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2012 IL App (3d) 100371-UB

Order filed July 2, 2012  
Modified Upon Denial of Rehearing August 24, 2012

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2012

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	of the 10th Judicial Circuit,
Plaintiff-Appellee,	)	Tazewell County, Illinois,
	)	
v.	)	Appeal No. 3-10-0371
	)	Circuit No. 07-CF-622
DEANA L. MIBBS,	)	
	)	Honorable
Defendant-Appellant.	)	Michael E. Brandt,
	)	Judge, Presiding

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JUSTICE O'BRIEN delivered the judgment of the court.  
Justices Holdridge and Wright concurred in the judgment.

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**ORDER**

- ¶ 1 *Held:* The trial court did not err when it denied defendant's motions to quash arrest and suppress evidence and statements. The State did not violate defendant's motions *in limine* regarding other crimes evidence and its closing argument was not improper; therefore, plain error review was inapplicable.
- ¶ 2 Defendant Deana Mibbs was convicted by a jury of unlawful possession of a methamphetamine precursor and unlawful possession of methamphetamine, and sentenced to a 12-1/2-year term of imprisonment. She appealed. We affirm.

¶ 3

## FACTS

¶ 4 Defendant Deana Mibbs was indicted for unlawful possession of a methamphetamine precursor and unlawful possession of methamphetamine. 720 ILCS 646/20(a)(1), 60(a) (West 2007). The indictment alleged that Mibbs knowingly possessed 30 or more but less than 150 grams of a substance containing a methamphetamine precursor, pseudoephedrine, in standard dosage form, with the intent that it be used to manufacture methamphetamine, and that she knowingly possessed less than five grams of a substance containing methamphetamine.

¶ 5 Mibbs filed a motion to quash her arrest and suppress evidence. She argued that she was unlawfully arrested and that evidence was seized without a warrant, probable cause or exigent circumstances. A hearing took place on Mibbs's motion. She testified that she was staying at the Concord Inn in Pekin on September 29, 2007. Two friends, Bethany Denney and Daniel Huddleston, came to visit. They remained in her room while she left to run errands around 1:30 p.m. On her return, she encountered parole officer Brad Burrell and two Pekin police officers in her room. Denney and Huddleston were still in the room. Only they had permission to enter her motel room. She denied telling Burrell that the drugs found in the room belonged to her. She was arrested, and while being transported to the police station, Burrell made a telephone call, after which he told her that she would not be "violated" because she was no longer on parole. She had been released from prison on March 14, 2005, after serving time on a prior conviction. Before she was released, authorities at the Illinois Department of Corrections (DOC), including her DOC counselor, told her that her conviction had been changed from a Class X felony to a Class 1 felony and that her mandatory supervised (MSR) term would be two years, not three, as originally indicated. On release from prison, she was provided a MSR agreement that required her to consent to any search of her person or residence during her

MSR term. When she was arrested in November 2007, Mibbs believed she had completed her MSR term, although she did not receive any discharge paperwork.

¶ 6 Parole officer Burrell testified that Mibbs was assigned as his parolee when she was released from the DOC in March 2005. Her MSR period was three years and would last until March 14, 2008, which Mibbs was told when she signed her MSR agreement. He did not tell her after the instant arrest that she was no longer on MSR or that she would not be violated, although Mibbs told him she did not believe she was still on MSR. He had visited her at her registered address in June 2007. In September 2007, he spoke with Mibbs's father and son at her registered address. They stated she had moved and was living in local hotels. Mibbs's son called Burrell the night before she was arrested and stated that Mibbs was at the Concord Inn and using methamphetamine. Burrell went to the motel and knocked on the motel room door, which was opened by a woman he did not know. From the doorway, he observed a baggie with what "looked like white pills in it" and a scale in plain view on a night stand. He entered the room, where he discovered methamphetamine and other contraband.

