



Herbert C. Huffman appeals his conviction of possession of methamphetamine, a Class D felony.<sup>1</sup> Huffman claims the court erroneously denied his motion to suppress. Because Huffman did not object to the admission of the evidence, he waived any allegation of error. Waiver notwithstanding, we find no error and affirm.

### **FACTS AND PROCEDURAL HISTORY**

About 10:30 p.m. on January 25, 2006, Sullivan County Deputy Sheriff William Miller was on routine patrol when he saw a truck with a headlight out traveling on Highway 41. Deputy Miller initiated a traffic stop. Huffman stopped his truck in the parking lot of a truck stop, hopped out of the truck, and began walking quickly toward the truck plaza. Deputy Miller instructed Huffman to come back to the truck, and Huffman complied. Deputy Miller found Huffman's license was suspended. Therefore, Deputy Miller and Huffman sat in the patrol car while Deputy Miller wrote a ticket for driving on a suspended license.

After writing the ticket, Deputy Miller asked Huffman if there was any "illegal contraband" in his truck. (Tr. at 15.) Huffman denied having anything illegal in the truck. Deputy Miller then asked Huffman for permission to search the truck. Huffman consented orally and signed a "Consent to Search" form provided by Deputy Miller. (App. at 26.) Underneath the driver's side seat, Deputy Miller found a small metal cigarette box. When he opened the box he found baggies, a pipe, and a straw, all of which tested positive for methamphetamines.

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<sup>1</sup> Ind. Code § 35-48-4-6.1(a).

The State charged Huffman with possession of methamphetamine, a Class D felony, and reckless possession of paraphernalia, a Class B misdemeanor.<sup>2</sup> A jury found Huffman guilty of both charges. The court entered judgment of conviction of only the felony and pronounced an eighteen-month sentence.

### **DISCUSSION AND DECISION**

Huffman did not object to the admission of the evidence seized from his truck. Huffman moved to suppress, but a contemporaneous objection is required because it “affords the trial court the opportunity to make a final ruling on the matter in the context in which the evidence is introduced.” *Jackson v. State*, 735 N.E.2d 1146, 1152 (Ind. 2000). “The failure to make a contemporaneous objection to the admission of evidence at trial results in waiver of the error on appeal.” *Id.* Accordingly, Huffman waived this argument for appeal.

Waiver notwithstanding, we find no error. Huffman claims Deputy Miller had no authority to open the metal cigarette box, but he is incorrect. In *Smith v. State*, 713 N.E.2d 338, 343 (Ind. Ct. App. 1999), *trans. denied* 726 N.E.2d 303 (Ind. 1999), we explained:

[W]e must then determine whether the troopers exceeded the scope of [Smith’s] consent. Because it comes within an established exception to the Fourth Amendment warrant requirement, the scope of the authority to search is strictly limited to the consent given, and a consensual search is reasonable only if it is kept within the bounds of that consent. “The Fourth Amendment is satisfied when, under the circumstances, it is objectively reasonable for the officer to believe that the scope of the suspect’s consent permitted him to open a particular container within the automobile.” The standard for measuring the scope of a suspect’s consent under the Fourth

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<sup>2</sup> Ind. Code § 35-48-4-8.3(c)(1).

Amendment is that of objective reasonableness, in other words, “what would the typical reasonable person have understood by the exchange between the officer and the suspect?” In addition, the scope of a consensual search is generally defined by its expressed object.

Here, the expressed objects of the troopers’ search were guns, drugs, money, or illegal contraband. When Smith gave the troopers permission to search his car for guns, drugs, money, or illegal contraband, a reasonable person would have understood Smith’s consent to include permission to search any containers inside the vehicle which might reasonably contain those specified items. A cellular phone is a container capable of hiding such items as drugs or money. Therefore, it was proper for the troopers to seize the cellular phone long enough to determine whether it was truly an operating cellular phone or merely a pretense for hiding the expressed objects of their search.

*Id.* at 343 (citations omitted).

A reasonable person would have understood Huffman’s consent to a search for “illegal contraband” to include containers inside the truck that could contain drugs.<sup>3</sup> Accordingly, when Deputy Miller located a metal cigarette box under the seat on the driver’s side of Huffman’s truck, it was proper for him to determine whether it contained illegal substances. *See id.*

Affirmed.

DARDEN, J., and CRONE, J., concur.

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<sup>3</sup> Huffman also notes a suspect may limit the scope of the search to which he consents, citing *Krise v. State*, 746 N.E.2d 957 (Ind. 2001). However, Huffman does not cite any evidence in the record suggesting he limited the scope of his consent such that containers within the truck were excluded.