NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2014 KA 0350

STATE OF LOUISIANA

VERSUS

QUENTIN WATSON

Judgment rendered September 19, 2014.

* * * * * *

Appealed from the
22nd Judicial District Court
in and for the Parish of St. Tammany, Louisiana
Trial Court No. 09 CR10 105552
Honorable William J. Knight, Judge

* * * * * *

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* * * * * *

BEFORE: KUHN, PETTIGREW, AND WELCH, JJ.

PETTIGREW, J.

The defendant, Quentin Watson, was charged by grand jury indictment with two counts of first degree murder, violations of La. R.S. 14:30. The defendant pled not guilty. He filed a motion to suppress inculpatory statements. A hearing was held on the matter, wherein the motion to suppress was denied. Following a jury trial, the defendant was found guilty as charged on both counts. The defendant filed a motion for new trial, arguing that the motion to suppress should have been granted. The trial court denied the motion. For each count, the defendant was sentenced to life imprisonment at hard labor without the benefit of parole, probation, or suspension of sentence. The sentences were ordered to run concurrently. The defendant now appeals, designating two assignments of error. We affirm the convictions and sentences.

FACTS

On February 6, 2008, at about 11:00 a.m., Wendy Rawls went to have lunch at the home of her mother, Anita Smith. Anita lived on 14th Avenue in Franklinton and was doing some renovation to her house. Anita's nephew, William Lewis, had been discharged from the military and was living temporarily with Anita to help her out with the home improvements. When Wendy entered the house, she found the dead bodies of Anita and William in the kitchen area. Anita had been shot once in the face. William had been shot twice, once to his chest and once to the back of his head. There was no forced entry into the house.

While no gun was ever found in connection with the killings, the bullets removed from Anita and William's chest were determined to have been fired from the same Hi-Point 9mm handgun. The bullet removed from William's head was also determined to have been fired from a Hi-Point 9mm handgun, but was too damaged to confirm that it was the same gun that caused Anita's head wound and William's chest wound. At the crime scene, the police found a 9mm spent shell casing on the floor near the kitchen table. The shell casing was processed, and an unknown DNA profile was found on it. The DNA profile was entered into the CODIS (Combined DNA Index System) database, and in July 2009, it produced an offender hit (a match) for the defendant. A DNA forensic

analyst testified at trial that the DNA from the shell casing matched the defendant's DNA profile taken from a buccal swab at a statistical rate of one in three hundred twenty billion; that is, one would have to see a DNA profile three hundred twenty billion times before seeing the defendant's profile again. The defendant was arrested and brought in for questioning by Captain Justin Brown and Trooper Richard Newman, both with the Franklinton Police Department. The defendant's statement was videotaped. Initially denying any involvement in the killings, the defendant eventually confessed to shooting Anita and William. The defendant knew Anita and her daughters. The defendant did not testify at trial.

ASSIGNMENTS OF ERROR NOS. 1 and 2

In these related assignments of error (addressed together by the defendant), the defendant argues, respectively, the trial court erred in denying his motion to suppress inculpatory statements, and the trial court erred in denying the motion for new trial. Specifically, the defendant contends that his confession should have been suppressed because during questioning he invoked his right to remain silent.

Following his arrest, the defendant was taken to the Franklinton Police Department for questioning. He was interviewed by Captain Justin Brown, the lead investigator, and Trooper Richard Newman. After more than ninety minutes of denying shooting Anita and William, the defendant ultimately confessed to the murders. The defendant told the officers that he went to Anita's house to get drugs. He explained that he shot William because he thought William was going to get a gun to shoot him. After shooting William, the defendant said he shot Anita because she ran in the kitchen like "she was going to get something."

Shortly before the defendant confessed to the killings, he told Captain Brown and Trooper Newman that he "don't want to talk about it no more." In his brief, the defendant asserts he invoked his right to remain silent when he told the officers he no longer wanted to talk. According to the defendant, the officers failed to scrupulously honor his right to cut off questioning when he invoked the right. Instead, the officers

continued to berate him; and his tearful inculpatory statement, taken after he invoked his right to remain silent, was obtained in violation of his right against self-incrimination.

