

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE,)
)
)
 v.) I.D. NO. 0106014423
)
)
 TOMMY J. DAVIS,)
)
)
 Defendant.)

Date Submitted: January 14, 2002

Date Decided: March 26, 2002

MEMORANDUM OPINION

**UPON DEFENDANT'S
MOTION FOR SUPPRESSION OF EVIDENCE**

DENIED

Joseph M. Bernstein, Esq., 300 Delaware Avenue, Suite 1130, Wilmington, Delaware 19801. Attorney for Defendant.

Joelle M. Wright, Esq., Department of Justice, Carvel State Building, 820 N. French Street, Wilmington, Delaware 19801. Attorney for the State of Delaware.

On this 26th day of March 2002, upon consideration of Defendant's Motion for Suppression of Evidence, it appears to the Court that:

FACTS

On June 19, 2001, University of Delaware Police ("Police") went to Tommy J. Davis' ("Defendant") residence in Elkton, Maryland. Once there, Defendant was asked to accompany the police officers back to the University of Delaware Police Station to assist in an investigation. Defendant agreed and invited the officers into his residence so that he could get ready to leave. Upon being offered a ride to the station from the police officers Defendant agreed, leaving his car at his residence.

At the station, Defendant was given his *Miranda* warnings and the interview was videotaped. The interview took place on the second floor of the station. Approximately an hour through the interview Defendant requested a break, which the officers allowed. Defendant and the officers proceeded outside of the station for Defendant to smoke a cigarette and have a soda. After the break, Defendant answered more questions for about fifteen minutes before again requesting to stop. Defendant indicated that he wanted to consult with an attorney and get his thoughts together. When Defendant requested to stop, Detective Wilson informed him that once he left the room, the opportunity they were affording him would be over. In response, Defendant stated that he was not saying that

State v. Davis

I.D. No. 0106014423

July 9, 2002

Page 3

he wanted an attorney present with him, but needed to talk to one before answering any more questions. In addition, Defendant admitted that he knew he could have left the room and not answered any questions, but to do so would make him look guilty.

Defendant volunteered to continue the questioning later in the day after he relaxed, ate and settled down. He also volunteered to look for letters and/or e-mails from the alleged victim. At this point, the officers offered to take Defendant home. Defendant responded that he would return on his own.

At 4:30 that afternoon, the Defendant voluntarily returned to the station as promised. The officers informed Defendant the *Miranda* warnings remained in force from the morning. Defendant responded that he wanted to know what would happen if he could not afford an attorney. Detective Wilson informed Defendant that he would need to call the Public Defender's Office but stated he did not believe the Public Defender's Office would defend him until he was charged.¹ At some point during the second interview, Defendant informed the officers that he had letters from the alleged victim in his car. He led the officers to his car and gave them permission to search the vehicle, although no consent to search form was obtained. The officers took some letters they found in the vehicle, as well as a blue blanket from inside the trunk. During the

¹ This response is fatal to the State's argument if the Defendant was subject to a custodial interrogation.

remainder of the second interview, Defendant made incriminating statements and subsequently was arrested and charged with Rape in the Third Degree.

ANALYSIS

Defendant now brings this Motion to Suppress all statements made by Defendant to Detective Wilson and Ranger Wales on June 19, 2001 and all physical evidence seized or recovered by police which were fruits of the poisonous tree. The main contention for the motion is that the police continued to question Defendant after he requested to consult with an attorney. Thus, Defendant argues that he was subject to custodial interrogation when interviewed by the police on June 19, 2001 and therefore afforded *Miranda* rights. The State contends that Defendant was not subject to custodial interrogation, so no *Miranda* violation occurred. The outcome of this motion hinges on whether Defendant was in custody at the time of the questioning, so that a *Miranda* analysis would apply to this situation. The Court determines that Defendant was not in custody on June 19, 2001, thus no *Miranda* violation occurred and the evidence will not be suppressed.