¶ 7 After review of the record of Mibbs's 2003 arrest, the trial court took judicial notice that Mibbs was sentenced to a Class X felony in Tazewell County in May 2004. The trial court thereafter noted that the court reporter in Mibbs's prior case verified that she had been sentenced for a Class X felony and was admonished that her MSR term would be three years. The trial court denied Mibbs's motion to quash and suppress, finding that she had pleaded guilty to a Class X felony in 2004; she was serving her three-year MSR term in September 2007, when the offenses at bar occurred; Burrell had reasonable suspicion to believe she had violated her MSR conditions; Burrell's warrantless entry into Mibb's motel room was lawful; Mibbs was not in custody when she admitted possession of contraband; there was probable cause to arrest her based on her admissions; and Burrell lawfully

arrested her.

¶ 8 Mibbs filed a motion to reconsider in December 2008. She argued that her prior felony was a Class 1 felony, although she pleaded guilty to it as a Class X felony; that her MSR term was two years; and that two and one-half years had elapsed between her release from prison and the search of her motel room. The trial court denied Mibbs's motion, relying on the transcript of her guilty plea hearing which reflected that Mibbs pleaded guilty to a Class X felony and was aware it was a Class X felony when doing so, with a three-year MSR term. In May 2009, Mibbs filed a renewed motion to quash her arrest and suppress evidence. Attached to her motion were copies of the 2003 statute showing the offense to which she pleaded guilty in 2004 was a Class 1 felony and DOC documents establishing that it treated her offense as a Class 1 felony. The DOC granted her drug rehabilitation, meritorious good time and good-conduct credit, which could not be credited against a Class X sentence. 730 ILCS 5/3-6-3 (West 2007). In response, the State argued that the good faith exception to the exclusionary rule applied and that the warrantless search was proper under the plain view exception to the warrant requirement. The State conceded that the offense to which Mibbs pleaded guilty was a Class 1 felony and that the judgment order indicating a conviction for a Class X felony was void. In reply, Mibbs argued that the good faith exception did not apply because the DOC engaged in "deliberate, reckless, or grossly negligent" conduct or conduct that involved "recurring or systemic negligence." She further argued that because she was not on MSR when Burrell searched her motel room, the plain view doctrine did not negate the warrant or consent requirements necessary for a search.

¶ 9 Hearings took place on Mibbs's motion. She submitted that the good faith exception to the exclusionary rule did not apply because the DOC engaged in systematic negligence when it knew that

her felony was a Class 1 felony but required her to serve a three-year term of MSR applicable to a Class X felony. Mibbs sought to call her prison counselor as a witness but the trial court denied her request. She made a proffer of proof as to the counselor's testimony, which established that DOC records indicated that it treated Mibbs as a Class 1 felon. The trial court denied Mibbs's motion to reconsider, finding that Burrell legally visited the motel room, knocked on the door, and saw the contraband in plain view. It further found that the exclusionary rule should not apply, even if Burrell was not there with authority as Mibbs's parole officer. The trial court noted that because "this was such a fluke and a mistake," excluding the evidence would not further the exclusionary rule's purpose of deterring police misconduct. The trial court ordered that the records in Mibbs's 2003 case be changed to reflect that her conviction was for a Class 1 felony with a two-year MSR term.

¶ 10 Mibbs filed a motion to suppress statements, claiming that the statements she made to Burrell were involuntary and that her subsequent statements to Tazewell County sheriff's deputy Ryan Tarby were inadmissible as a result. A hearing took place. Burrell testified similarly to his earlier testimony. He was a peace officer but not a law enforcement officer and lacked the power to arrest. On September 29, 2007, Mibbs entered the motel room approximately five minutes after his arrival. She immediately said what he thought was, "everything's mine," which he assumed meant the drugs and paraphernalia in the room. As per his usual procedure, he handcuffed Mibbs because he did not know her condition and he had safety concerns. He brought her to the bathroom to separate her from the others in the room because he did not want her to incriminate herself to their advantage. He asked if she had been using drugs. Mibbs informed him she was using methamphetamine and that all the contraband in the room belonged to her. He did not advise her of her *Miranda* rights as parole officers are instructed not to do so. He called Tarby to respond to the motel room.

