NOT DESIGNATED FOR PUBLICATION

ARKANSAS COURT OF APPEALS

DIVISION III

No. CACR08-749

JUAN CASTILLO, APPELLANT V. STATE OF ARKANSAS, APPELLEE	**Opinion Delivered** 18 FEBRUARY 2009 APPEAL FROM THE HOT SPRING COUNTY CIRCUIT COURT, [NO. CR-2007-246-1] THE HONORABLE CHRIS E WILLIAMS, JUDGE AFFIRMED

D.P. MARSHALL JR., Judge

A Hot Spring County jury convicted Juan Castillo of possession of marijuana with the intent to deliver. He was sentenced to 30 years' imprisonment. None of Castillo's four arguments for reversal has any merit.

First, Castillo's sufficiency challenge fails. Ark. Code Ann. § 5-64-401 (Supp. 2007). We look only at the evidence that supports the conviction and view that evidence in the light most favorable to the State. *Cooper v. State*, 84 Ark. App. 342, 344, 141 S.W.3d 7, 8–9 (2004). Officers found eight bales of marijuana, weighing 140 pounds, in Castillo's truck-bed tool box. Castillo was traveling alone. Castillo admitted, after being Mirandized, that the purpose of his trip to Little Rock was to sell the marijuana. Castillo knew to the dollar how much money he would make. Sergeant David Lafferty brought the eight bales of marijuana into the courtroom and

identified them as the ones recovered from Castillo's truck. The actual bales, however, were never admitted into evidence. Lafferty also weighed the bales during the trial; they weighed 135 pounds. Lafferty testified that the decrease in weight was attributable to the marijuana drying out while in storage and to the taking of samples for analysis. A forensic chemist testified that her tests confirmed that the samples from the bales were, indeed, marijuana. Photographs of the marijuana, taken at the time it was seized from Castillo's truck, were introduced into evidence. Contrary to Castillo's argument, the presence of the bales in the courtroom coupled with the admission of the photographs and supporting testimony provided adequate proof of quantity. In sum, the evidence was substantial. *Cooper*, 84 Ark. App. at 344, 141 S.W.3d at 8–9; Ark. Code Ann. § 5-64-401.

Second, the circuit court's denial of Castillo's motion to suppress the marijuana found in his truck was not erroneous. *Yarbrough v. State*, 370 Ark. 31, 36, 257 S.W.3d 50, 55 (2007). In so holding, we performed a *de novo* review, looking at the totality of the circumstances, reviewing the circuit court's findings of fact for clear error, and giving due weight to inferences drawn by the court. *Bedsole v. State*, ___ Ark. App. ___, ___, ___ S.W.3d ___, ___ (7 January 2009). Castillo does not contest the validity of the initial traffic stop. State Trooper Dennis Overton observed Castillo's truck make a sudden lane change and run off the road onto the shoulder; Overton believed that the driver was either intoxicated or falling asleep. Overton ran Castillo's

Texas driver's license, which showed that it had been revoked. Overton advised Castillo that he was having Castillo's truck towed. Overton also decided to call in a canine unit to "run" the vehicle. The dog alerted at the back of the truck's cab. Using a key from the same key ring containing the ignition key, officers opened the truck's tool box, revealing the bales of marijuana.

"[A] canine sniff of the exterior of a vehicle is not a Fourth Amendment search." *Dowty v. State*, 363 Ark. 1, 8, 210 S.W.3d 850, 854 (2005). "Where there is no 'search' within the meaning of the Fourth Amendment, no reasonable suspicion [was] necessary to justify having the dog smell [Castillo's] vehicle." *Dowty*, 363 Ark. at 9, 210 S.W.3d at 855. When the dog alerted, officers had probable cause to search Castillo's truck. *Willoughby v. State*, 76 Ark. App. 329, 332–33, 65 S.W.3d 453, 456 (2002). Further, Overton had already decided—before calling for the canine unit—to tow Castillo's truck, which is standard practice when a person is found driving alone on a revoked license. Thus, no illegal detention occurred. *Cf. Enriquez v. State*, 97 Ark. App. 62, 244 S.W.3d 696 (2006). The circuit court therefore properly denied Castillo's motion to suppress. *Yarbrough*, 370 Ark. at 36, 257 S.W.3d at 55.

Third, the circuit court did not abuse its broad evidentiary discretion by allowing Sergeant Lafferty to testify about the current street price of marijuana. *Piercefield v. State*, 316 Ark. 128, 131, 871 S.W.2d 348, 350 (1994). First, price was a side issue. Second, Sergeant Lafferty was a twenty-five-year veteran of the State

Police. He spent six years working in the narcotics unit and, at the time of the trial, he was a supervisor for the State Police criminal investigators. Sergeant Lafferty testified that he had not personally purchased marijuana off the street since 1993 or 1994. But he also testified that he had personal knowledge of what different drugs sell for on the street and that he sometimes accompanies agents, whom he supervises, when they are working drug cases in the field. The circuit court, therefore, did not abuse its discretion in admitting his testimony about drug prices. Ark. R. Evid. 801; *Piercefield*, 316 Ark. at 131, 871 S.W.2d at 350.

Lastly, the circuit court did not abuse its discretion in refusing to offer the jury a probation instruction. *Benjamin v. State*, 102 Ark. App. 309, 314, ___ S.W.3d ___, ___ (2008); Ark. Code Ann. § 16-97-101(4) (Repl. 2006). The record reveals that the court took into consideration the seriousness of the offense, the amount of drugs uncovered in Castillo's truck, and the legislature's intent in categorizing Castillo's offense as a Class A felony. The colloquy between the court and the attorneys shows that the court did not act "improvidently, thoughtlessly, or without due consideration." *Benjamin*, 102 Ark. App. at 315, ___ S.W.3d at ___.

Affirmed.

ROBBINS and BROWN, JJ., agree.