

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PETER M. SHELLINGER)
) No. 473, 1999
Defendant Below)
Appellant,) Court Below: Superior Court
) of the State of Delaware in
) and for New Castle County
)
STATE OF DELAWARE,) CR.A. Nos. IN98-10-0839,
) 0840 and IN98-11-1162
Appellee.)

Submitted: August 22, 2000

Decided: October 18, 2000

Before **WALSH, HOLLAND** and **STEELE**, Justices.

ORDER

This 18th day of October, 2000, upon consideration of the briefs of the parties, it appears to the Court that:

1. The Superior Court denied Peter Schellinger's motion to suppressed alleged hearsay evidence. Schellinger appeals, claiming that the Superior Court abused its discretion by allowing testimony by a Delaware State Police trooper of Schellinger's statement made to police at the scene of his automobile accident because the police violated his constitutional rights and he lacked fundamental appreciation of the significance of his statement.

2. On October 5, 1998, Schellinger visited Janice Markovic, with whom he had been involved for approximately ten years. The relationship

ended in February of 1998, after which Janice became romantically involved with someone else. Janice had two children: a daughter, Heather, and a son, Joshua. On the night of October 5, Schellinger argued with Heather, then with Janice. Janice was strangled to death sometime between 9:30, when Heather went to bed, and 12:03 when Heather awoke to the sound of her brother screaming. At that time, Schellinger and Joshua were engaged in a fight which resulted in Joshua being stabbed. Joshua escaped and called for an ambulance and the police, but Schellinger fled the scene. Shortly afterward, Schellinger was in an accident. A passerby recognized Schellinger and asked him where Janice was, to which Schellinger ultimately replied “she’s gone... I killed her.” When police arrived, the passerby told Officer Hale that Schellinger claimed to have killed Janice. Officer Hale asked Schellinger if he was okay and what happened. Schellinger again replied “I killed her.” Officer Hale then determined that Schellinger was speaking about Janice. Officer Hale testified about Schellinger’s statements after the Superior Court denied Schellinger’s motion to suppress.

3. Schellinger argues that the Superior Court abused its discretion in denying his motion to suppress because Schellinger lacked the fundamental appreciation of the significance of the comments he made to

Officer Hale. Schellinger contends that his obvious intoxication did not allow him to appreciate the severity of his statements at the time those statements were made.

4. Conversely, the State argues that Schellinger's statement was voluntary and was an admission made outside of police custody. *See Marine v. State*, Del. Supr., 607 A.2d 1185 (1992) (holding that warnings by a police officer are required to be given to a suspect only where questioning of a suspect rises to the level of interrogation and the interrogation occurs while the suspect is either in 'custody' or in a 'custodial setting'). Schellinger's statement to Officer Hale did not require a warning because Schellinger voluntarily gave his statement when there was no custodial relationship. *Stansbury v. California*, 511 U.S. 318 (1994) (holding the legal standard used to determine 'custody' for *Miranda* purposes is whether there was a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest). Schellinger was neither arrested, nor was his freedom restrained at the time of his statement to Officer Hale. Therefore, Schellinger's statements constituted an admission and the Superior Court did not abuse its discretion in admitting them. *DeJesus v. State*, Del. Supr., 655 A.2d 1180 (1995) (holding that the voluntariness of a

statement made to police officers is a factual issue to be determined under the totality of the circumstances).

5. For all the reasons stated above, the Superior Court is **AFFIRMED.**

BY THE COURT:

/s/ Myron T. Steele

Justice