IN THE COURT OF APPEALS OF IOWA

No. 6-661 / 05-0927
Filed October 25, 2006

STATE OF IOWA,
Plaintiff-Appellee,

vs.

LYNN GENE LAMASTERS,
Defendant-Appellant.

Appeal from the Iowa District Court for Buchanan County, Todd A. Geer, Judge.

Defendant appeals his conviction for first-degree murder. **AFFIRMED.**

John J. Bishop, Cedar Rapids, for appellant.

Thomas J. Miller, Attorney General, Bruce Kempkes and Andrew Prosser Assistant Attorneys General, and Allan Vander Hart, County Attorney, for appellee.

Heard by Sackett, C.J., and Zimmer, J., and Hendrickson, S.J.*

*Senior judge assigned by order pursuant to Iowa Code section 602.9206 (2005).

HENDRICKSON, S.J.

Lynn Gene Lamasters appeals from his conviction for first-degree murder. He claims the district court committed error in allowing evidence of flight from police and not suppressing statements made to police before he was given his *Miranda* warning while he was hospitalized for self-inflicted injuries. We affirm.

I. Background Facts & Proceedings

Lamasters was living with Patricia Rapacki in Jesup, Iowa, along with her two daughters from previous relationships. On December 27, 2003, Lamasters and Rapacki took the children to visit their respective fathers for the holidays. Rapacki was not seen alive again.

Lamasters spent the next several days extensively using methamphetamine. He sold the television and some of the furniture from the couple's home. He told friends and acquaintances various stories about Rapacki's whereabouts. He stated at times she was gambling in Minnesota, and at others she was gambling in Dubuque. Rapacki did not appear to pick up her children at the appointed time. Lamasters told one of the fathers that Rapacki had gotten drunk in Waterloo and put her car in the ditch, so she would be unable to pick up her child as scheduled. He told the other father a friend had been injured in Minnesota, so he and Rapacki were going up there and would not be able to pick the child up at the time they had agreed upon.

On January 6, 2004, a deputy sheriff in Raymond, Iowa, noticed a car parked in front of a bank that was not yet open. The deputy drove by, and the car moved to a convenience store. The deputy then started to drive to the convenience store, when the car took off at a high rate of speed. The deputy

chased the car until it stopped in a farm field. The driver, Lamasters, took off running. The deputy called for back-up, and a search of the farm field was made. Officers found Lamasters lying in a ditch with self-inflicted stab wounds to his abdomen. He was taken to the hospital.

Officers discovered the car driven by Lamasters was registered to Rapacki, and her purse was in the trunk. Officers questioned Lamasters at the hospital on January 6 and 7 without giving a *Miranda* warning. At that time officers did not suspect foul play, but wanted to know Rapacki's whereabouts because her car had been used in a high-speed chase. Lamasters stated Rapacki was gambling in Dubuque, and he was taking her purse to her. On January 7, officer Jane Wagner asked Lamasters if he believed Rapacki might have been harmed in some way. Lamasters replied, "They can tell time of death, right? And her time of death will state that I was not – or will show that I was not there."

Lamasters was questioned more extensively on January 9 and 11, while he was still in the hospital. On these occasions he was read his *Miranda* rights. Lamasters was released from the hospital on January 12, 2004. Methamphetamine had been found in the vehicle Lamasters was driving, and he was taken to jail for drug-related charges and parole violations.

Later on January 12, special agents with the Division of Criminal Investigation (DCI) and local officers executed a search warrant at Rapacki's home. They found a blood stain on the living room carpet, which was found to match the DNA of Rapacki.

In the basement, Rapacki's body was found inside a locked freezer. She had been killed by ligature strangulation with an electrical cord. DNA evidence showed Lamasters's blood was on the collar of Rapacki's sweater. His blood was also on a small piece of electrical cord on the floor outside the freezer. In addition, Lamasters's blood was on the inside of a knot in the electrical cord around Rapacki's neck. Four cigarette butts were found on the floor by the freezer, one matching Lamasters, two matching Rapacki's estranged husband, Jeff Rapacki, and one unknown.[1] The key for the freezer lock was found in the car Lamasters had been driving during the police chase.