When a court denies a motion to suppress, factual and credibility determinations should not be reversed in the absence of a clear abuse of the court's discretion; that is, unless such ruling is not supported by the evidence. See **State v. Green**, 94-0887, p. 11 (La. 5/22/95), 655 So.2d 272, 280-281. However, a court's legal findings are subject to a *de novo* standard of review. See **State v. Hunt**, 2009-1589, p. 6 (La. 12/1/09), 25 So.3d 746, 751.

It is well-settled the ruling in **Miranda v. Arizona**, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966) protects an individual's Fifth Amendment privilege during incommunicado interrogation in a police-controlled atmosphere. In **Miranda**, 384 U.S. at 444, 86 S.Ct. at 1612, the Supreme Court defined "custodial interrogation" as "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." Thus, before a confession or inculpatory statement made during a custodial interrogation may be introduced into evidence, the State must prove beyond a reasonable doubt that the defendant was first advised of his **Miranda** rights, that he voluntarily and intelligently waived those rights, and that the statement was made freely and voluntarily and not under the influence of fear, duress, intimidation, menaces, threats, inducements, or promises. La. Code Crim. P. art. 703(D); La. R.S. 15:451. **Hunt**, 2009-1589 at 11, 25 So.3d at 754. See **State v. Patterson**, 572 So.2d 1144, 1149-1150 (La. App. 1 Cir. 1990), writ denied, 577 So.2d 11 (La. 1991). Whether a showing of voluntariness has been made is analyzed on a case-by-case basis with regard to the facts and circumstances of each case. The trial court must consider the totality of the circumstances in deciding whether a confession is admissible. **State v. Williams**, 2001-0944, p. 13 (La. App. 1 Cir. 12/28/01), 804 So.2d 932, 944, writ denied, 2002-0399 (La. 2/14/03), 836 So.2d 135. Testimony of the interviewing police officer alone may be sufficient to prove a defendant's statements were freely and voluntarily given. **State v.**

Maten, 2004-1718, p. 12 (La. App. 1 Cir. 3/24/05), 899 So.2d 711, 721, writ denied, 2005-1570 (La. 1/27/06), 922 So.2d 544.

Where the defendant alleges police misconduct in reference to the statement, the State must specifically rebut these allegations. **State v. Montejo**, 2006-1807, p. 20 (La. 5/11/10), 40 So.3d 952, 966, cert. denied, ___ U.S. ___, 131 S.Ct. 656, 178 L.Ed.2d 513 (2010). Since the general admissibility of a confession is a question for the trial court, its conclusions on the credibility and weight of the testimony are accorded great weight and will not be overturned unless they are not supported by the evidence. See **Patterson**, 572 So.2d at 1150. In determining whether the ruling on defendant's motion to suppress was correct, we are not limited to the evidence adduced at the hearing on the motion. We may consider all pertinent evidence given at the trial of the case. **State v. Chopin**, 372 So.2d 1222, 1223 n.2 (La. 1979).

The defendant's sole argument on appeal is that the motion to suppress should have been granted and/or he should have been granted a new trial because he confessed to killing Anita and William only after he had invoked his right to remain silent. Because it is not clear the defendant has preserved this argument for appellate review, we address this issue first.

In 2009, defense counsel William Alford, Jr. and J. Kevin McNary filed a motion to suppress inculpatory statements, which stated, in pertinent part:

> Defendant moves to suppress for use as evidence all oral or written inculpatory statements obtained from defendant by all law enforcement officers or other agents of the State in the above-captioned and numbered cause.
>
> All of said confessions and other inculpatory statements are inadmissible in evidence because they were not made by defendant to said law enforcement officers or anyone else freely and voluntarily, but were made under the influence of fear, duress, intimidation, menaces, threats, inducements, and promises, and/or without mover having been advised of his Constitutional rights to remain silent, right to counsel, etc.

