2011 IL App (2d) 090885-U
No. 2-09-0885
Order filed September 6, 2011

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiff-Appellee, v. TERRENCE L. WILLIAMS, Defendant-Appellant.	))))))))))	Appeal from the Circuit Court of De Kalb County. Nos. 07-DT-654, 07-CM-1710, 07-TR-19043 Honorable Robbin Stuckert, Edward Schreiber, and Kurt Klein, Judges, Presiding.

JUSTICE HUTCHINSON delivered the judgment of the court.
Presiding Justice Jorgensen and Justice Hudson concurred in the judgment.

ORDER

Held: The trial court properly denied defendant's motion to dismiss because defendant was not denied his right to a speedy trial where the subsequent charges were not additional and continuances were attributed to defendant. The trial court's failure to fully comply with Supreme Court Rule 431(b) was not reversible error where defendant failed to prove that the error resulted in harm. Defendant forfeited his claim that the State failed to establish a chain of custody for a urine sample where defendant did not object and the circumstances were such that plain error did not apply. We affirmed the judgment of the trial court.

¶ 1 Following a jury trial, defendant, Terrence L. Williams, appeals his conviction of one count of driving under the influence of cannabis (625 ILCS 5/11-501(a)(6) (West 2006)), one count of

underage consumption of alcohol (235 ILCS 5/6-20 (West 2006)), and one count of speeding (625 ILCS 5/11-601(b) (West 2006)). Defendant was sentenced to concurrent terms of 18 months, 18 months, and 3 months of court supervision, respectively, in addition to fines and court costs. On appeal, defendant contends (1) that compulsory joinder/speedy trial principles precluded the State from charging him with driving under the influence of cannabis after the 160-day speedy trial term had expired; (2) that the trial court erred when it failed to appropriately question jurors pursuant to Supreme Court Rule 431(b) (Ill. S. Ct. R. 431(b) (eff. May 1, 2007)); and (3) the State failed to prove a chain of custody for its urine sample sufficient to show that the sample was not tainted. We affirm.

¶ 2 On October 13, 2007, defendant was cited for speeding. See 625 ILCS 5/11-601(b) (West 2006) (October 13 citation). The following day, defendant was cited for driving under the influence (DUI) (625 ILCS 5/1-501(a)(4) (West 2006) (October 14 citation). On October 17, 2007, additional charges of unlawful possession of drug paraphernalia (720 ILCS 600/3.5(a) (West 2006)) (October 17 charges) and unlawful consumption of alcohol (235 ILCS 5/6-20 (West 2006)) (October 17 charges) were brought against defendant. On November 30, 2007, defendant filed a speedy trial demand.

¶ 3 On August 21, 2008, the State moved to amend the uniform traffic citation originally charging defendant with a DUI (October 14 citation) that alleged that defendant drove under the influence of cannabis to a degree that rendered him incapable of driving safely. The proposed amendment alleged that defendant drove with an alcohol concentration of .08 or more. See 625 ILCS 5/1-501(a)(1) (West 2006) (August 21 citation). The trial court granted the State's motion to amend. While amending the citation, the parties discovered another DUI citation alleging defendant

drove with cannabis in his breath, blood, or urine. See 625 ILCS 5/1-501(a)(6) (West 2006) (July 23 citation). On September 4, 2008, the State nolle prossed the July 23 citation.

¶ 4 The following day, the State sought to reinstate the July 23 citation. The State explained that it dismissed the July 23 citation because there was not enough evidence to support the charge. However, the recently received lab results showed traces of cannabis in defendant's urine. Defendant objected to the reinstatement. Defendant argued that he lacked notice of the July 23 citation. Defendant also asserted a speedy trial violation because more than 160 days had passed since the original charges. Further, defendant alleged a discovery violation because the July 23 citation was not disclosed during discovery. The trial court allowed the State to reinstate the July 23 citation "based on it was just dropped yesterday and there was discussions [sic] about it as well, so I will let you re-amend and then we'll file a motion to dismiss." On September 5, 2008, defendant was charged by information with DUI alleging that defendant drove with cannabis in his breath, blood or urine. 625 ILCS 5/11-501(a)(6) (West 2006) (September 5 information).