¶ 11 Tarby testified. He was assigned to the Peoria Multi-County Enforcement Group (MEG) unit, an undercover narcotics enforcement group. On September 29, 2007, he responded to the Concord Inn after receiving Burrell's call. He observed a baggie of pseudoephedrine pills and a bag containing methamphetamine on the night stand. He advised Mibbs of her rights and she agreed to speak with him. She did not sign the *Miranda* waiver because her hands were cuffed, although she verbally waived her rights. She admitted that the pills and methamphetamine found in the room were hers. She said money found in the night stand drawer belonged to Huddleston.

¶ 12 The trial court granted Mibbs's motion to suppress her statements to Burrell based on his failure to advise her of her *Miranda* rights. Its order stated that "[a]ny statements made by Ms. Mibbs to Officer Burrell are suppressed." The trial court denied Mibbs's motion as to her statements to Tarby, finding that he advised her of her *Miranda* rights and a sufficient passage of time elapsed between the questioning of Mibbs by Burrell and by Tarby. Mibbs filed a motion *in limine* to bar evidence of the marijuana found in the motel room and presented as evidence in the photographs in the State's exhibit #1. Mibbs argued the evidence was impermissible other crimes evidence and not relevant to the charges for which she was to be tried. The trial court ruled "there should be no testimony with reference to cannabis unless it, through cross-examination, otherwise becomes relevant or for some limited purpose appropriate under the law." The trial court granted Mibbs's motion and directed the witnesses be instructed to "not mention cannabis or volunteer the issue of cannabis since that's not a charged offense, unless you specifically request them to."

¶ 13 A jury trial took place. Parole officer Burrell testified consistent with his earlier testimony. He additionally testified that he was a senior corrections parole agent for the State of Illinois working for the DOC. He went to the Concord Inn to see Mibbs, one of his parolees. A woman opened the

door and he could see a bag of white pills and a drug scale on the night stand. Once he entered the room, he also saw a lighter and drug pipe on the night stand. A bag of white powder was also found in the room. He called MEG agent Tarby for assistance because of Tarby's narcotics expertise. Mibbs returned to the room carrying a purse in which he found Q-tips, cellophane, coffee filters with white residue on them, and a "wrapped-up container of illegal drugs." Without objection, the state admitted as exhibits #1 photographs that showed Mibbs's purse and its contents spread out on a bed in the motel room. The exhibit was published to the jury. A rolled-up bag was visible in one of the photographs. In response to the State's questions, Burrell stated the photograph depicted "a bag of what appears to be marijuana" and identified the purse as the one Mibbs was carrying when she came into the motel room. Tarby testified consist with his previous testimony. He arrived at the Concord Inn between 4 and 5 p.m., within 15 to 20 minutes of receiving Burrell's call. Burrell told him that Mibbs had previously admitted the drugs and paraphernalia in the room belonged to her. After he gave Mibbs *Miranda* warnings, she admitted to him that the items in the room belonged to her. He collected the evidence, including a bag of white pills, a bag of white powder that field-tested positive for methamphetamine, a digital scale, and two coffee filters. The coffee filters had been in Mibbs's purse and contained methamphetamine residue. None of the seized items were tested for fingerprints.

¶ 14 Aaron Roemer, a forensic scientist, testified that he analyzed the seized items. One bag contained 0.6 grams of powder that tested positive for methamphetamine. Another bag contained 14.4 grams of 40 half tablets and 14.5 grams of 96 full tablets that contained pseudoephedrine. The two coffee filters contained less than one tenth of a gram of white powder that contained methamphetamine. The clerk at the Concord Inn in Pekin testified that Mibbs checked into the motel on September 28 and was still registered on September 29. No one was with Mibbs when she

registered.

