

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTHONY WILLIAMS,

Defendant-Appellant.

UNPUBLISHED

October 30, 2001

No. 224828

Wayne Circuit Court

LC No. 96-005815

Before: Whitbeck, P.J., and Neff and Hoekstra, JJ.

PER CURIAM.

Defendant appeals as of right his convictions of possession with intent to deliver 225 grams or more but less than 650 grams of heroin, MCL 333.7401(2)(a)(ii), possession with intent to deliver Diazepam, MCL 333.7401(2)(c), and possession with intent to deliver marijuana, MCL 333.7401(2)(d)(iii), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Police officers executed a search warrant at a home owned by defendant and his wife. Defendant's wife, their young son, and a relative were in the home at the time; however, defendant was not present. The search revealed narcotics, cash, a handgun, tally sheets showing apparent narcotics transactions, expired credit cards and a driver's license belonging to defendant. Defendant's wife reached him by telephone. Defendant appeared at the home and, after being advised of his *Miranda*¹ rights, made an inculpatory statement in which he claimed ownership of the narcotics.

Defendant moved to suppress his statement. At a *Walker*² hearing, police officers who participated in the execution of the search warrant testified that no threats or promises were made to defendant, that defendant was not told that his wife would be jailed if he did not make a statement, and that defendant agreed to make a statement after being fully advised of his rights. Defendant presented no witnesses at the hearing. The trial court denied defendant's motion to suppress, finding that no evidence showed that defendant was coerced into making the statement.

¹ *Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966).

² *People v Walker (On Rehearing)*, 374 Mich 331; 132 NW2d 87 (1965).

At trial, defendant testified that the police threatened him and told him that his wife would be jailed if he did not admit ownership of the narcotics. Defendant asserted that he made the inculpatory statement to prevent harm from coming to his wife. He denied ownership of the narcotics and the handgun. The trial court found defendant guilty of possession with intent to deliver 225-649 grams of heroin, possession with intent to deliver Diazepam, and possession with intent to deliver marijuana, but acquitted him of possession of a firearm during the commission of a felony, MCL 750.227b.

A statement made by an accused during a custodial interrogation is inadmissible unless the accused voluntarily, knowingly, and intelligently waived his or her Fifth Amendment rights. *Miranda, supra* at 444. A custodial interrogation is questioning initiated by law enforcement officers after the accused has been taken into custody or deprived of his or her freedom in a significant way. *People v Zahn*, 234 Mich App 438, 449; 594 NW2d 120 (1999). The ultimate question whether a person is in custody and thus entitled to *Miranda* warnings is a mixed question of law and fact, which this Court determines independently after review de novo of the record. *People v Mendez*, 225 Mich App 381, 382; 571 NW2d 528 (1997). However, absent clear error, we defer to the trial court's historical findings of fact. *Id.* Compliance with *Miranda, supra*, does not dispose of the issue of the voluntariness of a confession. *People v Godboldo*, 158 Mich App 603, 605-606; 405 NW2d 114 (1986). The voluntariness of a confession is evaluated under the totality of the circumstances, with consideration given to such factors as the duration of detention and questioning, the defendant's age, education, intelligence, and experience with police, the defendant's physical and mental state, and whether the defendant was threatened or promised leniency. *People v Sexton*, 458 Mich 43, 66; 580 NW2d 404 (1998). No single factor is determinative. *People v Sexton (After Remand)*, 461 Mich 746, 753; 609 NW2d 822 (2000).

Defendant argues that the trial court erred by denying his motion to suppress his statement. We disagree and affirm defendant's convictions. The un rebutted evidence presented at the motion hearing established that defendant was informed of his *Miranda* rights, and that he signed the form waiving those rights. Witnesses testified that defendant was not threatened or promised leniency, and that no threats were made toward defendant's wife. The trial court found this testimony to be credible. This Court gives great deference to the trial court's assessment of the credibility of the witnesses. *Id.* at 752; *People v Brannon*, 194 Mich App 121, 131; 486 NW2d 83 (1992). The trial court's findings of fact were not clearly erroneous. Defendant testified at trial that he was coerced into making the inculpatory statement. The trial court rejected that testimony, as it was entitled to do. *People v Vaughn*, 186 Mich App 376, 380; 465 NW2d 365 (1990). We find that under the totality of the circumstances, defendant's statement was knowingly and voluntarily made, and was not the product of coercion.

Affirmed.

/s/ William C. Whitbeck
/s/ Janet T. Neff
/s/ Joel P. Hoekstra