¶ 5 Defendant moved to dismiss the September 5 information on speedy trial grounds. At the hearing on his motion, defendant argued that, because all of the charges ever brought by the State stemmed from the same incident on October 13, 2007, each was subject to his November 30, 2007, speedy trial demand. Defendant argued that although the September 5 information was not brought until September of 2008, the 160 days of the speedy trial clock had expired because the charge stemmed from the October 13, 2007, incident, for which he demanded a speedy trial. The State argued that it did not have actual knowledge of facts forming the basis of the September 5 information until it received the lab results on May 18, 2008 and the lab report on September 4, 2008. The trial court found that the State did not have actual knowledge of all of facts necessary to

bring the September 5 information before May 18, 2008. The trial court ruled that the cases should be joined rather than tried separately and denied defendant's motion.

¶ 6 Defendant filed a motion to reconsider. Although from the record it appeared that the charge that constituted the September 5 information was originally issued on October 14, 2007, it was later determined that the citation for the alleged violation (which occurred on October 13, 2007) was actually issued on July 23, 2008. Defendant argued that the State should have known about the charge identified in the September 5 information on October 17, 2007, when it filed the original charges. Where the State is required to bring a single prosecution under compulsory joinder, defendant argued that the speedy trial clock began when he filed his demand on November 30, 2007. Thus, defendant argued that the speedy trial period expired on May 9, 2008, and all continuances were attributable to the later-dropped offenses. The State countered that the police did not have the results of the urinalysis until May 18, 2008, and did not receive the written report until September 4, 2008. According to the State, because it did not have the report until September 4, 2008, it initially dismissed the July 23 citation. The State asserted that the reinstatement of the July 23 citation was not a new charge; rather, it related back to the original charge and did not require that new elements be proved. Thus, according to the State, from May 18, 2008, the day the lab results were received, until September 5, 2008, the day the September 5 information was reinstated, only 111 days had passed.

¶ 7 The trial court found that the State was aware that a urine sample was taken, but agreed that the State could not proceed against defendant for driving while there was cannabis in his urine pursuant to 501(a)(6) until it was confirmed that cannabis was present in defendant's urine. Hence, the trial court determined that the State could not proceed on the charge until they accessed the lab

result. Additionally, the trial court determined that there was no evidence that the State caused any delay in acquiring the lab results. Any prejudice was diminished because defendant requested continuances during the life of this case. The record reflects that orders of continuances were entered pursuant to defendant's motions on November 20, 2007; December 17, 2007; February 4, 2008; March 17, 2008; April 7, 2008; June 5, 2008; September 5, 2008; September 8, 2008; October 2, 2008; November 6, 2008; and February 9, 2009. Accordingly, the trial court denied defendant's motion.

¶ 8 Before trial, the State nolle prossed the October 14 citation and chose to proceed on the September 5 information. During *voir dire*, the trial court informed the venire:

> "Under our system of justice the defendant is presumed to be innocent, and that presumption of innocence remains with the defendant throughout every stage of trial. It is only overcome by the jurors in jury deliberations if you feel the State has proven the case beyond a reasonable doubt. That's our system of justice."

Thereafter, the trial court asked the venire:

> "does anybody here feel for whatever reason that they couldn't be fair and impartial to both sides in this case? If so, raise your hand. The record should reflect that no one has raised their hand."

Before the trial court allowed counsel to individually question the members of the venire, it again admonished the venire concerning defendant's presumption of innocence.

¶ 9 The trial court did not individually question members of the venire. The State asked eight of the impaneled jurors whether they had any moral, philosophical, or religious beliefs that would make it difficult for them to sit in judgment. They indicated that they did not. The State also asked

all but one of the impaneled jurors and the alternate whether they would sign a guilty verdict if the State proved their case beyond a reasonable doubt. Each responded affirmatively. Defense counsel asked all impaneled jurors and the alternate whether they believed it was the State's burden to prove defendant guilty, the jurors agreed that defendant did not have to prove his innocence.

