IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR SUSSEX COUNTY

STATE OF DELAWARE	:	
	:	
v.	:	ID 0911008358
	:	
LESLIE D. SMALL,	:	
a/k/a KENNY WILLIAMS,	:	
	:	
Defendant.	:	

MEMORANDUM OPINION

Upon Defendant's Motion to Suppress. Denied.

Submitted Date: January 14, 2011
Decided Date: January 20, 2011

Peggy Marshall, Esquire and David Hume, IV, Esquire, Deputy Attorneys General, Department of Justice, Georgetown, Delaware, attorneys for the State.

E. Stephen Callaway, Esquire and John P. Daniello, Esquire, attorneys for the Defendant.

STOKES, J.

Pending before the Court in this first degree capital murder case is Defendant Leslie D. Small's motion to suppress all statements he gave to the Delaware State Police both prior to and following his arrest for the murder of June D. McCarson ("Mrs. McCarson" or "the victim"). She died in her home of blunt force trauma and stabbing to her face and neck. This Court held an evidentiary hearing on December 9, 2010, and the parties have submitted simultaneous memoranda on the suppression issues. This is the Court's Order denying the suppression motion.

Defendant challenges admission of the following statements:

- November 12, 2009 at 3:14 p.m. – Defendant was questioned by Detective Michael Maher of the Delaware State Police Homicide Unit at Defendant's place of employment, the Comfort Ride Cab Company. This interview was audio-recorded.[1]
- November 13, 2009 at 2:35 a.m. – Defendant was interviewed at Troop 4 by Det. Porter and given his *Miranda* rights. When Defendant declined to talk, Det. Porter ended the interview. Defendant was taken to a holding cell. This interview was audio and video recorded.
- November 13, 2009 at 3:39 a.m. – Defendant, while in the holding cell asked to speak to Det. Porter again. During the second interview, Defendant

[1]Det. Porter testified that at approximately 2:00 a.m. on Nov. 13, 2009, he arrested Defendant at the Traveler's Inn in Milford, Delaware, for the first degree intentional murder of Mrs. McCarson and related crimes.

confessed in detail to the murder of Mrs. McCarson. This interview was audio and video recorded.

DISCUSSION

Interview with Det. Maher. Defendant argues that his statement to Det. Maher should be suppressed because he was in custody and was interrogated by a police officer, but was not given his *Miranda* rights.[2] The State argues that Defendant was not then a suspect but rather a witness, and was not in custody.

The *Miranda* Court stated that "[b]y custodial interrogation, we mean questioning initiated by law enforcement after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way."[3] Our Supreme Court has stated that *Miranda* applies when an individual is in custody or in a custodial setting and when the police questioning rises to the level of interrogation.[4] Thus, the inquiry into custody is our starting point.

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[2]Defendant argues that an important factor for the Court to understand is that Det. Maher was not a "road detective" assisting the homicide detectives but was himself a homicide detective. This distinction is irrelevant because most people would be unaware of it, nor would it affect the individual's sense of liberty.

Defendant relies heavily on the fact that Det. Maher never informed Defendant he was free to leave. The police have no such duty, and Defendant offers no authority for this argument.

[3]*Miranda v. Arizona,* 384 U.S. 436, 444 (1966).

[4]*McAllister v. State*, 807 A.2d 1119, 1126 (Del.2002).

The test for custody is an objective one.[5] It has two parts: reconstruction of the circumstances surrounding the interrogation, and, in light of those circumstances, a determination of whether a reasonable person would have felt free to stop the questioning and to leave. That is, when the facts are established, the Court must apply an objective test to determine whether the individual was in custody or subject to a restraint on freedom of movement associated an arrest.[6]

On November 12, 2009, Mrs. McCarson's body was found by two women delivering Meals on Wheels to her house. Det. Maher was called to the scene at 12:15 p.m. Maher saw multiple stab wounds in the victim's neck, indicative of a homicide. When Maher learned that a cab from Comfort Ride Cab Company had been seen at Mrs. McCarson's home the previous day, he realized that the cab driver may have been the last person to see Mrs. McCarson alive and decided to talk to him.

Maher went to the Comfort Ride Cab Company to question Defendant about his taxi drive with Mrs. McCarson, and he did not run Defendant's name prior to questioning him. The dispatcher at the cab company told Maher that Defendant was on probation. Det. Maher requested that the dispatcher ask Defendant to return to the cab company building.

