

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

NO. COA11-900
NORTH CAROLINA COURT OF APPEALS

Filed: 7 February 2012

IN THE MATTER OF:

R.D.K.

Buncombe County
No. 09 JB 95

Appeal by juvenile from orders entered 14 March and 4 April 2011 by Judge Julie M. Kepple in Buncombe County District Court. Heard in the Court of Appeals 17 January 2012.

Attorney General Roy Cooper, by Assistant Attorney General Lauren D. Tally, for the State.

Charlotte Gail Blake for the juvenile.

HUNTER, Robert C., Judge.

R.D.K. ("the juvenile") appeals from adjudication and disposition orders finding him to be a delinquent juvenile for possessing drug paraphernalia. The trial court placed the juvenile on probation for 12 months, required the juvenile to comply with a curfew of 8:00 p.m. to 6:00 a.m., and directed the juvenile and his parents to cooperate with a treatment assessment. The juvenile's sole argument on appeal is that the

trial court erred in denying his motion to suppress because it failed to make necessary findings of fact. However, because the juvenile did not renew his objection to the admission of the challenged evidence during the adjudication hearing, the juvenile has failed to properly preserve his sole issue for appellate review and we must dismiss his appeal.

It is well established that:

A pretrial motion to suppress is a type of motion *in limine*. Our Supreme Court has consistently held that [a] motion *in limine* is insufficient to preserve for appeal the question of the admissibility of evidence if the defendant fails to further object to that evidence at the time it is offered at trial. Rulings on motions *in limine* are preliminary in nature and subject to change at trial, depending on the evidence offered, and thus an objection to an order granting or denying the motion is insufficient to preserve for appeal the question of the admissibility of the evidence.

State v. Tutt, 171 N.C. App. 518, 520, 615 S.E.2d 688, 690 (2005) (citations and quotation marks omitted); *see also State v. Patterson*, 194 N.C. App. 608, 616, 671 S.E.2d 357, 362 ("To preserve the matter for appeal, a defendant must object to the admission of evidence at trial despite a previously submitted motion *in limine*."), *disc. review denied*, 363 N.C. 587, 683 S.E.2d 383 (2009).

Here, the juvenile's attorney moved pre-trial to suppress the drug paraphernalia discovered pursuant to a search of the juvenile. After hearing evidence, the trial court denied the motion to suppress and proceeded to the adjudication hearing. At the hearing, the State moved to introduce the drug paraphernalia into evidence. The trial court asked the juvenile's attorney if there was any objection to the admission of the evidence, and the attorney replied: "No objection." Accordingly, having not objected to the admission of the drug paraphernalia during the hearing, the juvenile has failed to preserve the matter for appeal. As the juvenile presents no other arguments on appeal, we must dismiss his appeal.

Dismissed.

Judges STEPHENS and ERVIN concur.

Report per Rule 30(e).