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ARKANSAS COURT OF APPEALS

DIVISION III

No. CR-22-563

JAMES RAY SANDERSON
APPELLANT

V.

STATE OF ARKANSAS
APPELLEE

Opinion Delivered April 12, 2023

APPEAL FROM THE LONOKE
COUNTY CIRCUIT COURT
[NO. 43CR-21-503]

HONORABLE BARBARA ELMORE,
JUDGE

AFFIRMED

BART F. VIRDEN, Judge

The Lonoke County Circuit Court convicted appellant James Ray Sanderson of possession of a controlled substance (methamphetamine), and he was sentenced as a habitual offender to seven years' imprisonment. Sanderson argues that the trial court erred in denying his motion to dismiss the charge on the basis that the State failed to provide a sufficient chain of custody. We affirm.

I. *Background*

Officer Michael Leddon with the Cabot Police Department testified that in July 2021, he conducted a traffic stop of a vehicle driven by Sanderson and discovered a pill bottle containing two baggies of methamphetamine during a search of the vehicle. Leddon also detailed the steps he took in submitting the evidence for testing. Leddon said that he put the items inside individual baggies and then put those baggies into a manila envelope. Leddon signed the envelope and watched a sergeant seal the top and initial the envelope.

Leddon testified that the original baggies in which he had placed the drugs were no longer present but that they had been placed in very similar baggies that had been labeled and initialed by the chemist.

Jacob Kordsmeier, a forensic analyst at the Arkansas State Crime Laboratory, testified that he had received the items for testing in a sealed manila envelope. He had cut the bottom of the envelope to remove the items. He testified that he had taken the drugs out of the pill bottle and placed them into baggies that he labeled E1A and E1B and initialed. Those items were then described in his lab report. After testing the drugs, Kordsmeier returned them to the envelope, sealed the bottom where he had cut it open, and placed it in secure storage.

Defense counsel raised no objection to the above testimony or to the admission of State's exhibit 1, which was the pill bottle and baggies of methamphetamine, or State's exhibit 5, which was the lab report. At the conclusion of all of the evidence, defense counsel moved to dismiss, arguing that the State had failed to provide a sufficient chain of custody with respect to State's exhibit 1. He further argued that other people who had handled the evidence should have testified. The trial court denied the motion.

II. *Discussion*

Sanderson argues that there was insufficient evidence to convict him of possession of a controlled substance because the State failed to prove the authenticity of the evidence and a proper chain of custody. He cites *Crisco v. State*, 328 Ark. 388, 943 S.W.2d 582 (1997), in which the supreme court reversed a drug-delivery conviction because the description of the drugs by the police officer and the chemist differed significantly. The supreme court concluded that the trial court had abused its discretion in allowing the drugs into evidence.

Although Sanderson couches his argument as one challenging the sufficiency of the evidence, a chain-of-custody argument is an evidentiary argument that requires a contemporaneous objection. Evidentiary matters regarding the admissibility of evidence are left to the sound discretion of the trial court and will not be reversed absent an abuse of that discretion. *Webb v. State*, 2020 Ark. App. 368, 605 S.W.3d 295. In *Crisco*, the supreme court reviewed and found error in the trial court’s decision to admit drugs into evidence following a contemporaneous objection. The supreme court pointedly did not review the sufficiency of the evidence because the directed-verdict motion was not specific.

Here, Sanderson did not object to the admission of the drugs into evidence until he moved for dismissal at the conclusion of the trial. The supreme court has held that a chain-of-custody argument was not preserved for appellate review when the appellant did not object to the evidence until his directed-verdict motion. *Dixon v. State*, 310 Ark. 460, 839 S.W.2d 173 (1992). Likewise, in *King v. State*, 2014 Ark. App. 554, 447 S.W.3d 126, we refused to address a chain-of-custody argument as a challenge to the sufficiency of the evidence; rather, we held that the argument involved an evidentiary matter that requires a contemporaneous objection to preserve the argument for appeal. The same reasoning applies here. We thus affirm Sanderson’s conviction without addressing the merits of his argument.

Affirmed.

GRUBER and BROWN, JJ., agree.

Robert M. “Robby” Golden, for appellant.

Leslie Rutledge, Att’y Gen., by: *Adam Jackson*, Ass’t Att’y Gen., for appellee.