The motion to suppress hearing was held in June and July 2011, two years prior to trial. Captain Brown testified the defendant was arrested and read his **Miranda** rights. Before the defendant gave a statement (but while still on the videotape), Captain Brown read to him his rights from a standard rights form. Captain Brown testified that the

defendant never asked for an attorney and that the defendant's statement was given freely and voluntarily. According to Captain Brown, at no time did the defendant indicate he did not understand what he was being told, and the defendant never indicated he did not want to give a statement. Captain Brown stated that he made no promises to the defendant, and the defendant was never physically abused. The defendant's statement was played for the trial court.

The defendant testified that he went "[a]ll the way through high school" and that he was in "Special Ed." He stated he gave a false confession about killing Anita and William because he was intimidated and thought he would get beaten up. Specifically, the defendant testified:

> Well, I come in there and I was actually afraid of the cops because I'd never been to jail, and never been in a situation like that.[1] And when I come in, I saw a lot of cops around, and they took me in a room, and they started questioning me. And after I told them for so long the truth about I didn't do it, and they kept on and they kept on. And I saw a lot of cops on the outside, I actually thought they was going to do something to me, you know, because they mentioned something about one guy I heard about him getting beat up at the jail. I don't know how true it was or whatever, but they say, I heard that they took him over there and beat him up. I don't know. But when they said that, I started getting nervous and scared then, because I thought that, well, if I don't say what they want me to say, I thought they was going to beat me up. So I just started coming up with things to say, just lies, and start telling lies and different lies. And then I kept telling them, I told them that I didn't want to talk about this no more because I knew I kept lying. And I had to think of lies based on what they was saying about certain things, and what they was saying about the crime. I didn't know how the people was shot or whatever, I didn't know none of that. I was just going by what they was saying, you know? And I was afraid they was going to jump on me. I even asked them, was they going to take me into the jail and beat me and put me in a cell and jump on me. I was just afraid at the time. I was just scared. I was scared, you know? And that's why I lied on myself. And I'm sorry. I'm sorry to the ones that believed the lie. I'm sorry, you know? I apologize. I was lying. And at first I wasn't going to do it, but I prayed, and God led me to get up, and He was like, You need to tell the truth no matter if they believe it or not. You know? So I felt like I had to tell the truth.

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[1] The defendant, in fact, had a prior conviction for drug possession. Evidence of a defendant's prior experience with the criminal justice system is relevant to the question of whether he knowingly waived his constitutional rights. **State v. Robinson**, 2008-0820, p. 5 (La. App. 1 Cir. 6/4/10), 42 So.3d 435, 438, writ denied, 2010-1549 (La. 5/20/11), 63 So.3d 974.

The defendant further testified that he did not understand Captain Brown's **Miranda** warning to him that he had the right to remain silent. He also said that, even though he saw on the taped interview that he was explained his rights, he did not remember any of that. When asked on direct examination by Alford, "So your testimony to the Court is that you really did not understand your rights," the defendant replied, "It's mostly that I was lying and I was afraid." The defendant further testified on direct examination that no police officer beat him or abused him. He also stated that he did not know that he had the right to not make any statement at all. On cross-examination, the defendant admitted that no police officer threatened him and that no one beat him. The defendant reiterated that he did not understand that he had the right to remain silent and that he provided the statement because he was afraid.

In denying the motion to suppress, the trial court stated:

> The Court has reviewed the testimony presented in connection with the original portion of this hearing, which was held on June 20, 2011, in court. The Court's reviewed the actual taped video recording of the statement which was made to Franklinton Police Department and Master Trooper Richard Newman during the course of that interview.
>
> The Court notes that Mr. Watson was properly advised of his constitutional rights relative to the making of that statement. The Court notes from the responses on the recording that Mr. Watson, truthfully or falsely, indicated that he understood those rights. He further understood his right to make a statement or to not make a statement, and he voluntarily answered the questions presented by the police, and then a rather lengthy statement ensues, approximately an hour and 54 minutes, if memory serves me correctly.
>
> The Court notes that at no time during the course of the statement were there any threats of violence made. No one coerced or intimidated him in any way during the course of the statement. Therefore, from a constitutional perspective, the statement, as obtained by the officers in question, is not subject to suppression, and the Motion to Suppress will be denied.
>
> The Court notes that the focus of today's defense has been to attempt to establish that Mr. Watson did not, at the time of the making of the statement, understand his constitutional rights; did not have the capacity to intelligently and knowingly waive those rights.
>
> While the Court certainly understands the thrust of the Defense, the Court does not find that that has been established to the satisfaction of the Court. Therefore, the Motion to Suppress is denied in its entirety.