¶ 15 Pekin police officer Justin Fitzgerald testified as a pseudoephedrine-acquisition expert. In February 2009, he began traveling to area pharmacies to review records of pseudoephedrine purchases and to look for suspicious purchase patterns. He identified logs he investigated from Walgreen's that showed Mibbs bought 2,400 and 2,880 milligrams of pseudoephedrine on September 14 and 17, 2007, respectively. The pharmacy manager at Kroger in Pekin identified logs showing that Mibbs bought 1,200 milligrams of pseudoephedrine on September 12, 2007. Mibbs's transaction was legal and less than three times the allowed monthly amount. The pharmacy supervisor of 18 CVS stores in the Peoria area testified CVS used a computer database, MethCheck, to track the amount of a customer's pseudoephedrine purchases, which showed Mibbs bought 2,400 milligrams of pseudoephedrine on September 20, 2007. It was a 10-day supply.

¶ 16 Prior to the presentation of the defense's case, the trial court ruled that if Mibbs testified and denied her admissions to Tarby, the State could rebut her testimony with evidence of her admissions to Burrell. Mibbs testified as the sole defense witness. On September 28, 2007, she checked into the Concord Inn to avoid her boyfriend, with whom she had been fighting. On September 29, 2007, Huddleston and Denney visited her in her motel room. Around 1:40 p.m., she left to run errands. Huddleston and Denney remained in the room. She returned between 3 and 3:30 p.m. She was handcuffed and escorted to the bathroom. She did not tell Tarby that the drugs or coffee filters found in the room belonged to her. She identified her purse but denied any items shown next to the purse, other than a manicure tool, belonged to her. She did not leave methamphetamine, pseudoephedrine pills or money in the room. She admitted making the logged purchases of pseudoephedrine, stating she needed the pills for a cold and allergies. In rebuttal, Burrell testified that Mibbs admitted that the

drugs and paraphernalia belonged to her.

¶ 17 Closing arguments took place. The State presented the following comments, in part:

“Ladies and gentlemen of the jury, take a good look right here. This is the face of methamphetamine production here in Tazewell County. This is the face of the key to the production of methamphetamine production here in Tazewell County. Without individuals like the [d]efendant who are willing to gather up the essential element to the production of methamphetamine, pseudoephedrine, the production of methamphetamine here in Tazewell County would not be possible.”

¶ 18 The prosecutor also stated:

“This is the key. She’s the missing link in methamphetamine manufacturing production. She’s what makes it possible here in our county. Without her, we could not have methamphetamine manufacturing here in Tazewell County. She’s the link. She is the key.”

¶ 19 In rebuttal, the State argued:

“That’s not an inconsistency, ladies and gentlemen of the jury. That’s the blunt, honest testimony of a truthful officer. That’s an officer that can honestly take the stand and say, I’m just going off my memory here, I’m not sure. This is what I think.

I have to look. That is truthful testimony, ladies and gentlemen of the jury.”

¶ 20 On Mibbs’s motion, and prior to the exhibits being presented to the jury for deliberations, the trial court directed the State to redact one photograph in State’s exhibit #1 that showed a rolled-up bag containing marijuana. The jury returned verdicts of guilty of unlawful possession of methamphetamine and unlawful possession of methamphetamine precursor. Mibbs moved for a judgment of acquittal or a new trial. She argued that the trial court erred in denying her motions to quash and suppress the evidence and to suppress statements she made to Tarby. Mibbs’s motion was heard and denied. The trial court sentenced her to a 12-1/2 year term of imprisonment for unlawful possession of a methamphetamine precursor. She was ordered to submit a deoxyribonucleic acid (DNA) sample and pay a \$200 DNA analysis fee “if not already submitted.” Mibbs appealed.