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[5] *Yarborough v. Alvarado*, 541 U.S. 652, 654 (2004); *DeJesus v. State*, 655 A.2d 1180, 1190 (Del.1995)(overruled on *corpus delicti* grounds by *Wright v. State*, 953 A.2d 188 (Del.2007)).

[6] *DeJesus* at 1192.

When Defendant arrived, Det. Maher identified himself as a Delaware State police officer and stated that he was investigating a homicide. He asked Defendant if he was willing to talk with him. Defendant agreed. Because of the noise of business being conducted in the lobby, Maher led Defendant to an empty back room for the interview. Maher asked Defendant to close the door because of the noise. The session was audio-taped. The door was not locked, until someone outside the room opened the door and said he would lock it. Maher stated that did not administer *Miranda* warnings because he was interviewing Defendant as a witness who might have been the last known person to see Mrs. McCarson alive, and because Defendant was not in custody.

As recorded on the audiotape, Defendant stated that he was talking of his own free will and had not been forced to talk. He was not hand-cuffed. During the questioning, Defendant was cooperative and coherent. He acknowledged that he was on probation for robbery, but Maher was not aware at that time that robbery had occurred at the homicide. Defendant stated that he had worked for the cab company for about three or four months and that in 2005 he had worked as a bus driver for DART.

He then described the events of the previous day. He arrived at work as usual at 6:00 a.m. and made his first pick-up at 9:55, as shown by his log. He was next dispatched to Mrs. McCarson's house on Seneca Street, in Lewes, and picked her up at 12:15 p.m. Upon arrival, he honked the horn and waited for her to come out of the house. He could not remember what she was wearing, but he was wearing the same thing he had on during the interview –

jeans, boots, a sweatshirt and a hoodie. Their first stop was the Wilmington Trust in Lewes, where Defendant went to the drive-through window. Mrs. McCarson made a deposit and got a receipt, but Defendant said he did not see any money. Their next stop was Bayside Beauty, where they arrived at 2:30. Defendant returned to the office until Mrs. McCarson called him. He picked her up at 3:00, and she paid her fare including a tip. They proceeded to Happy Harry's at 3:10. Defendant waited in the car until Mrs. McCarson emerged with one or two shopping bags. They left at 3:30 and returned to her house at 3:35 p.m. She paid him the $15 dollar fare and another tip. Defendant stated that he saw Mrs. McCarson put her money in her purse. He did not accompany her into the house. He did not see any cars in her driveway or anyone around the area.

He returned to the office where he got a call at 5:00 for a pick-up in Rehoboth. On the way, he had diarrhea in the car and soiled his clothing. He went to pick up a house key from his wife Celeste, who worked in the Beebe satellite unit in Georgetown. Then he went home.

Based on this record, several relevant facts emerge. First, Defendant knew he was talking to a police officer investigating a homicide. Second, Maher did not force Defendant to talk or force him to go into the back room. Third, Defendant said that he was talking to Maher of his own free will. Fourth, he was neither cuffed nor locked in the room by Maher. Fifth, Defendant was fully cooperative and gave a coherent chronology of the events of the previous day.

The sole case Defendant cites as support for his argument that he was in custody is *Orozco v. Texas*.[7] In that case, the Court found that Orozco was in custody when four police officers questioned him in his bedroom at 4:00 a.m. The *Orozco* facts are not analogous to the facts in the case at bar, and thus the ruling is not instructive.

Nothing in the record suggests that Maher used any means of restraint or either explicitly or implicitly coerced Defendant into talking. Under the totality of the circumstances, a reasonable person in Defendant Small's position would have felt free to stop the questioning and to leave if he felt so inclined. The facts surrounding the interview do not constitute either custody or a custodial setting, and the *Miranda* inquiry ends here. Defendant's motion to suppress his statement to Det. Maher is **DENIED.**

Interviews with Det. Porter. Defendant argues that he did not voluntarily waive his *Miranda* rights in either interview with Det. Porter because he was under the influence of crack cocaine during both interviews. He also argues that Det. Porter should have given him his *Miranda* warnings at the start of the second interview.

The State argues that Porter ended the first interview when Defendant said he was not ready to talk, demonstrating that he understood his right to remain silent. The State also argues that, under *Ledda v. State*,[8] there was no need to re-read Defendant his rights in the second interview.

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[7]394 U.S. 324 (1969).

[8]564 A.2d 1125 (Del. 1989).