The foregoing reveals that at no time prior to trial did the defendant suggest that he invoked his right to silence during questioning by Captain Brown and Trooper Newman. To the contrary, the defendant insisted at the motion to suppress hearing that he did not even know he had the right to remain silent. The written motion to suppress inculpatory statements and the testimony adduced by defense counsel at the motion to suppress hearing addressed only the issue of the voluntariness of the defendant's statement. The filed motion to suppress contained "boilerplate" language, asserting the defendant's statement was not given freely and voluntarily, but was made under the influence of fear, duress, intimidation, etc. Defense counsel attempted to establish at the motion to suppress hearing the involuntariness of the defendant's statement through testimony that the defendant, allegedly to some extent, did not understand his rights as explained to him and that he confessed because he was intimidated by the police. The trial court, in its reasons for judgment, noted the defendant understood his rights, particularly that he had a right to make or to not make a statement, and that he voluntarily answered the questions of the police. The trial court further noted that at no time during the course of the statement were threats of violence made and that no one coerced or intimidated the defendant in any way during the entire statement. The issue of the defendant's invocation of the right to silence was not raised, much less discussed, by the trial court because at no time had the issue ever been placed before the court.

On the day of trial, July 16, 2013, following voir dire and just prior to opening statements, defense counsel Jerry Fontenot (who was not the defendant's counsel at arraignment or at the motion to suppress hearing) addressed the trial court to "be sure that we have re-urged our previously filed Motion to Suppress the statement" of the defendant. Fontenot suggested the defendant's statement was the result of coercion and because he was under the impression "he might be injured, whether at jail or by someone else." Fontenot then alleged:

> [T]here's a spot on the tape prior to the main inculpatory statement where the defendant specifically said that he didn't want to talk anymore, and he said it two or three times, put his head down and would not talk for a while. They continued to question him, and that ultimately led to the statement. ...

Based upon all of those reasons, we would re-urge the Motion to Suppress the defendant's statement, and ask that it not be played before the jury.

The trial court ruled:

> The Court, for the reasons previously articulated, will deny the Motion to Suppress, both as originally presented and also as re-urged. The Court addressed each of those concerns during its prior rulings and will not re-address those concerns. I'll simply note for the record those have previously been considered, addressed, the Motion to Suppress is still denied.

It is thus at this point -- at the commencement of trial, see La. Code Crim. P. art. 761 -- that defense counsel first raised the issue of the defendant's invoking his right to remain silent. It appears the trial court, having presided over the motion to suppress hearing more than two years prior, may not have had a clear recollection of the specific issues raised at the hearing. The trial court's ruling, wherein it stated that the court had already addressed each of those concerns and would not readdress them, suggests it was not aware that the issue of the defendant's invocation of his right to remain silent was being raised by defense counsel for the first time. In any event, we find that the defendant, in not having raised the issue of his alleged invocation of his right to remain silent during the interview, in either his written motion to suppress inculpatory statement or at the motion to suppress hearing, is precluded from raising this issue on appeal.

Louisiana Code of Criminal Procedure Article 703 provides, in pertinent part:

> A. A defendant adversely affected may move to suppress any evidence from use at the trial on the merits on the ground that it was unconstitutionally obtained.
>
> B. A defendant may move on any constitutional ground to suppress a confession or statement of any nature made by the defendant.
>
> C. A motion filed under the provisions of this Article must be filed in accordance with Article 521, unless opportunity therefor did not exist or neither the defendant nor his counsel was aware of the existence of the evidence or the ground of the motion, or unless the failure to file the motion was otherwise excusable. The court in its discretion may permit the filing of a motion to suppress at any time before or during the trial.