¶ 21

#### ANALYSIS

¶ 22 Mibbs raises a number of issues on review: whether the trial court erred when it denied (1) her motion to quash her arrest and suppress evidence and (2) her motion to suppress statements, (3) whether the State violated two motions *in limine*; (4) whether the State’s closing argument was improper and constituted prosecutorial misconduct; and (5) whether the sentencing mittimus should be amended to delete the DNA sample and fee requirements.

¶ 23 The first issue is whether the trial court erred when it denied Mibbs’s motion to quash her arrest and suppress evidence. Mibbs argues that her arrest should have been quashed and the evidence found in her motel room should have been suppressed because Burrell lacked legal justification to enter the room and the ensuing search and seizure violated her fourth amendment rights.

¶ 24 Unreasonable searches and seizures are prohibited by the United States and Illinois

constitutions. U.S. Const., amend. IV; Ill. Const. 1970, art. I, § 6. A core fourth amendment principle is “a person’s right to retreat into his or her home without unreasonable governmental interference.” *People v. Lampitok*, 207 Ill. 2d 231, 242 (2003); *Kyllo v. United States*, 533 U.S. 27, 31 (2001), quoting *Silverman v. United States*, 365 U.S. 505, 511 (1961). Entry into a motel or motel room is equivalent to entering an individual’s home under the fourth amendment. *Stoner v. California*, 376 U.S. 483, 490 (1964); *Lampitok*, 207 Ill. 2d at 243, n1. The fourth amendment generally requires the State to possess a warrant that is supported by probable cause for a search to be reasonable. *Illinois v. McArthur*, 531 U.S. 326, 330 (2008); *People v. Wilson*, 228 Ill. 2d 35, 40 (2008). The warrant requirement may be unnecessary in cases involving parolees when the search is otherwise reasonable. *United States v. Knights*, 534 U.S. 112, 122 (2001); *Wilson*, 228 Ill. 2d at 40. Whether a search is reasonable depends on the degree it intrudes on one’s privacy balanced against the degree it is needed to promote legitimate governmental interests. *Knights*, 534 U.S. at 118-119, quoting *Wyoming v. Houghton*, 526 U.S. 295, 300 (1999); *Illinois v. Jones*, 215 Ill. 2d 261, 269-70 (2005). A defendant’s status as a probationer or as a parolee is considered the same for fourth amendment purposes. *Lampitok*, 207 Ill. 2d at 256, n1. They both are afforded a diminished expectation of privacy. *Samson v. California*, 547 U.S. 843, 852 (2006); *People v. Moss*, 217 Ill. 2d 511, 531 (2005).

¶ 25 The exclusionary rule prohibits the admission of evidence that was gathered by government officers in violation of the fourth amendment. *Mapp v. Ohio*, 367 U.S. 643, 655 (1961). The exclusionary rule is a judicially-created remedy designed to protect an individual’s fourth amendment rights by deterring police misconduct. *Herring v. United States*, 555 U.S. 135, 144 (2009). “The exclusionary rule serves to deter deliberate, reckless, or grossly negligent conduct, or in some circumstances recurring or systemic negligence.” *Herring*, 555 U.S. at 144. Under the good-faith

exception to the exclusionary rule, in the absence of misconduct by law enforcement, evidence should not be suppressed where law enforcement had a reasonable belief that the search or seizure was lawful. *United States v. Leon*, 468 U.S. 897, 926 (1984). Where there is no law enforcement misconduct, the exclusionary rule does not apply. *Leon*, 468 U.S. at 910. In reviewing a trial court's denial of a motion to quash and suppress, we will not reverse the trial court's factual findings unless they are against the manifest weight of the evidence. *People v. Luedemann*, 222 Ill. 2d 530, 542 (2006). We review the trial court's ultimate legal conclusions *de novo*. *Luedemann*, 222 Ill. 2d at 542.