Prior to Porter's interviews, the following events occurred. On Nov. 12 at 7:00 p.m., Det. Porter called Defendant and asked him to meet him at Troop 4. Defendant agreed. At 7:35, Porter called again but got no answer. Defendant never showed up at the police station. By this time, Defendant was a suspect in the homicide.

Later in the evening of Nov. 12, 2009, Det. Porter interviewed Defendant's wife, Celeste Small. The interview lasted from 10:52 p.m. until 11:10 p.m. Mrs. Small described the events of Nov. 11 and Nov. 12 but did not implicate Defendant in the murder. She was aware of Defendant's drug problem. Although he never used drugs in her presence, she could tell when he high by his actions and demeanor. The last time she knew of him doing drugs was a week ago.

Det. Porter and Sergeant Rob Hudson interviewed Mrs. Small again at 11:43 p.m. on Nov. 12. At this time, Mrs. Small said that Defendant had confessed to the murder..

At the suppression hearing, Mrs. Small testified differently as to when Defendant had last smoked crack. She stated that on the morning of Nov. 11, Defendant was "spacey," and that she believed he had been smoking crack. She also testified that when she picked him up from work that evening between 5:30 and 6:00 p.m., he was even higher than he had been in the morning. These statements are in direct contrast to her statement to Det. Porter that the last time she had known him to be high was one week ago.

Mrs. Small testified that Defendant had described to her how he murdered Mrs. McCarson.

She also testified that about 8-8:30 p.m., the Smalls drove to the Traveler's Inn in Milford, at Defendant's request. After checking into a room, Mrs. Small testified that Defendant was "completely out of it" and wanted to go to sleep. She believed him to be high on crack. When she left the room, Defendant was laying down and was so drowsy from the drug that Mrs. Small believed he was unaware of her departure.

Det. Porter testified that he arrested Defendant at approximately 2:00 a.m. on November 13, 2009 at the Traveler's Inn. From his cursory look around the room, Det. Porter found nothing related to the murder or to illegal drug use.

Det. Porter took Defendant to Troop 4. At 2:37 a.m. on Nov. 13, Porter began the first interview, which he ended when Defendant stated that he was not ready to talk. The second interview started approximately one hour later, and Defendant made a full confession.

Defendant points out that the videotape of his first interview reflects several statements made by Porter that are not in the transcript.[9] When Porter entered the interview room where Defendant sat with his head buried in his arms at a small table, Porter said "Listen up." Next he asked, "Are you awake?" Then Porter instructed Defendant to get himself together. Defendant does not object to these statements, which are on the videotape which was played and entered into evidence at the suppression hearing.

The remainder of the interview is accurately reflected in the transcript. The following exchange took place regarding *Miranda*:

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[9]The videotape, audiotape and transcript are part of the record. Both tapes were played during the suppression hearing.

Det. Porter: Okay, Leslie. You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to talk to a lawyer and have him present with you while you're being questioned. If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish one. If you decide to answer any questions, with or without an attorney present, you may stop at any time during the questioning. Do you understand each of these rights I read to you?

Defendant Small: Yeah.

Det. Porter: Okay. Having these rights in mind, do you wish to talk to me and get this uhh. . . off your chest?

Defendant Small: I don't want to say nothing right now ummm. I'm not mentally together at this point.

Det. Porter: Okay. So you don't want to say nothing? All right.

Defendant Small: I just don't want to say nothing right now.

Det. Porter: Okay. All right. The time is 0237 hours.

From this exchange, four things are clear. First, Defendant was read his *Miranda* rights. Second, he assented to understanding them. Third, he exercised his right to remain silent. Fourth, Det. Porter stopped the interview as soon as Defendant expressed his desire not to speak.

However, Defendant argues that his statement that he was not "mentally together at this point" meant that he was high, not that he was invoking his right to remain silent.

Once *Miranda* warnings have been given, the interrogation must cease if the defendant indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent.[10] This is what happened in the first Porter interview. Nonetheless, Defendant asserts that his statements and his physical demeanor as shown on videotape indicate that he was high, not that he understood his rights. The video shows Defendant with his head in his hands when Det. Porter entered the room and covering his head with his hood and putting his head on the table as Det. Porter left the room. These actions are subject to speculative interpretations and are determinative of nothing.

Any perceived ambiguity in Defendant's statement that he was not "mentally together" is clarified by his statement that "I don't want to say nothing right now," and his reiteration that "I just don't want to say nothing right now." These statements show his awareness that he did not have to talk to Det. Porter, which is the threshold requirement for an intelligent decision to exercise the right to remain silent.[11]

Almost one hour later, Defendant's coherence, cooperation and sense of humor demonstrate his understanding of what was happening and his constitutional rights under *Miranda*, as well as his willingness to confess and his ability to respond appropriately to

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[10] *Miranda* at 473.