¶ 10 On May 11, 2009, the case proceeded to a jury trial. The following evidence was adduced at trial. Sycamore Police Detective Jeff Wig testified that, at approximately midnight on October 13, 2007, he assisted the De Kalb police department with traffic overflow during Northern Illinois University's homecoming. While traveling west on Sycamore Road, Wig observed a Chevy Monte Carlo driving eastbound at a high rate of speed. Wig determined that the vehicle was traveling at a rate of 47 miles per hour in a 35-miles-per-hour zone. Wig initiated a traffic stop. He testified that defendant was the sole occupant of the vehicle.

¶ 11 Wig testified that when he spoke with defendant, he smelled a strong odor of cannabis inside defendant's vehicle and a moderate odor of alcohol on defendant's breath. Defendant's eyes were bloodshot and glassy, and defendant had difficulty retrieving his license from his wallet. Wig testified that defendant's driver's license listed his birth date as September 15, 1988, making him 19 years old. Wig asked defendant whether he had consumed any alcohol or smoked any cannabis. Defendant denied drinking alcohol but admitted that he smoked cannabis. Thereafter, Wig asked defendant to step out of the car and requested permission to search the vehicle. Defendant permitted the search.

¶ 12 Wig testified that, upon searching the vehicle, he found a silver grinder inside the glove compartment and that the glove compartment smelled of cannabis. Although Wig testified that he did not open the grinder, he stated that he had previously seen drug paraphernalia like the grinder

and was aware that it was commonly used to grind cannabis. Wig issued defendant a citation for speeding and called for assistance.

¶ 13 De Kalb County sheriff's department Deputy Rood testified that he arrived to assist Wig's investigation. Upon arrival, Rood spoke to Wig, and Wig provided him with the grinder. When Rood opened the grinder, he observed a leafy green substance that had the odor of cannabis. After defendant's arrest, Rood took custody of the grinder and later entered the grinder into evidence.

¶ 14 Rood testified that defendant was inside his vehicle when he arrived at the scene. Rood noticed that defendant's eyes were glassy and that there was a strong odor of alcohol and cannabis inside defendant's vehicle. Rood asked defendant to exit the vehicle and brought him to an adjacent parking lot. Rood testified that defendant passed a field sobriety test. Rood attempted to administer a portable breath test, but could not get a reading. Rood testified that he asked defendant if he had been drinking, and defendant stated that he had been drinking. Rood placed defendant under arrest. Rood further searched defendant's vehicle and found an empty tequila bottle in the trunk. Rood then transported defendant to jail.

¶ 15 Rood testified that after advising defendant of his *Miranda* rights, defendant told Rood that he consumed the bottle of tequila earlier in the day and had smoked one joint of marijuana the previous evening. Defendant also stated that the leafy green substance in the grinder was marijuana but indicated that the grinder did not belong to him. Defendant was later released on bail.

¶ 16 Rood testified that he collected a urine sample from defendant. Rood opened the seal on a sterile collection cup, handed it to defendant, and observed defendant give the sample. When defendant finished, Rood capped and sealed the collection cup. Rood testified that, although he had previously transported other drug evidence in his trunk, he secured all evidence in plastic bags.

Rood testified that he secured defendant's urine sample in the trunk of his patrol car and drove it to Kishwaukee Hosptial to obtain the proper mailing package needed to send the sample to the State crime lab. After placing the container in the mailing box and signing the outer seal, Rood logged the sample into the property room.

¶ 17 Sergeant Krista Haberkamp testified that, at the jail, she administered a Breathalyzer test to defendant. The Breathalyzer test registered .01. Haberkamp admitted that this was below the legal limit.

