs were admitted over Garrison’s objection. The court found Garrison guilty of both charges.

### **DISCUSSION AND DECISION**

Garrison argues the drugs should not have been admitted because they were obtained in violation of the Fourth Amendment. “A trial court has broad discretion in ruling on the admissibility of evidence. We will reverse a trial court’s ruling on the admissibility of evidence only when it has been shown that the trial court abused its discretion.” *Ransom v. State*, 741 N.E.2d 419, 421 (Ind. Ct. App. 2000) (citations omitted), *trans. denied* 753 N.E.2d 10 (Ind. 2001). We do not reweigh the evidence or

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<sup>2</sup> Ind. Code § 35-48-4-6.

<sup>3</sup> Ind. Code § 35-48-4-11.

judge the credibility of witnesses. *Id.* Instead, we consider the evidence favorable to the ruling, along with any uncontested evidence favorable to the defendant. *Id.*

Garrison first contends his arrest was illegal because the detectives needed a search warrant in order to arrest him inside another person's home. He relies on *Steagald v. United States*, 451 U.S. 204 (1981). In *Steagald*, federal agents entered Steagald's residence to execute a warrant for Lyons' arrest. The agents did not find Lyons, but did find forty-three pounds of cocaine, and Steagald was charged with federal drug offenses. The Supreme Court held the drugs were inadmissible because obtaining a warrant for Lyons' arrest did nothing to protect Steagald's privacy interest in his residence. *Id.* at 213. Absent consent or exigent circumstances, the agents could not enter Steagald's residence to arrest Lyons without a search warrant. *Id.* at 212.

Garrison's case is readily distinguishable from *Steagald* because Detectives Vitali and McCloskey testified Garrison gave them permission to enter the residence.<sup>4</sup> Garrison and Willis contradicted the detectives' testimony, but we will not consider that testimony, as it is not favorable to the trial court's ruling. *See Ransom*, 741 N.E.2d at 421.

Alternatively, Garrison argues the drugs were seized pursuant to unlawful warrantless searches. We disagree. "Incident to a lawful arrest, the arresting officer may conduct a warrantless search of the arrestee's person and the area within his or her immediate control." *Culpepper v. State*, 662 N.E.2d 670, 675 (Ind. Ct. App. 1996) (citing *Chimel v. California*, 395 U.S. 752, 772 (1969)), *trans. denied* 706 N.E.2d 176 (Ind. 1998). The evidence from Garrison's hat was seized pursuant to a valid search

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<sup>4</sup> We also note *Steagald* addresses the admissibility of evidence against a third party, not against the subject of the arrest warrant.

incident to arrest. *See United States v. Edwards*, 415 U.S. 800, 806-07 (1974) (clothing worn by a person who has been lawfully arrested is also lawfully in the custody of police and may be searched without a warrant).

The marijuana and cocaine found on the plate was in the detectives' plain view when they retrieved Garrison's tennis shoes at his request. "The plain view doctrine allows a police officer to seize items when he inadvertently discovers items of readily apparent criminality while rightfully occupying a particular location." *Jones v. State*, 783 N.E.2d 1132, 1137 (Ind. 2003). Likewise, the marijuana and cocaine in the pill bottle were inadvertently discovered when Detective McCloskey was retrieving Garrison's heart medication for him.

Finally, Garrison argues the drugs seized from the bedroom should not have been admitted because he "was not capable of making informed decisions." (Appellant's Br. at 10.) However, he did not raise this issue below, and he cites no evidence in support of his argument on appeal; therefore, he has waived the issue. *See Wingate v. State*, 900 N.E.2d 468, 475 (Ind. Ct. App. 2009) (issue waived when party fails to develop cogent argument or adequate citation to authority and record); *State v. Delph*, 875 N.E.2d 416, 422 (Ind. Ct. App. 2007) (argument raised for first time on appeal is waived), *trans. denied*. Garrison has not shown the trial court abused its discretion by admitting the drugs, and we affirm his convictions.

Affirmed.

FRIEDLANDER, J., and BRADFORD, J., concur.