[11] *Id.* at 468.

questions from Det. Porter. If he had been too high to talk at 2:35 a.m., he could not have spoken so cogently 55 minutes later. Nothing in the record suggests that Defendant was high during the first interview.

This finding is not altered by Defendant's argument that his assent to understanding *Miranda* was insufficient because he had been smoking crack. Awareness of the right to remain silent is the threshold requirement for an intelligent decision to exercise the right to remain silent.[12] The record of Defendant's statements and actions does not support Defendant's assertion that he was too high to intelligently exercise his right to remain silent. Defendant's motion to suppress his first statement to Det. Porter is **DENIED.**

Approximately one hour later, Det. Maher heard someone banging on the glass door of the holding cell. It was Defendant, asking to talk to Det. Porter. During the second interview, which began at 3:39 a.m. and concluded at 4:00 a.m., Defendant confessed in detail to the murder and burglary.

Defendant argues that because he was under the influence of crack cocaine he could not have knowingly, voluntarily and intelligently waived his *Miranda* rights. He also argues that his *Miranda* rights should have been given to him again in the second interview. The following exchange regarding *Miranda* took place:

Det. Porter: Today's date is November 13th, 2009. The time is 0339 hours. Umm. . . a little while ago I read you your rights. Umm, you didn't ask for an

[12] *Id.* at 468.

attorney or anything, you just said you didn't feel like you were in the right state of mind to talk at that time. Umm. . . you understood your rights when I read them to you. Do you want me to read you your rights again so you can hear them over again?

Defendant Small: No, I don't. You don't have to do that.

Det. Porter: You understood your rights. I read them to you when. . . .

Defendant Small: You don't have to read 'em. I know.

Det. Porter: I read them to you the first time, right?

Defendant Small: Yes.

Det. Porter: You didn't ask for a lawyer, but you said you weren't in the right state of mind to talk to me at that point in time.

Defendant Small: Correct.

Det. Porter: I didn't come to you. You said you wanted to talk about this, correct?

Defendant Small: Right.

In addition, Defendant emphasized that he had used crack before and after the murder:

Det. Porter: How long before [picking up Mrs. McCarson] did you smoke some crack?[13]

[13] The use of brackets within a direct quotation indicates a clarification based on context or a minor grammatical alteration, such as a substitution of a upper case letter for a lower case letter where the quotation does not begin at the start of the speaker's sentence.

Defendant: All night. All morning. (Tr. at 2.)

Defendant: [A]s the day went on I started getting high more and the day was just, I don't know what happened. I just lost it, man. (Tr. at 3.)

Det. Porter: Then what happens [after you accompany Mrs. McCarson inside]?

Defendant: Ummm. Like I said the craving for the drug or something just took over my mind. . . .

Det. Porter: Right. Drugs.

Defendant: Yeah. (Tr. at 4.)

Det. Porter: Then what happened [after the murder]?

Defendant: I never did get back to work. I was just. . . scared. Then I just started smoking, smoking, smoking and smoking.

Det. Porter: Crack?

Defendant: Yeah. (Tr. at. 10.)

Det. Porter: How much [of the $500-$600] did you spend? You spent it all?

Defendant: Yeah, getting high.

Det. Porter: What, what else do you do besides crack?

Defendant: That's it, man. (Tr. at 14.)

Defendant Small made two jovial remarks during the 20-minute interview:

Det. Porter: Umm. Today's the 13th.

Defendant: Lucky day, huh.

Det. Porter: [O]h, it is Friday the 13th, yeah. (Tr. at 1.)

* * *

Det. Porter: Does your car have power windows?

Defendant: Uh-huh. . . . One of your cars – Crown Vic.

Det. Porter: Police interceptor.

Defendant: Police Interceptor. Go figure. (Laughing.)

The question of voluntariness is a question of fact to be determined from the effect that the totality of the circumstances had upon the will of the defendant.[14] Thus the question in each case is whether the defendant's will was overborne when he confessed.[15] The reviewing court must consider the totality of the circumstances, including the specific tactics used by the police in eliciting the admissions, the details of the interrogation, and the characteristics of the defendant.[16] This is a case-by-case determination, focusing on an overview of the behavior of the interrogators and the mental and physical make-up of the defendant.[17]

This approach leads to the ultimate determination of whether the behavior of the interrogators was such as to overbear the will of the defendant to resist and bring about a

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[14]*Schneckloth v. Bustamante*, 412 U.S. 218, 226-27 (1973).