¶ 18 Illinois State Police crime lab forensic scientist Colleen Lord testified that she received one container of urine sealed in a box. The box was labeled with case number W08-826. The sample in the box was inside an unsealed bio-hazard bag. Lord testified that it was typical to receive samples in unsealed bio-hazard bags because the bag's primary purpose was to contain leaks rather than to act as a seal. Lord testified that, upon checking the number on the box against the evidence receipt, she noticed a discrepancy on the receipt. Lord testified that she contacted the sheriff's department and learned that the evidence receipt number was incorrect but that the number on the box was correct. Lord testified that she verified that the photocopies of the exterior of the box and the bio-hazard bag in which the urine sample was placed matched the exterior of the box as she received it. Lord further testified that defendant's name was written directly on the urine sample cup.

¶ 19 Lord testified that she conducted a screening test and confirmatory test on the urine sample. The urine tested positive for THC, the active ingredient in marijuana. After completing the tests, Lord placed the sample in long-term storage. Lord testified that the sample remained in her continuous custody and care from the time she received the package until she brought it to court.

Defendant objected to photocopies of the urine sample's packaging and bio-hazard bag, and the trial court overruled defendant's objection.

¶ 20 Before deliberations, the jury was instructed as to the presumption of innocence, the burden of proof, that defendant did not have to prove his innocence, and that defendant's failure to testify could not be considered in arriving at a verdict. The jury found defendant not guilty of unlawful possession of drug paraphernalia, but guilty of DUI, unlawful consumption of alcohol, and speeding. The trial court sentenced defendant to concurrent terms of 18 months, 18 months, and 3 months of court supervision, respectively, and ordered defendant to pay $1,300 in fines and fees.

¶ 21 On June 9, 2009, defendant filed a motion for judgment notwithstanding the verdict, arguing that the State failed to establish a chain of custody regarding the urine sample. Defendant also filed a motion to reconsider sentence and a motion for a new trial, arguing that there was a speedy trial violation and that the State failed to establish a chain of custody. After the trial court denied defendant's motions, defendant timely appealed.

¶ 22 Defendant's first contention is that the trial court erred when it failed to grant his motion to dismiss. Defendant argues that, because he was denied his right to a speedy trial, his motion to dismiss should have been granted. Specifically, defendant argues that the September 5 information arose from the same October 13, 2007, traffic stop, for which defendant received the October 13 citation, the October 14 citation and the October 17 charges. Defendant made a speedy trial request on November 30, 2007. Moreover, defendant argues that the September 5 information was filed after the 160-day speedy trial term expired. The State responds that because the September 5 information was not a new or additional charge, the trial court properly denied defendant's motion to dismiss. We agree with the State.

¶ 23 Both the United States and Illinois constitutions guarantee the right to a speedy trial to persons accused of crimes. U.S. Const., amend VI; Ill. Const. 1960, art. I, section 9; *People v. Cordell*, 223 Ill. 2d 380, 385 (2006). The Illinois legislature enacted section 103-5 of the Code of Criminal Procedure of 1963 (the Code) to specify certain time periods in which a defendant must be brought to trial. *People v. Crane*, 195 Ill. 2d 42, 48 (2001). Section 103-5 of the Code provides that a defendant on bail or recognizance must be tried within 160 days from the date the defendant demands trial, unless delay is occasioned by the defendant. 725 ILCS 5/103-5(b) (West 2006). Where a question of the defendant's rights under section 103-5(b) is a pure question of law, we review *de novo*. *People v. Van Schoyck*, 232 Ill. 2d 330, 335 (2009). However, the trial court's factual findings on a speedy trial claim will be sustained absent an abuse of discretion. *Crane*, 195 Ill. 2d at 43.

¶ 24 At issue here are charges alleging DUI under various theories. Section 11-501 criminalizes driving while under the influence of drugs or alcohol. 625 ILCS 5/11-501(a) (West 2006); *Van Schoyck*, 232 Ill. 2d at 336. Section 11-501(a) provides:

> "(a) A person shall not drive or be in actual physical control of any vehicle within this State while:
>
> * * *
>
> (4) under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving;
>
> ***

> (6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act ***." 625 ILCS 5/11-501(a)(4) and (6) (West 2006).