¶ 26 The trial court found that there was no law enforcement misconduct and the exclusionary rule was not applicable. We agree with its determination. Like the trial court, we acknowledge that use of the exclusionary rule could serve as a deterrent and encourage the DOC to establish better record keeping practices. However, we find no evidence in the record that the actions of either the DOC or Burrell amounted to misconduct. Rather, as the trial court stated, the circumstances were a "fluke" and a "mistake." Mibbs's criminal file included some documents indicating her 2004 conviction was for a Class 1 felony and other documents indicating a Class X felony. Apparently defense counsel, the state's attorney, and the trial court all mistakenly considered that her 2004 conviction was a Class X, with a three-year MSR term. While the error was corrected to some degree while Mibbs was in the DOC, no official correction to her judicial record had been made.

¶ 27 The second issue is whether the trial court erred when it denied Mibbs's motion to suppress statements. Mibbs argues that the trial court should have granted her motion to suppress the statements she made to Tarby. Mibbs points out that Tarby questioned her in the same motel room where Burrell had recently questioned her without advising her of her *Miranda* rights, she was

handcuffed during questioning by both Burrell and Tarby, she made the same statements to Burrell and Tarby, Burrell told her to tell Tarby what she had told him, and Tarby failed to inform her that her statements to Burrell could not be used against her.

¶ 28 The fifth amendment protects individuals in custodial interrogations from being compelled to incriminate themselves. *Miranda v. Arizona*, 384 U.S. 436, 467 (1966). To effectuate the protection, custodial interrogators must advise criminal suspects of their fifth amendment rights before the interrogation begins. *Miranda*, 384 U.S. at 467-68. A defendant may waive her *Miranda* rights; a *Miranda* waiver must be made voluntarily, knowingly and intelligently. *Miranda*, 384 U.S. at 444. A statement made in custodial interrogation and not preceded by *Miranda* warnings is inadmissible. *Miranda*, 384 U.S. at 479. However, it may be admissible for impeachment purposes. *Oregon v. Elstad*, 470 U.S. 298, 307 (1985). A defendant who makes an incriminating statement in response to non-coercive questioning done without *Miranda* warnings may subsequently make voluntary and admissible admissions after *Miranda* warnings are provided. *Elstad*, 470 U.S. at 318. The relevant inquiry is whether the second statement was voluntarily made. *Elstad*, 470 U.S. at 318. To determine whether a statement is voluntary, the court examines the surrounding circumstances and the entire course of police conduct. *Elstad*, 470 U.S. at 318. The court considers whether the statement was made freely and without compulsion or inducement or whether the defendant's will was overcome when she made her incriminating statements. *People v. Prim*, 53 Ill. 2d 62, 70 (1972). In reviewing a trial court's denial of a motion to suppress, the trial court's factual findings will not be reversed unless they are against the manifest weight of the evidence. *Luedemann*, 222 Ill. 2d at 542. The trial court's ultimate legal conclusions are reviewed *de novo*. *Luedemann*, 222 Ill. 2d at 542.

¶ 29 The trial court suppressed the statements Mibbs made to Burrell because he handcuffed and questioned her without first providing *Miranda* warnings. The trial court denied Mibbs's motion to suppress statements she made to Tarby, finding that he advised her of her *Miranda* rights before questioning her, that the two interrogations were conducted by different individuals and that at a sufficient amount of time had passed between the interrogations. Burrell questioned her while she was isolated in the bathroom. After Tarby arrived, he moved her out of the bathroom and questioned her in the sleeping area of the motel room. There was no indication of coercion or misconduct by either Burrell or Tarby. Burrell testified that Mibbs admitted the drugs belonged to her immediately after she entered the motel room. His testimony indicated that his questions to her were directed at her well-being as his parolee and not for a law enforcement purpose. While Tarby's interrogation was focused on Mibbs's criminal conduct, there is no evidence that he coerced her or engaged in any misconduct. Rather, she freely admitted possession of the methamphetamine and the pseudoephedrine. Mibbs's subsequent invocation of her right to counsel supports the voluntariness of her statement to Tarby. Because the statement was voluntarily made and there is no indication Mibbs's will was overborne, we find the trial court properly denied Mibbs's motion to suppress her statements to Tarby.

