

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARK T. CRAIGHEAD,

Defendant-Appellant.

UNPUBLISHED

December 22, 2005

No. 243856

Wayne Circuit Court

LC No. 00-007900-01

Before: Whitbeck, C.J., and Saad and O’Connell, JJ.

Whitbeck, C.J. (*dissenting*).

I respectfully dissent. The majority upholds the trial court’s findings that (1) the police did not arrest Craighead until he generally discussed the case and gave conflicting, evasive, and deceptive responses that were sufficient to provide probable cause for Craighead’s arrest and (2) Craighead’s subsequent confession did not flow directly from an illegal arrest but was provided voluntarily. To the contrary, I conclude that (1) the police arrested Craighead without a warrant and without probable cause *prior* to the time he confessed and (2) his confession flowed directly from that illegal arrest. I would therefore reverse.

I. The Chronology Of The Arrest

A. Craighead’s Home, 5:00-6:00 p.m., June 20, 2000

On June 20, 2000, at approximately 5:00 to 6:00 p.m., Detroit Police Investigator James Fisher, with Lieutenant Billy Jackson, went to Craighead’s home at 15212 Mettetal in Detroit. Investigator Fisher had inherited the investigation into the 1997 shooting death of Chole Pruett and had determined that he needed to speak to Craighead about that shooting. When Craighead and his brother, Randle Craighead, arrived, Investigator Fisher and Lieutenant Jackson, who were standing on the front porch, identified themselves as police officers and asked Craighead to accompany them to the police station. According to Randle Craighead, Craighead invited the officers into his house, but the officers refused, stating that they wanted to take Craighead to the police station that day. Craighead allegedly asked the officers whether he could go inside his home to call his lawyer and put on some clothes, but the officers did not allow him to go inside. Craighead also allegedly asked the officers whether he could come to the station the next day, but the officers stated that he had no choice but to come with them. One of the officers allegedly said, “Do I have to make a call to have a scoutcar pick you up, or are you coming with us?”

Michael Heslip, who was then inside Craighead's house, testified to hearing him ask for a lawyer and telling the officers that he was tired, but the officers told Craighead that he would not need a lawyer and that they would radio for a scout car if he did not come to the station. After talking with the officers for approximately 15 or 20 minutes, Craighead ultimately yielded, got in the backseat of Investigator Fisher's car, and went to the station. According to Randle Craighead, he followed the police officers to the police station in his vehicle, but he was not permitted access to the homicide floor of the station.

B. Police Station, 6:30-7:00 p.m., June 20, 2000

Craighead arrived at the police station at approximately 6:30 or 7:00 p.m. on June 20, 2000. Investigator Fisher advised Craighead of his *Miranda*¹ rights and took his basic information. According to Investigator Fisher, the two talked and Investigator Fisher concluded that Craighead's information did not add up because it was not consistent. Investigator Fisher had no further interaction with Craighead after approximately 9:00 p.m. The police held Craighead in the ninth floor lockup overnight.

C. Police Station, 11:15 a.m., June 21, 2000

The next morning, Investigator Fisher decided to have Investigator Barbara Simon interview Craighead because of her superior experience and skill. Investigator Simon started her interview with Craighead at the station at 11:15 a.m. on June 21, 2000. After advising Craighead of his *Miranda* rights, Investigator Simon obtained Craighead's confession at 11:50 a.m. In his confession, Craighead stated that he was at Pruett's home on the day of the shooting, that he argued with Pruett over an unknown subject, and that Pruett had a gun. Craighead also stated that when he wrestled the gun away from Pruett, he (Craighead) panicked and fired the gun. According to Craighead, after he shot Pruett, he ran out of Pruett's apartment, took Pruett's truck, and drove to an unknown location in Redford.

II. Probable Cause And Suppression

A. Overview

Both the United States Constitution² and the Michigan Constitution³ provide the right of the people to be secure from unreasonable searches and seizures. Further, irrespective of the existence of an arrest warrant, an arrest must be supported by probable cause.⁴

As Craighead points out, probable cause to arrest exists when the facts and circumstances within the police officers' knowledge are sufficient for a prudent person, or one of reasonable

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

² US Const, Am IV.

³ Const 1963, art 1, § 11.

⁴ *Whitely v Warden*, 401 US 560, 566; 91 S Ct 1031; MCL 764.15(1) ; L Ed 2d 306 (1971).

caution, to believe that the suspect has committed or is committing a felony.⁵ Further, facts that constitute mere suspicion, inarticulate hunches, and vague beliefs of criminal involvement do not amount to probable cause.⁶ Importantly, the prosecution bears the burden of demonstrating probable cause for a warrantless arrest.⁷ Equally importantly, evidence obtained through exploitation of an illegal detention is subject to suppression.⁸

B. Arrest At Craighead's Home

In my view, the officers clearly placed Craighead under arrest at Craighead's home on the evening of June 20, 2000. There is little question that the officers required Craighead to accompany them to the police station. And there is no doubt, as evidenced by the fact that Randall Craighead was not allowed to see his brother, that the police held Craighead incommunicado once he arrived at the police station. This was a warrantless arrest, and the prosecution therefore had the burden of demonstrating probable cause for such an arrest.⁹ The majority views the issue as being one of credibility and defers to the trial court's decision that Craighead's testimony was not credible while the police officer's testimony was. I see the issue as relating, however, to the burden of proof and can find very little in the record to sustain a finding that the prosecution sustained its burden of showing probable cause for a warrantless arrest at Craighead's home on the evening of June 20, 2000. If there was no probable cause, then the evidence—and clearly Craighead's confession is such evidence—derived from the exploitation of the illegal detention should have been suppressed. In my view, the trial court therefore clearly erred when it declined to suppress Craighead's confession.

C. Arrest At The Police Station

Even, however, if the police did not arrest Craighead at his home, he was certainly under arrest the moment he arrived at the police station. Again, he was held incommunicado. Although the record is somewhat murky as to the exact sequence, it appears that Investigator Fisher first read Craighead his *Miranda* rights, then talked with him, and *then* reached the conclusion that Craighead's information did not add up because it was not consistent. If this is so, then Investigator Fisher had no probable cause to arrest Craighead prior to their "talk." Nonetheless, that is apparently exactly what Investigator Fisher did. If so, the arrest was illegal, and the trial court clearly erred when it failed to suppress Craighead's confession.

I would therefore reverse and remand for a new trial.

/s/ William C. Whitbeck

⁵ *People v Mitchell*, 138 Mich App 163, 167; 360 NW2d 158 (1984).

⁶ *United States v Arvizu*, 534 US 266, 273-274; 122 S Ct 744; 151 L Ed 2d 740 (2002).

⁷ *People v Reed*, 393 Mich 342, 362; 224 NW2d 867 (1975).

⁸ *Wong Sun v United States*, 371 US 471, 486; 83 S Ct 407; 9 L Ed 2d 441 (1963).

⁹ *Reed*, *supra*.