Lamasters was charged with murder in the first degree, in violation of Iowa Code sections 707.1 and 707.2 (2003). He filed a motion to suppress his statements made at the hospital when he had not been given a *Miranda* warning. He also claimed that during the times he was given a *Miranda* warning, he did not voluntarily waive his rights due to the effects of medication. Lamasters filed a motion in limine claiming the evidence of flight should be considered inadmissible because it was more prejudicial than probative.

The district court denied Lamasters's motions. The court found Lamasters was not in custody during the time he was in the hospital. The officers testified they believed Lamasters was free to leave once he received medical clearance.[2] The court also found Lamasters's statements were freely and voluntarily given.

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[1] Jeff Rapacki stated he went into Rapacki's house on January 8, 2004, to get more clothing for his child. He denied going down the basement.

[2] The officers stated they were unaware of an order directing that law enforcement officials be alerted when Lamasters was released from the hospital. Lamasters was facing drug-related charges and was in violation of his parole.

The court concluded Lamasters made a voluntary, knowing, and intelligent waiver of his *Miranda* rights. Furthermore, the court concluded the evidence of flight should be admissible. The court stated, "[t]he chase and stabbing are res gestae, relevant and material, and there is sufficient nexus between the alleged crime and the events which defendant seeks to suppress."

The case proceeded to a jury trial. The jury found Lamasters guilty of first-degree murder. The district court denied Lamasters's motion in arrest of judgment and motion for new trial. Lamasters was sentenced to life in prison. He now appeals.

II. Evidence of Flight

Lamasters contends the district court erred by failing to exclude evidence of his flight from police. He claims the evidence was marginally probative. He points out that he did not flee from the scene of the crime in Jesup, but from a different town, Raymond. Lamasters states the evidence was unduly prejudicial to him. He states the evidence of flight raises an improper inference that he fled because he was guilty of murder. He also claims he was forced to explain why he actually fled – because he had methamphetamine in the car and did not have a valid driver's license.

The district court ruled:

> The court concludes that defendant's flight and his actions during the flight are relevant and material. Defendant was driving the alleged victim's vehicle. Evidence was contained in that vehicle. It is alleged that the crime had already occurred at the time of the flight and that defendant was the perpetrator of the crime. Defendant had already been arrested, while on parole for a drug offense. The chase and stabbing are res gestae, relevant and material, and there is sufficient nexus between the alleged crime and the events which defendant seeks to suppress.

We review the district court's ruling for an abuse of discretion. *State v. Belken*, 633 N.W.2d 786, 793 (Iowa 2001).

Evidence of flight or concealment is relevant because it is probative of consciousness of guilt.[3] *See State v. Crawley*, 633 N.W.2d 802, 804 (Iowa 2001); *see also State v. Ash*, 244 N.W.2d 812, 816 (Iowa 1976) ("Evidence of flight may be considered in determining guilt or innocence."); *State v. Wimbush*, 260 Iowa 1262, 1268, 150 N.W.2d 653, 656 (1967) ("We have held many times that evidence of escape from custody and flight of an accused is admissible as a criminating circumstance."). Because evidence of flight is relevant, it is admissible under Iowa Rule of Evidence 5.402.

Evidence that is otherwise admissible may be excluded under rule 5.403 if the probative value of the evidence is outweighed by the danger of unfair prejudice. Unfair prejudice is defined as "an undue tendency to suggest decisions on an improper basis, commonly though not necessarily, an emotional one." *State v. Castaneda*, 621 N.W.2d 435, 440 (Iowa 2001). We determine Lamasters has not shown the evidence of flight was unduly prejudicial. Evidence of flight may be properly considered on the issue of guilt. *See Ash*, 244 N.W.2d at 816. Also, the fact Lamasters had to explain his reasons for fleeing was not prejudicial. There was plenty of other evidence presented to show Lamasters used methamphetamine, and its admission in regard to the flight evidence was not prejudicial. *See State v. McKettrick*, 480 N.W.2d 52, 60 (Iowa 1992) (noting the admission of cumulative evidence is not considered prejudicial).

