

No. 1-14-2583

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County
)	
v.)	No. 13 CR 18907
)	
NATALIE MARTIN,)	Honorable
)	Erica L. Reddick,
Defendant-Appellant.)	Judge Presiding.

PRESIDING JUSTICE HOFFMAN delivered the judgment of the court.
Justices Cunningham and Delort concurred in the judgment.

ORDER

¶ 1 *Held:* We affirm where the defendant, having specified a ground for her objection at trial to the complained of testimony, waived on appeal any alternative objections not specified.

¶ 2 Following a bench trial, the defendant, Natalie Martin, was convicted of delivery of a controlled substance (heroin) and sentenced, based on her criminal background, as a Class X offender to six years' imprisonment. On appeal, the defendant contends that she was denied her right to a fair trial because the circuit court erred in admitting testimony that violated the rule against hearsay. We affirm.

¶ 3 The defendant was arrested on September 5, 2013, as a result of a Chicago police narcotics investigation and surveillance near the intersection of Augusta Boulevard and North Lavergne Avenue. She was subsequently charged by information with possession of a controlled substance with intent to deliver and delivery of a controlled substance.

¶ 4 At trial, Chicago police officer Bracamontes testified that he had been a police officer for 13 years and was assigned to a 15th District tactical team focused on gang activity and drug sales. He stated that, as a team member, he had been a part of at least 1,000 narcotics investigations and made about 1,500 narcotics-related arrests. Officer Bracamontes testified that he was familiar with how narcotics transactions occur and the terminology associated with the transactions. He stated that "blows" was a street term for heroin.

¶ 5 On September 5, 2013, at about 5:40 p.m., Officer Bracamontes was part of a team of officers conducting a narcotics investigation near the intersection of Augusta and Lavergne. Officer Bracamontes testified that he had previously conducted 40 to 50 narcotics investigations, and made at least 30 narcotics-related arrests, near that intersection. He stated that the area was known "[f]or selling heroin." During the investigation in question, Officer Bracamontes was the surveillance officer and stationed inside an unmarked vehicle about 125 feet away from the intersection. As the surveillance officer, he was responsible for observing suspected sellers and buyers of narcotics, and monitoring where the narcotics were being retrieved from by the sellers. During the investigation, he was in communication, via police radio, with the members of his team, including enforcement officers Rolando Ruiz, Duran, Berka and Jones, who were responsible for stopping and interviewing the suspected buyers and sellers.

¶ 6 While conducting his surveillance, Officer Bracamontes observed the defendant standing in front of a grocery store on the southeast corner of Augusta and Lavergne. As the defendant

stood there, an unidentified individual approached her, engaged her in a brief conversation and tendered to her an unspecified amount of money. The defendant then walked about 30 feet to the back of the grocery store, removed a small item from a purple bag that was on the ground and tendered the item to the unidentified individual. After witnessing this transaction, Officer Bracamontes radioed enforcement officers Ruiz and Duran to stop the unidentified individual. A short time later, the enforcement officers radioed Officer Bracamontes and informed him that the unidentified individual was in possession of heroin. After receiving this information, Officer Bracamontes directed Officer Ruiz to recover the purple bag, which contained one taped tinfoil packet of suspect heroin. The defendant was subsequently arrested and transported to the 15th District police station.

¶ 7 Officer Ruiz testified that he had been a police officer for eight years and was assigned to the 15th District tactical team. He stated that, as a team member, he had been a part of hundreds of narcotics investigations and made hundreds of narcotics-related arrests. During the narcotics investigation in question, Officer Ruiz and his partner Officer Duran were informed by Officer Bracamontes that he had observed a suspect narcotics transaction and directed them to stop the suspected buyer. Officers Ruiz and Duran approached the individual and informed him of the narcotics surveillance. Officer Ruiz testified that, as they did so, the individual told Officer Duran that he had "blow," a street term for heroin. Defense counsel objected to the answer on the basis of hearsay. The State responded that the answer was not being offered for the truth of the matter asserted "but for the effect on the listener and the officer's continuing course of conduct with respect to this individual." The circuit court overruled the objection. The State then asked Ruiz if the individual told him where he purchased the heroin. Defense counsel objected on the basis of leading the witness. The court overruled the objection.

¶ 8 Officer Ruiz then testified that the individual said he purchased the narcotics from a woman and directed the officers to his right, front, pants pocket, where Officer Duran recovered a tinfoil packet, encased in black and white tape, containing suspect heroin. Officer Duran kept the narcotics on his person until they were inventoried at the police station. The officers placed the individual under arrest and called for a transport vehicle. Shortly thereafter, Officer Bracamontes directed the officers to approach the defendant. The officers detained the defendant and Officer Ruiz recovered the purple bag from behind the grocery store. Inside the bag was a tinfoil packet, encased in black and white tape, containing suspect heroin. Officer Ruiz kept the bag in his custody until he arrived at the police station where it was inventoried.