¶ 30 The third issue is whether the State violated two motions *in limine* and denied Mibbs a fair trial. Mibbs argues that she was denied a fair trial where the State elicited testimony from Burrell and Tarby in violation of the trial court's *in limine* rulings. She maintains that the unwarned statements she made to Burrell and evidence of the cannabis found in her purse were elicited by the State, although they were barred by the trial court pursuant to her motions *in limine*. She asks this court to review the issue under the plain error doctrine as she did not object at trial or raise the issue in her

posttrial motion.

¶ 31 Unpreserved errors are reversible under the plain error doctrine where the evidence is closely balanced regardless of the seriousness of the error or where the error was so serious that it affected the fairness of the defendant's trial and challenged the integrity of the judicial process regardless of the closeness of the evidence. *People v. Piatkowski*, 225 Ill. 2d 551, 565 (2007). Before plain error review may be employed, there must be a clear or obvious error. *Piatkowski*, 225 Ill. 2d at 565. The violation of a motion *in limine* is reversible only when it is prejudicial. *People v. Ward*, 371 Ill. App. 3d 382, 421-22 (2007).

¶ 32 Mibbs complains that testimony about incriminating statements she made to Burrell and about marijuana found in her purse was admitted in violation of the trial court's *in limine* orders. She argues the testimony constituted improper other crimes evidence and its admission prejudiced her. Other crimes evidence is inadmissible to establish a defendant's propensity to commit crimes because it may convince the jury to convict the defendant as a bad person who deserves punishment. *People v. Donoho*, 204 Ill. 2d 159, 170 (2003). " '[E]vidence of other crimes committed by defendant may be admitted if relevant to establish any material question other than the propensity of the defendant to commit a crime.' " *People v. Harris*, 225 Ill. 2d 1, 28 (2007), quoting *People v. Stewart*, 105 Ill. 2d 22, 62 (1984). When offered to prove motive, intent, identity, *modus operandi*, absence of mistake, and any other material fact other than propensity, other crimes evidence may be admissible if its probative value outweighs the prejudice to the defendant. *Donoho*, 204 Ill. 2d at 170.

¶ 33 In ruling on Mibb's motion *in limine* to bar evidence of the marijuana found in Mibbs's purse, the trial court determined that the evidence would be barred unless otherwise admissible based on testimony presented. The trial court noted that the marijuana was not identifiable in the photographs.

During Burrell's testimony in the State's case-in-chief, he stated that Mibbs was carrying a purse containing a "wrapped-up container of illegal drugs" when she walked into the motel room. He identified the photographs in State's exhibit #1, including a photograph showing a wrapped-up, plastic bag of "what appears to be marijuana" next to a scale and another photograph showing Mibb's purse. He did not specifically tie the marijuana to Mibbs's purse, and as recognized by the trial court, the marijuana was not identifiable in the photographs. Because the motion *in limine* barring mention of the marijuana as other crimes evidence was not violated, we find there was no error.

¶ 34 Mibbs also complains that Tarby introduced admissions she made to Burrell, which were suppressed by the trial court for Burrell's failure to provide *Miranda* warnings to Mibbs before questioning her. Prior to mentioning Mibbs's incriminating statements to Burrell, Tarby testified that Mibbs admitted to him that the drugs and paraphernalia in the room belonged to her. He also testified that Mibbs said "everything in the room was hers" then clarified that Mibbs made the admission to Burrell, who repeated it to him. As previously determined by the trial court, Mibbs's initial admissions were made before Burrell detained her and not subject to suppression. Tarby further testified, however, that in response to his specific questions, Mibbs admitted that the illegal items belonged to her. Additionally, Burrell testified to Mibbs's admissions when called to rebut her testimony denying making any admissions. We find there was nothing improper or violative of the motion *in limine* in Tarby's answers.