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[3] Evidence of a defendant's suicide attempt is also relevant to show the defendant's consciousness of guilt. *State v. Mitchell*, 450 N.W.2d 828, 832 (Iowa 1990).

We conclude the district court did not abuse its discretion in allowing the State to present evidence of defendant's flight.

III. Suppression of Statements

A. Lamasters claims the district court should have suppressed his statements which were made on January 6 and 7, 2004, when he was not given a *Miranda* warning. He asserts he was in custody when the police questioned him at the hospital because the hospital had not released him, and his medical condition was such that he could not leave. Where a defendant alleges the district court improperly refused to suppress statements made in violation of his *Miranda* rights, our review is de novo. *State v. Turner*, 630 N.W.2d 601, 606 (Iowa 2001).

Miranda warnings are not required unless there is both custody and interrogation. *State v. Miranda*, 672 N.W.2d 753, 759 (Iowa 2003). The Iowa Supreme Court has made a distinction between "cases in which hospital interrogation was marked by police detention and coercion and those cases in which the patient's detention resulted purely from ongoing medical treatment." *State v. Cain*, 400 N.W.2d 582, 584 (Iowa 1987). In *Cain*, the court found the defendant had not been in custody when he was questioned while being treated at a hospital. *Id.* The police officer had testified the defendant could have gotten up and walked out at any time, and the officer could not have stopped him. *Id.* A similar situation was found in *State v. Kyseth*, 240 N.W.2d 671, 673 (Iowa 1976), where a defendant was questioned while in the hospital.

We conclude Lamasters was not in custody when he was questioned by police officers on January 6 and 7, 2004. Lamasters's detention at the hospital

resulted only from his ongoing medical treatment. The officers who questioned Lamasters testified that they were unaware of the order requesting that law enforcement be notified when Lamasters was released from the hospital due to pending drug-related charges and parole violations. In any event, the order did not place Lamasters "in custody" at the hospital. At most, it would have put him in custody at some future date in time, when he was released from the hospital. Therefore, his statements were admissible, despite the lack of *Miranda* warnings.

B. Police officers informed Lamasters of his *Miranda* rights when they questioned him on January 9 and 11, 2004. Lamasters also claims that his statements which were made while he was in the hospital on these dates should have been suppressed because he did not voluntarily waive his *Miranda* rights. He states he was under the effects of medication, and was unable to make a voluntary waiver of his rights.

The State has the burden to prove by a preponderance of the evidence that a defendant waived his constitutional rights. *State v. Bowers*, 656 N.W.2d 349, 353 (Iowa 2002). A court looks at the totality of the circumstances to determine voluntariness; it must appear the defendant's statements were the product of "an essentially free and unconstrained choice, made by the defendant whose will was not overborne or whose capacity for self-determination was not critically impaired." *State v. Payton*, 481 N.W.2d 325, 328 (Iowa 1992). The court considers several factors, including the intellectual abilities of the defendant, whether the interrogator acted in a deceptive manner, whether the subject appeared to understand and respond to questions, and whether the

subject was physically abused or deprived of food or sleep. *Bowers*, 656 N.W.2d at 353 (citations omitted).

Evidence that a defendant was coherent and not confused tends to show the defendant's statements were voluntary. *See Van Hoff v. State*, 447 N.W.2d 665, 674 (Iowa Ct. App. 1989) (noting a defendant who was questioned while at a hospital for treatment had given a voluntary waiver of his *Miranda* rights). In *State v. Countryman*, 572 N.W.2d 553, 559 (Iowa 1997), the supreme court determined a defendant's statements were voluntary, although she was under the influence of drugs, because "[s]he seemed conscious of the meaning of her words and able to appreciate the nature and consequences of her statements."

Examining the totality of the circumstances, we determine Lamasters voluntarily waived his *Miranda* rights. The district court found, "[w]hile the defendant was medicated during the interviews, the defendant understood the questions being asked of him, his answers were responsive to the questions, and defendant was not confused." We conclude Lamasters's statements made at the hospital, after being informed of his *Miranda* rights, were properly admissible during the criminal trial.

We affirm Lamasters's conviction for first-degree murder.

AFFIRMED.