

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT L. HOLIDAY,

Defendant-Appellant.

UNPUBLISHED

January 30, 2001

No. 218202

Wayne Circuit Court

LC No. 97-009018

Before: Collins, P.J., and Doctoroff and White, JJ.

PER CURIAM.

Defendant appeals as of right from his convictions of second-degree murder, MCL 750.317; MSA 28.549, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Officer Deneal testified that he and his partner, Officer Gadwell, arrested defendant in connection with a shooting. Deneal testified that while enroute to the station, Gadwell elicited basic information from defendant, including his name, address, etc. During the conversation, defendant volunteered that he shot the victim. Deneal testified that he did not ask defendant any questions regarding the incident, and that he did not recall if Gadwell asked defendant any such questions. The trial court overruled an objection to the admission of defendant's statement, finding that defendant volunteered the information. The trial court relied in part on the statement in finding defendant guilty.

A statement made by an accused during a custodial interrogation is inadmissible unless the accused voluntarily, knowingly, and intelligently waived his Fifth Amendment rights. *Miranda v Arizona*, 384 US 436, 444; 86 S Ct 1602; 16 L Ed 2d 694 (1966). *Miranda* warnings are not required unless the accused is subject to a custodial interrogation. A custodial interrogation is questioning initiated by law enforcement officers after the accused has been taken into custody or deprived of his freedom in a significant way. *People v Zahn*, 234 Mich App 438, 449; 594 NW2d 120 (1999). Interrogation refers to express questioning and to words and actions on the part of law enforcement officers that the officers should know are reasonably likely to elicit an incriminating response. *People v Raper*, 222 Mich App 475, 479; 563 NW2d 709 (1997).

Defendant argues that the trial court erred by admitting his inculpatory statement. We disagree and affirm defendant's convictions. The uncontradicted evidence showed that at the time defendant made his statement, he was being asked basic informational questions, such as his name and address. The questions asked of defendant were not designed to elicit incriminating information; therefore, defendant's statement did not fall within the purview of *Miranda, supra. Raper, supra*, 479-481. Defendant does not suggest that the prosecution had contradictory evidence at its disposal. Based on the record before us, we conclude that the trial court did not err by admitting defendant's statement. *Id.*, 475; *Mendez, supra*.

Finally, defendant argues that his statement should have been suppressed because the police failed to make an audio recording of the exchange. We disagree. In *People v Fike*, 228 Mich App 178, 183-186; 577 NW2d 903 (1998), another panel of this Court considered the same issue and held that the due process clause of the Michigan Constitution, Const 1963, art 1, § 17, does not require the electronic recording of all custodial interrogations or confessions, including the giving of *Miranda* warnings.

Affirmed.

/s/ Jeffrey G. Collins
/s/ Martin M. Doctoroff
/s/ Helene N. White