[15]*Id.* at 225-26.

[16]*Rachlin v. United States*, 723 F.2d 1373, 1377 (8th Cir.1983).

[17]*State v. Rooks*, 401 A.2d 943, 948 (Del.1979).

statement not "the product of a rational intellect and a free will.[18] The State bears the burden of showing voluntariness by a preponderance of the evidence.

Defendant argues that his alleged waiver of *Miranda* was not voluntary because he was under the influence of crack cocaine at the time. The State argues that there is nothing in the record to indicate that Defendant used crack cocaine after his wife picked him up from work on November 12 (the day after the murder) or during Defendant's stay at the Travelers Motel, where he was arrested at 2 a.m. on November 13.

A waiver of *Miranda* rights occurs if the waiver is made voluntarily, knowingly and intelligently.[19] The State has the burden of proving by a preponderance of the evidence that the defendant was advised of his *Miranda* rights and that he voluntarily and intelligently waived them.[20] Awareness of the right to remain silent is the threshold requirement for an intelligent decision to exercise the right to remain silent.[21] A question of the voluntariness of a *Miranda* waiver is a fact question to be determined from the effect that the totality of the circumstances had upon the will of the defendant.[22]

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[18]*Id.* at 948-49.

[19]*DeJesus* at1192(citing *Miranda* at 444).

[20]*Id. See also, Howard v. State*, 458 A.2d 1180, 1183 (Del.1983).

[21]*Miranda* at 468.

[22]*Schneckloth v. Bustamonte*, 412 U.S. 218, 226-27 (1973) .*Baynard v. State*, 518 A.2d 682, 690 (Del. 1986).

In Delaware, voluntary intoxication or drug use does not, *per se*, render a confession involuntary.[23] This is the law in numerous states.[24]

At the second interview with Det. Porter, Defendant was prepared to confess in full, and he did so in thorough fashion. He peppered his answers with apparently self-serving references to smoking crack. He was sharp enough to make the two quips quoted above. As to the events, Defendant stated that he picked up the Victim at her residence between 12:00 and 12:15 a.m. on Wednesday, November 11, 2009. Prior to picking her up, he had been smoking "All night. All morning." Tr. at 2. He stated that he was "good" at the time he took the victim to the bank to cash a check, which was her first stop. He continued, "as the

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[23]*Howard v. State*, 458 A.2d at 1183; *Brown v. State*, 1988 WL 101236, at *5 (Del. 1988).

[24]*See, e.g., State v. Zabawa*, 2010 WL 3257977 (Minn.)(intoxication not necessarily proof of involuntariness but may be factor); *State v. Dantzler*, 2010 WL 3155229 (Iowa Ct. App.)(intoxication alone does not render inculpatory statements involuntary, but may be considered in determining whether defendant was sufficiently intoxicated that his will was overborne by questioning); *State v. Francis*, 2010 WL 2349113 (Ohio Ct. App.)(ingestion of heroin alone does not render statement involuntary, absent coercive police activity); *State v. Grammont*, 2010 WL 1106851 (Wash. Ct. App.)(defendant does not make involuntary statements because of intoxication unless intoxication rises to level of mania where defendant could not comprehend what he was saying and doing); *State v. George*, 2010 WL 1066297 (La. Ct. App.); *People v. Hernandez*, 889 N.Y.S.2d 218 (N.Y.App.Div.)(intoxication alone is insufficient to render statement involuntary unless Defendant was intoxicated to level of mania or of being unable to understand meaning of his statement); *People v. Vanvels*, 2009 WL 3014940 (Mich.Ct.App.)(intoxication by itself does not render statement involuntary but may be factor to be considered); *Commonwealth v. Silva*, 2009 WL 3490643 (Mass.Super.)(intoxication does not automatically operate to make statement involuntary; court must decide whether statement was freely and rationally made despite defendant's intoxication); *Ellison v. State*, 2008 WL 4163186 (Tex.Crim.App.)(intoxication while relevant does not automatically render statement involuntary; question is whether intoxication rendered defendant incapable of making informed choice whether to talk to law enforcement officials).

day went on I started getting high more and the day was just [sic] I don't know what happened; I just lost it, man." Tr. at 3. He testified that after the murder and after he had changed clothes and disposed of his blood-soaked clothes, he "just started smoking, smoking, smoking and smoking [crack]." He stated that he spent the stolen $500–$600 on crack. The interview ended at 4:00 p.m.