Under the plain language of the statute, there is only one offense of DUI; subsection (a) sets out the elements of the offense and classifies the offense as a Class A misdemeanor. *Van Schoyck*, 232 Ill. 2d at 337.

¶ 25 In the present matter, as DUI is a single offense, the charge identified in the September 5 information is not a new charge. Rather, it was another basis for conviction of a single DUI offense. See *Van Schoyck*, 232 Ill. 2d at 338. The speedy trial term for original charges will only be applied to later charges that are new and additional such that the defendant was surprised or ambushed by the later charges. *People v. Woodrum*, 223 Ill. 2d 286, 300-01 (2006). Here, the original October 14 citation and the subsequent September 5 information were substantially similar. Both are misdemeanors alleging DUI based upon narcotics ingestion. Additionally, the factual basis is the same for the first and subsequent counts. Thus, the State's action of bringing a second count did not transform defendant's original DUI count and did not surprise defendant. See *id.*

¶ 26 Moreover, a period of delay occasioned by the defendant tolls the speedy trial period. *Id.* at 299. Here, the trial court found that all continuances were attributable to defendant. The record is devoid of any evidence to the contrary. See *id.* at 300-01. Thus, we determine that there was no speedy trial violation and that the trial court properly denied defendant's motion to dismiss.

¶ 27 We also find direction in this matter from *People v. Weddell,* 405 Ill. App. 3d 424 (2010). In *Weddell*, the defendant alleged a speedy-trial violation after the State voluntarily dismissed and later re-filed identical misdemeanor DUI charges. *Id.* at 425. This court determined that, as the

subsequent charges were not new or additional charges, the limitations period for bringing defendant to trial under the speedy trial statute was tolled between the dismissal and refiling. *Id*. at 434. We further determined that a delay caused by the defendant's motion to substitute judge was occasioned by the defendant and, thus, did not count against the State's 160 day limit. *Id.* at 442. Similar to *Weddell*, defendant in the current matter alleged a speedy trial violation after the State dismissed a DUI charge against him and later re-charged defendant with DUI under a different section of the statute. Although, in the current matter, the subsequent DUI charge was not identical to the original charge, the charge identified in the September 5 information was not a new charge but another basis for a conviction of the same DUI offense. See *Van Schoyck*, 232 Ill. 2d at 338. Furthermore, in the present matter, defendant filed numerous continuances which occasioned delay. Thus, as in *Weddell,* we determine that no speedy trial violation occurred in the present matter.

¶ 28 Defendant's second contention is that the trial court committed reversible error when it failed to strictly comply with Supreme Court Rule 431(b). Ill. S. Ct. R. 431(b) (eff. May 1, 2007). Specifically, defendant argues that the trial court failed to question any prospective juror regarding the principles articulated in Supreme Court Rule 431(b). The State admits that the trial court failed to strictly comply with Supreme Court Rule 431(b), but argues that defendant's failure to object forfeited the issue. In the alternative, the State argues that plain error does not apply because any error was harmless and, therefore, defendant was not denied a substantial right. We agree with the State.

¶ 29 Supreme Court Rule 431(b) provides, in relevant part:

> "The court shall ask each potential juror, individually or in a group, whether that juror understands and accepts the following principles: (1) that the defendant is presumed

> innocent of the charge(s) against him or her; (2) that before a defendant can be convicted the State must prove the defendant guilty beyond a reasonable doubt; (3) that the defendant is not required to offer any evidence on his or her own behalf; and (4) that defendant's failure to testify cannot be held against him or her; however, no inquiry of a prospective juror shall be made into the defendant's failure to testify when the defendant objects.
>
> The court's method of inquiry shall provide each juror an opportunity to respond to specific questions concerning the principles set out in this section." Ill. S. Ct. R. 431(b) (eff. May 1, 2007).