Louisiana Code of Criminal Procedure Article 521 provides in pertinent part:

> A. Pretrial motions shall be made or filed within fifteen days after arraignment, unless a different time is provided by law or fixed by the court at arraignment upon a showing of good cause why fifteen days is inadequate.

B. Upon written motion at any time and a showing of good cause, the court shall allow additional time to file pretrial motions.

These provisions allow a defendant to object to the admission of a confession by the filing of a motion to suppress on any constitutional grounds. He must file this motion within the time limitations set by the trial judge, which may even be during the trial on the merits, and must assert the constitutional grounds under which the confession must be suppressed and the facts entitling him to relief thereunder. The only exception to this rule is if the defendant or his counsel was unaware of the evidence or the ground of the motion, or the failure was otherwise excusable. **Montejo**, 2006-1807 at 21, 40 So.3d at 967. Louisiana courts have long held a defendant may not raise new grounds for suppressing evidence on appeal that he did not raise at the trial court in a motion to suppress. **Montejo**, 2006-1807 at 22, 40 So.3d at 967. See La. Code Crim. P. art. 841; **State v. Brown**, 434 So.2d 399, 402 (La. 1983) (rejecting defendant's alternative argument regarding the denial of his motion to suppress because he had not raised the issue at trial). See also **State v. Smith**, 94-120, p. 6 (La. App. 5 Cir. 5/31/94), 638 So.2d 452, 455 (where the fifth circuit found that since neither the motion to suppress confession nor the evidence presented at the hearing of that motion, which challenged the voluntariness of the statement, raised allegations of an illegal arrest, "any question as to the illegality of defendant's arrest is not properly before this Court").

We recognize that while the issue of the defendant's invocation of his right to remain silent was not, as a matter of form, raised for the first time on appeal, defense counsel's re-urging of the motion to suppress on a new basis (regarding an issue theretofore never raised, discussed, or argued, over two years after the ruling on the motion to suppress, and on the first day of trial, minutes before opening statements) was dilatory and, as such, improper. A defendant must assert all grounds for suppressing the evidence of which either defendant or defense counsel were aware. **Montejo**, 2006-1807 at 43, 40 So.3d at 980. See La. Code Crim. P. art. 703(E)(1).

While the burden of proof was on the State on the trial of the motion to suppress to prove the admissibility of the confession, the defendant was required to raise all

grounds for suppression of the evidence that were knowable or available at that time. The defendant bears this burden in order to give the State adequate notice so that it may present evidence and address the issue at trial on the motion. **Montejo**, 2006-1807 at 24, 40 So.3d at 969. Because the defendant did not raise the issue of invocation of right to silence in the written motion to suppress or at the motion to suppress hearing, the State had no need to put on evidence to show that the defendant never made a clear assertion of his right to remain silent. *Id.*

In **State v. Barton**, 2002-163 (La. App. 5 Cir. 9/30/03), 857 So.2d 1189, writ denied, 2003-3012 (La. 2/20/04), 866 So.2d 817, the defendant filed a motion to suppress statements alleging he made the statements under duress. The motion to suppress was denied and, at a subsequent hearing, the defendant's new counsel asserted for the first time that the statements should be suppressed because he was illegally arrested. The trial judge found the defendant to be precluded from re-urging the motion on a new basis. The trial judge reasoned that the facts and circumstances were known to the defendant at the time of the original motion to suppress and that a defendant should not be able to re-urge a new basis for the motion simply upon obtaining new counsel. Affirming the trial court's ruling, the fifth circuit found that since the defendant did not argue at the original suppression hearing that the statements were the product of an illegal arrest, the record contained no evidence of the circumstances preceding the defendant's arrival at the police station; as such, the court was now precluded from reviewing this claim on appeal. **Barton**, 2002-163, at 12-13, 857 So.2d at 1198-1199. See **Montejo**, 2006-1807 at 44, 40 So.3d at 981 (where the supreme court found that the defendant's testimony at trial that he asserted his right to counsel when police approached him in 2002, and that his subsequent waiver was invalid because the police misled him into thinking he did not have an attorney, came too late for consideration as to the admissibility of that evidence because those grounds for suppressing the evidence were available, but were not asserted by defendant in a motion to suppress). See also **State v. Hawkins**, 95-0624, pp. 3-5 (La. App. 1 Cir. 2/23/96), 669 So.2d 587, 589, writs