As the State argues, nothing in the record verifies Defendant's use of crack on Nov. 11th and 12th. His wife's testimony that he was high on those dates contradicts her previous statement to Det. Porter that the last she saw him high was about a week ago. Thus, her testimony has little if any weight. No one saw Defendant using crack, and both husband and wife agreed that Defendant never used drugs in her presence.

Contrary to Defendant's assertions, his body language before and after the interviews with Det. Porter does not show that he was experiencing the effects of drugs. He stumbled once as he left the interrogation room, but in other ways he was in control of his actions. His statements were clear and his narrative was coherent. The fact that he occasionally searched for the right words is not notable in light of the dire situation.

Defendant does not allege that Det. Porter coerced him in any way to confess. To the contrary, Det. Porter stopped the first interview when Defendant said he did not want to say anything yet, and Defendant himself initiated the second interview, when he was ready and willing to confess. No indication of police coercion is present in the record.

Viewing the totality of the circumstances, including the conduct of the police and the character of Defendant, there is no evidence other than Defendant's unsupported assertions that he was under the influence of crack cocaine. Nor is there any suggestion that his will was overborne by coercive police conduct. Even assuming *arguendo* that he had been smoking crack as he stated, in light of the other circumstances reviewed above, the record establishes that Defendant's waiver of the right to silence was knowingly, voluntarily and intelligently made.[25]

Defendant argues that his confession is not admissible because he was not given his *Miranda* rights again at the outset of the second interview. In *Ledda v. State*,[26] the Delaware Supreme Court held that *Miranda* warnings were not required to be given to a suspect a second time where the same police officer who administered the warnings at a traffic stop also elicited a statement from the defendant two hours later at the police barracks. In so finding, *Ledda* set forth a non-exclusive list of factors to be considered when determining the necessity of re-administering *Miranda* warnings: (1) the time lapse between the last *Miranda* warnings and the accused's statements, (2) any change of location, (3) any interruptions in the interrogation, (4) whether the same officer who gave the warnings also interrogated the defendant and (5) significant differences of statements.[27]

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[25]*Lego v. Twomey*, 404 U.S. 477 (1972).

[26]564 A.2d 1125 (Del. 1989).

[27]*Id.* at 1130.

Applying *Ledda* to this case, the warnings were given in the first interview at approximately 2:35 a.m., and the interview ended at 2:37 a.m. The second interview began approximately one hour later at 3:39 a.m, at Defendant's request. *Ledda* approved a lapse of two hours, and other courts have approved longer lapses.[28] Both interviews were conducted by Det. Porter in the same interview room at State Police Troop 4. The only interruption was the one hour between the interviews.

It is undisputed that Defendant asked for a second opportunity to talk with Det. Porter, as shown in the above-quoted passage from the second interview. In the first interview, Defendant stated "I don't want to say nothing right now, ummm. I'm not mentally together at this point," (Tr. 1st Porter Interview, at 1.) In the second interview, Defendant agreed that he had heard and understood his *Miranda* rights. He fully cooperated in answering Det. Porter's questions. He gave a detailed, coherent account of the events leading up to the murder, the murder itself, and the events following the murder.

Thus, in the first interview Defendant stated he was not ready to talk, whereas in the second interview he demonstrated his willingness to talk by asking to speak to Det. Porter and by agreeing that he grasped his rights under *Miranda*. He answered each question without prevarication. There were no contradictions in the subject matter. In fact, the two statements synchronize with each other. A reasonable reading of the interviews indicates a

[28] *Miles v. State*, 2009 WL 4114385 (Del.)(approving 5-hour time lapse); *State v. Chapman*, 2000 WL 302343 (Del. Super.)(approving 4 ½ -hour lapse); *State v. Burrell*, 1999 WL 167770 (Del. Super.)(approving 2 1/2-hour time lapse).

man who needed some time to gather his thoughts before confessing to crimes of the most serious nature. Based on the *Ledda* factors, there was no need for Det. Porter to re-administer *Miranda* warnings in the second interview. Defendant's motion to suppress his second statement to Det. Porter is **DENIED.**

For all these reasons, Defendant's motion to suppress is **DENIED.**

IT IS SO ORDERED.

Richard F. Stokes, Judge

Original to Prothonotary