"Where, as here, the supporting affidavit fails to establish probable cause to justify a search, Florida courts refuse to apply the good faith exception." *Garcia*, 872 So. 2d at 330 (first citing *Getreu v. State*, 578 So. 2d 412 (Fla. 2d DCA 1991); and then citing *Bonilla v. State*, 579 So. 2d 802 (Fla. 5th DCA 1991)). A reasonably trained law enforcement officer would have known that the affidavit in this case failed to establish probable cause for the search, so the good-faith exception does not apply.

Accordingly, because the sworn application for the warrant to search the Cal Cove home failed to demonstrate probable cause therefor, we reverse Smitherman's convictions related to the fruits of that search (counts two, three, and four).

Motion for Judgment of Acquittal

[7] In his second issue, Smitherman maintains that the trial court erred in denying his motion for a judgment of acquittal on count one, which concerned the MDMA inside the parcel that was the subject of the controlled delivery. Specifically, Smitherman asserts that the State failed to establish a sufficient chain of custody for the drugs and that the witnesses' differing descriptions of the narcotics and the differing weights reported at various points in the chain suggest probable tampering.

[8] Smitherman couches this argument as a challenge to the sufficiency of the evidence, but it is in fact a challenge to the admissibility of the evidence—an argument he should have raised by contemporaneous objection when the evidence was offered at trial rather than in a subsequent motion for judgment of acquittal. After evidence is admitted without objection, an alleged fault in the chain of custody does not affect the sufficiency of the evidence for the purposes of a motion for judgment of acquittal. *See State v. Hampton*, 44 So. 3d 661, 665 (Fla. 2d DCA 2010) ("[I]f the attorney fails to object to the adequacy of the evidence on the issue of chain of custody and allows the trial court to admit the evidence, the attorney cannot later recast the issue, after an adverse jury verdict, as an issue of insufficient evidence.").

Although we reject Smitherman's unpreserved admissibility issue in this direct appeal, our affirmance is without prejudice to any right that Smitherman might have to bring a related claim in a postconviction motion.

Affirmed in part, reversed in part, and remanded.

LaROSE and LABRIT, JJ., Concur.

James F. TRAINOR, Jr., Appellant,

v.

BULU2, LLC, A Florida Limited Liability Company, Appellee.

Case No. 5D21-2786

District Court of Appeal of Florida, Fifth District.

Opinion filed April 1, 2022

Nonfinal Appeal from the Circuit Court for Brevard County, Curt Jacobus, Judge. LT Case No. 05-2021-CA-012889

Karl W. Bohne, Jr., and Christopher J. Coleman, of Schillinger & Coleman, P.A., Melbourne, for Appellant.

Eric J. Sanchez, of Eric J. Sanchez, P.A., Miami, for Appellee.

LAMBERT, C.J.

James F. Trainor, Jr., who was the defendant below, timely appeals the trial court's order summarily denying his Florida Rule of Civil Procedure 1.540(b) motion to set aside a default final judgment and a later amended default final judgment entered against him in favor of BULU2, LLC ("Plaintiff"). These judgments quieted title to Plaintiff in certain real property and also included separate awards of attorney's fees in favor of Plaintiff and against Trainor.

A detailed opinion is unnecessary to resolve this appeal or to otherwise address Trainor's various arguments for reversal. In that each final judgment was entered without Plaintiff noticing its motion for default judgment or its amended motion for default judgment for hearing, resulting in the trial court entering the two judgments without a hearing, we reverse the trial court's order denying Trainor's motion and remand with directions that those portions of the default final judgment and the amended default final judgment that awarded attorney's fees to Plaintiff be vacated. *See Ciotti v. Hubsch*, 302 So. 3d 497, 500 (Fla. 5th DCA 2020) (en banc); *Cellular Warehouse, Inc. v. GH Cellular, LLC*, 957 So. 2d 662, 665–67 (Fla. 3d DCA 2007).[1]

Lastly, as an award of attorney's fees is not statutorily authorized in a quiet title action, *see Price v. Tyler*, 890 So. 2d 246, 251–52 (Fla. 2004), and there is no contractual basis for Plaintiff to be awarded attorney's fees here, on remand, the trial court, following a properly noticed hearing, shall enter a new final judgment that only includes an award for taxable court costs.[2]

REVERSED and REMANDED, with directions.

WALLIS and TRAVER, JJ., concur.

Nathan I. NIXON, Petitioner,

v.

STATE of Florida, Respondent.

No. 1D22-242

District Court of Appeal of Florida, First District.

April 6, 2022

Background: Defendant, who had been charged with three counts of sexual bat-

1. Trainor has not challenged the portions of the default final judgment and the amended default final judgment that quieted title. We also note that the amended default final judgment contains a separate $8,000 fine that Trainor was ordered to pay Plaintiff, apparently as some form of sanction for his alleged failure to comply with an earlier order to compel his signature on a corrective deed. While we question the need for the signature as title to the property described in the proposed deed was already quieted in Plaintiff by virtue of the judgment, because this sanction was included in the amended default final judgment without a hearing, thus depriving Trainor of notice and an opportunity to be heard in mitigation before this specific and precise amount of the civil contempt sanction was imposed, we direct that this sum is also to be vacated from the amended default final judgment. *See Chetram v. Singh*, 937 So. 2d 716, 719 (Fla. 5th DCA 2006) ("A person facing civil contempt sanctions is entitled to notice and an opportunity to be heard.").

2. The entry of this judgment is necessitated because in the two default final judgments at issue, the trial court awarded an undifferentiated lump sum for attorney's fees and court costs; and our record does not show what part of each lump sum award was solely attributed to court costs.