denied, 96-0738 (La. 6/21/96), 675 So.2d 1078, and 96-0801 (La. 6/28/96), 675 So.2d 1120.

In **State v. Serrato**, 424 So.2d 214, 216-217 (La. 1982), our supreme court found that the defendant's failure to address a contention that his confession was the product of an illegal arrest and was procured in violation of his right to counsel in his pretrial motion did not preclude him from raising these new issues on appeal since the defendant, despite not raising the issues pretrial, raised the new issues in his motion for new trial and were thus considered properly before the court. The defendant in the instant matter filed a motion for new trial; however, just as with the filed, written motion to suppress and the hearing on the motion to suppress, the defendant did not raise the issue of his invocation of the right to remain silent in his motion and memorandum for new trial. At the hearing on the motion for new trial, the defendant raised no issues, new or otherwise, but submitted the motion without argument. **Serrato** is thus distinguishable from the instant matter. See **Smith**, 94-120 at 6-7, 638 So.2d at 455-456.

Based on the foregoing, the issue of whether the defendant invoked his right to silence during questioning is not properly before this court. The defendant's failure to preserve the issue notwithstanding, we find that the defendant did not invoke his right to remain silent while being questioned by Captain Brown and Trooper Newman.

Whether the police have scrupulously honored a defendant's right to cut off questioning is a determination made on a case-by-case basis under the totality of the circumstances. **State v. Leger**, 2005-0011, p. 14 (La. 7/10/06), 936 So.2d 108, 125, cert. denied, 549 U.S. 1221, 127 S.Ct. 1279, 167 L.Ed.2d 100 (2007). One of the questions posed by Captain Brown throughout the interview was whether the defendant went inside Anita's house. While dodging this question, the defendant continued to talk to the officers and answer their questions (while at the same time denying any involvement in the murders). Finally, when it became clear to the defendant that forensic evidence placed him at Anita's house, Captain Brown repeatedly asked the defendant if he went inside the house. The defendant responded: "I don't even want to talk about it no

more, cuz no matter what I tell y'all man, I'm stuck in the middle of [unintelligible] anyway. I don't want to talk about it no more [crosstalk with Trooper Newman]. I don't even want to talk, man." The defendant put his head on the desk and said, "I didn't, man."

During the almost two hours of questioning, this is the only instance (about 84 minutes into the interview) where the defendant said he did not want to talk. In **Leger**, our supreme court found that the defendant invoked his right to remain silent when he told the police he did not want to talk anymore. **Leger**, 2005-0011 at 14-17, 936 So.2d at 125-126. We distinguish the exchange in **Leger** from the instant matter. During the interview, Leger was unresponsive and initially refused to talk at all. Throughout the questioning, Leger repeatedly stated that he did not want to talk and particularly said multiple times that he "did not want to talk about it" and "did not want to talk anymore." Further, no waiver of rights form was generated during this interview.

We find the facts surrounding the instant interview closer to those in **State v. Prosper**, 2008-839, pp. 1-2 (La. 5/14/08), 982 So.2d 764, 765, where our supreme court found that, given the totality of the circumstances, the defendant's comment, "I don't have nothing else to say," during a police interview did not reasonably suggest a desire to end all questioning or remain silent, where the defendant continued making other statements. <u>See</u> **State v. Hebert**, 2008-0003, pp. 7-9 (La. App. 1 Cir. 5/2/08), 991 So.2d 40, 46, <u>writs denied</u>, 2008-1526, 2008-1687 (La. 4/13/09), 5 So.3d 157, 161 (where, when the defendant at the start of the interview indicated he did not want to talk to the police, and the detective continued to ask him general questions, this court found that the police did not engage in conduct that destroyed the defendant's confidence in his right to cut off questioning, that the defendant remained in control of whether he would talk to the police, and the police did not browbeat the defendant into making a statement).