¶ 35 Because we find there was no error regarding the motions *in limine*, plain error review is thus not warranted.

¶ 36 The fourth issue is whether the State's closing argument was improper and constituted prosecutorial misconduct. She submits that the State committed prosecutorial misconduct when it

made improper statements in its closing arguments that prejudiced her and denied her a fair trial. Mibbs asks for plain error review since she did not object to the comments at trial or raise the issue in her posttrial motion.

¶ 37 The State has great latitude in closing argument and may present any inferences reasonably drawn from the evidence. *People v. Dunsworth*, 233 Ill. App. 3d 258, 267 (1992). The State has a duty of fairness throughout the trial and must refrain from making improper comments in closing argument or arguing facts not in evidence. *Dunsworth*, 233 Ill. App. 3d at 269. Comments aimed at inflaming the passions and prejudices of the jury are improper. *People v. Blue*, 189 Ill. 2d 99, 128 (2000). Furthermore, the State should not voice a personal opinion on, or vouch for, the credibility of its witnesses. *People v. Lee*, 229 Ill. App. 3d 254, 260 (1992). The State may respond to defense comments that invite a response. *People v. Kliner*, 185 Ill. 2d 81, 154 (1998). In determining whether the comments are improper, a court evaluates them “ ‘in light of the context of the language used, its relationship to the evidence, and its effect on the defendant’s right to a fair and impartial trial.’ ” *People v. Young*, 347 Ill. App. 3d 909, 925 (2004), quoting *People v. Billups*, 318 Ill. App. 3d 948, 958-59 (2001). The standard of review is whether the verdict would have been different had the improper remarks not been made. *People v. Nieves*, 193 Ill. 2d 513, 533 (2000).

¶ 38 Mibbs maintains that the State presented improper closing argument by vouching for the credibility of its witnesses, arguing facts not in evidence and inflaming the passions of the jury. She complains the State’s comments that she was the face of methamphetamine production in Tazewell County were designed to inflame the jury and not based on the evidence. We consider the State’s reference to Mibbs as the face of methamphetamine production was a reasonable inference from the evidence presented at trial. As suggested by the testimony of the State’s methamphetamine expert,

the key ingredient to methamphetamine production is pseudoephedrine. The pharmacy logs established that Mibbs purchased multiple packages of pseudoephedrine. Although the State characterized Mibbs as “the” face of methamphetamine production and not “a” face of production, its comments were not such that the jury would consider Mibbs the only contributor in the county to methamphetamine production. Moreover, Mibbs claims that because the State failed to present evidence that she had made other pseudoephedrine purchases, its description of her as the “face of methamphetamine production” is not based on the evidence. The State offered evidence that Mibbs made four pseudoephedrine purchases within several weeks. It did not have to prove Mibbs bought a larger quantity or had a history of so doing in order to infer that she played a role in the local production of methamphetamine. We find the State’s comments that Mibbs was the face of methamphetamine production were not improper. Lastly, Mibbs submits that the State improperly vouched for the credibility of its witness, Tarby, when the prosecutor described his testimony as “truthful” and “the blunt, honest testimony of the truthful officer.” The closing arguments as a whole indicate that the State’s comments were made in rebuttal in response to Mibbs’s attack on Tarby’s credibility. Because there was no error in the State’s closing argument, plain error review does not apply.

¶ 39 The final issue is whether the sentencing mittimus should be amended to delete the DNA sample and fee requirements. This issue has been resolved with the trial court’s entry of an order vacating the DNA requirements in the judgment order.

¶ 40 For the foregoing reasons, the judgment of the circuit court of Tazewell County is affirmed.

¶ 41 Affirmed.