The *Miranda* warnings guarantee certain procedural safeguards to Defendants while they are subject to custodial interrogation.² The United States Supreme Court has interpreted custodial interrogation as “questioning initiated by law enforcement officers

² *Miranda v. Arizona*, 384 U.S. 436, 445 (1966).

after the person has been taken into custody or otherwise deprived of his freedom in any significant way.”³ The Delaware Supreme Court follows this reasoning, equating custodial interrogation with a “restraint on freedom of movement associated with a formal arrest.”⁴ The Court uses the totality of the circumstances test to determine whether a custodial interrogation occurred.⁵ Using the totality of the circumstances test, the Court must determine whether an objectively reasonable person would have felt free to leave the interrogation.⁶ Under this test, the subjective view of both the interrogating officers and the alleged defendant should not be considered.⁷

Here, there are two different interrogation sessions to be analyzed. Defendant contends both of these sessions were custodial interrogation. Prior to the morning interrogation, the police showed up at Defendant’s house unannounced and all but insisted that he ride with them to the station to be interviewed. In a similar case, the Delaware Supreme Court found that the Defendant was not subject to custodial interrogation, thus not subject to *Miranda*, even though the Defendant was escorted from

³ *Id.* at 444.

⁴ *Marine v. State*, 607 A.2d 1185 (Del. 1992) (quoting *California v. Beheler*, 463 U.S. 1121, 1125 (1983)); *DeJesus v. State*, 655 A.2d 1180, 1190 (Del. 1995).

⁵ *Id.* at 1193; *DeJesus*, 655 A.2d at 1190.

⁶ *DeJesus*, 655 A.2d at 1190; *Thompson v. Keohane*, 516 U.S. 99 (1995).

⁷ *Id.*

her home to the police station and subjected to a coercive environment.⁸ In that case, the police officers arrived at Chao's apartment at 1:45 a.m. and requested that she accompany them to the police station to assist in an investigation.⁹ Chao agreed and accepted a ride from the police officers.¹⁰ At the time of the interrogation, Chao was not under arrest, nor were her freedoms restrained.¹¹ The Delaware Supreme Court noted that "[t]he fact that the questioning occurred in a police station does not necessitate a finding of custody since the objective circumstances do not suggest that Chao was held against her will."¹² The same reasoning should apply to the case *sub judice*. Here, Defendant was free to leave the station at any time. He voluntarily accompanied the police officers to the University of Delaware Police Station. He was not told he was under arrest, nor was he handcuffed. Moreover, the Defendant was given breaks when requested and allowed to return home when he wanted. Thus, the morning interrogation was not custodial and *Miranda* does not apply.

⁸ *Chao v. State*, 604 A.2d 1351, 1356 (Del. 1992).

⁹ *Id.* at 1351.

¹⁰ *Id.*

¹¹ *Id.* at 1356.

¹² *Id.* (citing *Oregon v. Mathiason*, 429 U.S. 492 (1977)).

State v. Davis

I.D. No. 0106014423

July 9, 2002

Page 7

Moreover, the afternoon interview was not custodial interrogation. The Defendant voluntarily returned to the station on his own. He was not under arrest at this time, nor was he told that he was not free to leave. During the interrogation, Defendant voluntarily informed the police officers that he brought letters from the alleged victim and had them in his vehicle. At this point, the Defendant escorted the officers to his vehicle where he gave consent for them to search the vehicle. After the search of the vehicle, and consequently after the officers took certain items from his car, Defendant returned with the officers to the station to continue answering questions.

From an objective point of view, Defendant was free to leave during both interviews. Miranda rights only apply to custodial interrogation and not every coercive interview conducted by police officers. Here, a reasonable person in Defendant's place would have felt free to leave. Defendant was allowed to take breaks when he wanted, outside of the station. Defendant was allowed to leave when he requested to do so. Defendant voluntarily returned to the station for further questioning with no police contact between the interviews. Defendant was not told he was under arrest, nor handcuffed or restrained in any manner during the course of the interviews. Looking at the totality of the circumstances, this was not a custodial interrogation. Thus, Defendant's Motion to Suppress Evidence is Denied.

State v. Davis
I.D. No. 0106014423
July 9, 2002
Page 8

For the forgoing reasons, Defendant's Motion for Suppression of Evidence is
hereby **DENIED**.

IT IS SO ORDERED.

ALFORD, J.

Prothonotary's Office - Criminal Div.