In **Davis v. United States**, 512 U.S. 452, 459-461, 114 S.Ct. 2350, 2355-2356, 129 L.Ed.2d 362 (1994), the Supreme Court held that a suspect during questioning who desires the assistance of counsel must unambiguously request counsel. In **Berghuis v.**

Thompkins, 560 U.S. 370, 381-382, 130 S.Ct. 2250, 2259-2260, 176 L.Ed.2d 1098 (2010), the Supreme Court found that the rule for invoking the right to remain silent was the same as the **Davis** rule for invoking the right to counsel; that is, the accused who wants to invoke his right to remain silent must do so unambiguously. The first time the defendant in the instant matter said he did not "want to talk about it no more," it is clear he was again dodging the question about whether he was in Anita's house on the day of the murders. In other words, the defendant did not indicate he did not want to speak to the police at all, but only that he had nothing to say about his presence or not at Anita's house, given the implication of guilt had he responded in the affirmative versus a possible spate of questions regarding his whereabouts had he responded in the negative. Moreover, the fact the defendant continued to speak immediately after saying he did not "want to talk about it no more" ("cuz no matter what I tell y'all man, I'm stuck in the middle of [unintelligible] anyway") reflected an intent to continue the exchange. See **State v. Robertson**, 97-0177, p. 27 (La. 3/4/98), 712 So.2d 8, 31, cert. denied, 525 U.S. 882, 119 S.Ct. 190, 142 L.Ed.2d 155 (1998). When the defendant said, "I don't even want to talk, man," and put his head down on the desk, and the defendant then said, "I didn't, man," the officers could have reasonably inferred that the defendant's words and gestures were not an indication to terminate all questioning, but rather a frustrated, emotional response to a growing awareness by the defendant that the officers knew that he, and he alone, was in Anita's house when Anita and William were killed. See **West v. Johnson**, 92 F.3d 1385, 1403 (5 Cir. 1996), cert. denied, 520 U.S. 1242, 117 S.Ct. 1847, 137 L.Ed.2d 1050 (1997) (where the court found a detective's testimony that the suspect said he "didn't want to tell us anything about it," was not an invocation of the suspect's right to remain silent, but rather a denial of involvement in the crime).

Accordingly, we find no error or abuse of discretion in the trial court's denial of the motion to suppress the statement or in its denial of the motion for new trial. There was no unambiguous invocation by the defendant of his right to terminate all questioning. The defendant had been thoroughly informed of his rights, he indicated he understood those rights, and he intelligently waived his rights explicitly, as well as implicitly through

his actions and words. See **State v. Brown**, 384 So.2d 425, 426-428 (La. 1980). The trial court found, and our review of the interview supports these findings, that the defendant was not coerced, threatened, or intimidated in any way by Captain Brown and Trooper Newman. We note that at the end of the interview, when Captain Brown asked the defendant if they had mistreated him in any way, the defendant responded "No." A few remarks by the defendant about not wanting to "talk about it" anymore, particularly in light of the entire interview, could not have reasonably put the officers on notice that the defendant sought to terminate all questioning. Cf. **Leger**, 2005-0011 at 14-17, 936 So.2d at 125-127. Given the defendant's ever-increasing emotional state at this point of the interview, a reasonable officer could have interpreted these statements as an expression of anguish or remorse, especially when viewed in the context of the defendant's demeanor, rather than a desire to terminate the interview.

In sum, we find the defendant did not preserve for appellate review his argument that he invoked his right to silence during questioning. We also find that the defendant's indication that he had nothing further to say about the crimes did not reasonably suggest a desire to end all questioning or to remain silent. See **Robertson**, 97-0177 at 27, 712 So.2d at 31.

These assignments of error are without merit.

CONVICTIONS AND SENTENCES AFFIRMED.