¶ 9 The parties stipulated that if called to testify, Daniel Bryant, a forensic scientist at the Illinois State Police Crime Lab, would testify that he tested the two items recovered by the officers, that each item weighed .1 grams and tested positive for the presence of heroin.

¶ 10 After hearing closing arguments, the circuit court found the defendant guilty of the charged offense. In announcing its decision, the court stated that its ruling was based on the credible testimony of the officers and the immediate stop of the buyer who was found to be in possession of suspect narcotics packaged similarly to the narcotics recovered from the purple bag, which was in the defendant's constructive possession.

¶ 11 Prior to sentencing, the defendant filed a motion for a new trial, arguing, in part, that she was denied her right to a fair trial because the State improperly relied on hearsay testimony during its direct examination of Officer Ruiz. In denying the motion, the circuit court stated that it was "not certain how [the State] did so," and that the court only considered appropriate evidence in making its determination that the State had met its burden. The court then sentenced the defendant to six years' imprisonment for delivery of a controlled substance.

¶ 12 On appeal, the defendant contends that she was denied her right to a fair trial when the circuit court overruled her hearsay objection and allowed Officer Ruiz to testify to the suspected buyer's statement that he purchased heroin from a woman. The defendant argues that this out-of-court statement, offered for its truth, was not proper course-of-investigation evidence because the State did not need this evidence to explain Officer Ruiz's actions. She maintains that, because this statement went directly to the element of whether she delivered heroin, the resulting prejudice from this statement greatly outweighed its probative value.

¶ 13 We initially observe, as pointed out by the State, that the defendant's argument, that she objected to the testimony in question on the basis of hearsay, is belied by the record. The record shows that, following Officer Ruiz's testimony that the suspected buyer told him that he was in possession of heroin, the following colloquy took place:

"[THE STATE]: Did he tell you where he got it?

[DEFENSE COUNSEL]: Objection, leading.

THE COURT: That is not leading. Overruled.

[OFFICER RUIZ]: If I remember correctly, he said he bought it from a female."

Having specified a ground for an objection at trial, the defendant waived on appeal any alternative objections not specified. See *People v. Terrell*, 185 Ill. 2d 467, 507 ("[a]n objection to evidence on specified grounds waives on appeal any alternative objections not specified"), citing *People v. Steidl*, 142 Ill. 2d 204, 230 (1991); see also *People v. Enoch*, 122 Ill. 2d 176, 186 (1988) (both a trial objection and a written posttrial motion raising the issue are necessary to preserve an issue for review). Accordingly, the defendant has waived this issue on appeal.

¶ 14 In her reply brief, the defendant argues that she did not waive this issue where the circuit court overruled her initial hearsay objection to Officer Ruiz's testimony about the buyer's

statement that he was in possession of heroin after finding the testimony admissible under the course-of-investigation exception to the hearsay rule. The defendant maintains that she was not required to persist in futilely challenging erroneous hearsay testimony, where it was clear what the court's ruling would be when a similar issue presented itself. In support of this argument, the defendant relies on: *People ex rel. Klaeren v. Village of Lisle*, 202 Ill. 2d 164, 178 (2002) ("there is no need to object when it is apparent that an objection would be futile"); *People v. Was*, 22 Ill. App. 3d 859, 865 (1974) (where a court holds a mistaken belief about the rules of evidence a defendant is not obligated to continue to object to improper testimony); and *People v. Saldivar*, 113 Ill. 2d 256, 266 (1986) (following an objection, counsel was not required to interrupt the court and point out that the court was considering wrong factors in aggravation).

¶ 15 We find these cases readily distinguishable from the case at bar. In short, here, unlike the cases relied on by the defendant, she raised only one hearsay objection to Officer Ruiz's allegedly erroneous testimony, there was no indication that the circuit court held a mistaken belief about a rule of evidence (*Was*, 22 Ill. App. 3d at 865; *Saldivar*, 113 Ill. 2d at 266), and the court did not admonish the parties that it would not consider any objections (*Klaeren*, 202 Ill. 2d at 178-79). Under these circumstances, we see no basis for the defendant's argument that she was not required to persist in futilely challenging erroneous hearsay testimony, where it was clear what the court's ruling would be when a similar issue presented itself. As such, the defendant is not excused from our application of the waiver rule. This is especially so where, as here, the defendant does not argue that we should review the issue for plain error. See *People v. Ramsey*, 239 Ill. 2d 342, 412 (2010) (a reviewing court will generally honor a defendant's procedural default in the absence of a plain-error argument). Because the defendant waived

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review of this issue and does not argue that the plain-error exception to the waiver rule applies, we need not reach the merits of this appeal.

¶ 16 For the reasons stated, the judgment of the circuit court of Cook County is affirmed.

¶ 17 Affirmed.