¶ 30 We review *de novo* whether the trial court properly complied with the Supreme Court Rules. *People v. Graham,* 393 Ill. App. 3d 268, 270 (2009). The State argues that this issue is forfeited. A matter not raised at trial or in a posttrial motion is forfeited. *People v. Enoch,* 122 Ill. 2d 176, 186 (1988). Although defendant did not raise this issue at trial or in his posttrial motion, defendant argues that the issue can be reviewed under the plain-error doctrine. Under the plain-error doctrine, a reviewing court may review an unpreserved error in two situations: (1) "where the evidence in the case is so closely balanced that the jury's guilty verdict may have resulted from the error and not the evidence," or (2) "where the error is so serious that the defendant was denied a substantial right, and thus a fair trial." *People v. Herron,* 215 Ill. 2d 167, 178-79 (2005). The defendant has the burden to persuade a reviewing court that the trial court's error severely threatened the fairness of the trial. *Id.* at 187.

¶ 31 We determine that although defendant failed to raise the issue at trial or in a posttrial motion, we can review the issue for plain-error. See *Herron,* 215 Ill. 2d at 178-79. Initially, we determine that error occurred. Here, although the trial court instructed the jurors on the presumption of

innocence, the State's burden to prove defendant guilty beyond a reasonable doubt, and later instructed the jurors on all four of the Rule 431(b) principles, and counsel questioned some of the jurors regarding defendant's presumption of innocence and the State's burden to prove defendant guilty beyond reasonable doubt, not all of the jurors were asked if they understood and accepted the principles set forth in Rule 431(b). Moreover, each juror did not have the opportunity to respond to specific questions concerning the principles set out in Rule 431(b). Furthermore, the State concedes that the requirements of Rule 431(b) were not met and does not attempt to argue that no error occurred. See *People v. Thompson*, 238 Ill. 2d 598, 607 (2010) (holding that error occurs when the trial court fails to specifically question jurors regarding each of the Rule 431(b) principles and fails to allow jurors a chance to respond to such inquiries).

¶ 32 In the present matter, defendant does not develop an argument that the evidence was closely balanced; rather he argues that under the second prong of the plain-error doctrine, the error was so serious that he was denied a substantial right. We determine that the error was not so serious that the defendant was denied a substantial right. In *Thompson* (238 Ill. 2d at 607-08), our Supreme Court recently held that the trial court's failure to strictly comply with Supreme Court Rule 431(b) does not automatically result in a biased jury. *Id.* at 607-08. Furthermore, defendant has the burden of persuasion to show that the error affected the fairness of his trial and challenged the integrity of the judicial process. *Id.* Where a defendant fails to present any evidence that his jury was biased, he fails to establish the second-prong of plain error. *Id.*

¶ 33 Here, defendant failed to present any evidence that his jury was biased. *Id.* Although defendant failed to allege how the trial court's error harmed him, we note no harm. In the present matter, counsel questioned the potential jurors as to the presumption of innocence and the State's

burden to prove defendant guilty beyond a reasonable doubt, and the trial court instructed the jury as to all four Supreme Court Rule 431(b) principles. Furthermore, defendant was acquitted on one of the four charges against him, had the jury been biased because they were confused as to any one of the Supreme Court Rule 431(b) principles, this result would have been unlikely. See *id.* Because defendant failed to present any evidence that the trial court's error compromised the fairness and integrity of his trial, we determine that defendant failed to establish that the error effected his right to a fair trial and, thus, as plain-error does not apply, the issue is forfeited.

¶ 34 Defendant's third contention is that he was not proved guilty beyond a reasonable doubt of DUI. Specifically, defendant argues that the State's failure to establish a sufficient chain of custody for the urine sample rendered the evidence insufficient to convict him of the DUI offense. Defendant asserts that the urine sample may have been contaminated in Wig's trunk. Defendant further asserts that because the bio-hazard bag was not sealed and evidence receipt did not have the correct number, the chain of custody was not established. The State responds that defendant forfeited the issue.

¶ 35 A challenge to the chain of custody is an evidentiary issue that is subject to forfeiture on review if not preserved by the defendant's objection at trial and inclusion in the claim of his posttrial motion. *People v. Woods*, 214 Ill. 2d 455, 470-71 (2005). Forfeiture is particularly appropriate when the defendant argues that the State failed to lay the proper foundation for the admission of evidence because the defendant's lack of a timely and specific objection deprives the State of the opportunity to correct any deficiency in foundational proof at the trial level. *Woods*, 214 Ill. 2d at 470. Absent plain-error, the failure to object and raise an issue at trial and in a posttrial motion results in forfeiture of the issue on appeal. *Herron*, 215 Ill. 2d at 178-79. When a defendant challenges the sufficiency of the evidence generally, the question is whether any rational trier of fact

could have found the essential elements of the crime beyond a reasonable doubt, after viewing the evidence in the light most favorable to the prosecution. *People v. Cowens,* 336 Ill. App. 3d 173, 175 (2002).

¶ 36 We determine that the issue is forfeited. Here, defendant failed to object to the chain of custody at trial. See *Woods*, 214 Ill. 2d at 470. Although defendant asserts that we should review the issue under the plain-error doctrine, we decline to do so. In the current matter, there was not such a breakdown in the chain of custody that preservation of defendant's right to challenge the chain of custody for the first time on appeal is required. See *Herron,* 215 Ill. 2d 167, 178-79. When the State seeks to introduce an object into evidence, the State must lay an adequate foundation either through the object's identification by witnesses or though a chain of possession. *Woods*, 214 Ill. 2d at 466. The State bears the burden to establish a custody chain that is sufficiently complete to make it improbable that the evidence has been subject to tampering or accidental substitution. *Id.* at 467. To establish a sufficiently complete chain of custody, the State must show that the police took reasonable protective measures to ensure that the substance recovered from the defendant was the same substance tested by the forensic chemist. *Id.* Unless the defendant produces evidence of actual tampering, substitution or contamination, a sufficiently complete chain of custody does not require that every person in the chain of custody testify, nor must the State exclude every possibility of tampering or contamination. *Id.* Rather the State must demonstrate that reasonable measures were employed to protect the evidence from the time that it was seized and that it was unlikely that the evidence was altered. *Id.*

¶ 37 In the current matter, both Deputy Rood and forensic scientist Lord testified regarding the chain of custody. Rood testified that he collected the urine sample from defendant, capped and

sealed the cup, packaged the sample for mailing to the crime lab, and logged the packaged sample into the evidence room. Lord testified that she received the packaged and sealed sample at the crime lab and performed tests to determine if the urine contained any illegal drugs. Although the box containing the urine sample was mislabeled, defendant's name was printed on the sample itself. Moreover, Lord testified that she verified that the photocopies of the exterior of the box and the bio-hazard bag in which the urine sample was placed matched the exterior of the box as she received it. Here, the State's evidence established the probability that the evidence was not compromised and defendant failed to show evidence of tampering or substitution. Thus, any alleged deficiencies in the chain of custody go to the weight, not admissibility of the evidence. *Woods*, 214 Ill. 2d at 467. Thus, we determine that no error occurred and a plain-error analysis is, therefore, unnecessary. Defendant's claim is forfeited.

¶ 38 In sum, we determine that the trial court properly denied defendant's motion to dismiss because the DUI theory alleged in the September 5 information was not additional and continuances were attributed to defendant. Thus, defendant was not denied his right to a speedy trial. We also determine that the trial court's failure to fully comply with Supreme Court Rule 431(b) was not reversible error because defendant failed to prove that the error resulted in harm. Lastly, we determine that defendant's contention that the State's failed to establish a sufficient chain of custody for the urine sample is forfeited.

¶ 39 For the forgoing reasons, we affirm the judgment of the circuit court of DeKalb County.

¶ 40 Affirmed.