IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

State of Delaware	)	
	)	
v.	)	ID#0403020073
	)	
Eric Mattison,	)	
	)	
Defendant.	)	

Upon Consideration of Defendant's
Motion to Suppress.
GRANTED.

Submitted: November 5, 2004
Decided: February 4, 2005

Brian J. Robertson, Esquire, Attorney for the State, Department of Justice, Wilmington, Delaware.

Eugene J. Maurer, Jr., Esquire, Attorney for the Defendant, Wilmington, Delaware.

Scott, J.

Before this Court is a Motion to Suppress filed by Defendant Eric Mattison through his counsel, Eugene Maurer, Esquire. Mattison's first argument is that he did not knowingly, intelligently, and voluntarily waive his *Miranda* rights because he was intoxicated.[1] Second, he argues that all statements obtained during the police interrogation are inadmissible because he was not issued *Miranda* warnings until after ten minutes of questioning. A suppression hearing was held before this Court on November 5, 2004. The Court is prepared to render its decision.

I.

On or about April 24, 2004, Mattison was stopped by New Castle County Police Officers while driving his vehicle. He was transported to an interrogation room where a videotaped interview was conducted. No *Miranda* warnings were issued at the start of the questioning by Detective Spottswood.

Mattison was questioned for approximately ten minutes before the *Miranda* warnings were issued. During the ten minutes previous to *Miranda*, Detective Spottswood questioned Mattison about his drug and alcohol intake before his arrest. Mattison admitted he had been drinking. He also stated that he had consumed three bags of heroin that day. When asked if he was "alright," Mattison responded that he was "cold" and "tired." General questions as to his living arrangements were also asked. Mattison admitted that he committed crimes "to get

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[1] *See generally*, *Miranda v. Arizona*, 86 S.Ct. 1602 (1966).

the drugs." In any event, Detective Spottswood did not inquire into what crimes Mattison was referring to; rather, Detective Spottswood indicated that he was in the room to help the defendant.

Miranda warnings were then issued. Mattison signed the waiver and the questioning continued. After the *Miranda* warnings were waived, Detective Spottswood questioned Mattison about specific robberies. Mattison put his hand on his head several times during the questioning; however, he never fell asleep.

Mattison was quite clear in explaining the process of stealing goods and pawning them for drug money. Mattison recounted the drugs that he ingested the night of the robbery. He also recalled the people's names that were present with him. Mattison specified that, among other things, he preferred bigger houses to trailers and "never" robbed apartments. He explained that he knocked to make sure no one was home. He would then go around to the back of the house because "I don't go in the front door." Mattison indicated to Detective Spottswood that "I don't like breaking" things to get into houses. Mattison concluded by stating that he just wanted to get drug treatment.

II.

The Fifth Amendment to the United States Constitution provides that no person "shall be compelled in any criminal case to be a witness against himself."[2] In the seminal *Miranda v. Arizona*, the United States Supreme Court held that the privilege against self-incrimination was applicable to custodial interrogations of persons suspected of a crime.[3] Custody is defined as depriving a defendant of his freedom of action in any significant way.[4] Interrogation includes express questioning as well as "any words or actions on the part of the police . . . that the police should know are reasonably likely to elicit and incriminating response from the suspect."[5] Accordingly, "[i]f the police take a suspect into custody, and interrogate him without advising him of his Fifth amendment rights, his answers cannot be introduced into evidence at a subsequent trial to establish the suspect's guilt."[6]

In *Oregon v. Elstad*,[7] the United States Supreme Court held that "a suspect who has once responded to unwarned yet uncoercive questioning is not thereby

[2] U.S. Const. amend. V. The Due Process Clause of the Fourteenth Amendment makes the Fifth Amendment privilege against self-incrimination applicable to the states.
[3] *Miranda*, 86 S.Ct. at 1624.
[4] *Id.* at 1612.
[5] *Rhode Island v. Innis*, 100 S.Ct. 1682, 1689-90 (1980). (Internal citations omitted). The Court defined an "'incriminating response'" as "any response – whether inculpatory or exculpatory – that the *prosecution* may seek to introduce at trial." *Id*. at 1690, n.5.
[6] *DeJesus v. State*, 655 A.2d 1180, 1190 (Del. Supr. 1995)(citing *Berkemer v. McCarty*, 104 S.Ct. 3138, 3144 (1984)).
[7] 105 S.Ct. 1285 (1985).

disabled from waiving his rights and confessing after he has been given the requisite *Miranda* warnings."[8] Elstad was an 18 year old implicated in the crime of burglary. The police went to his house to arrest him. In his living room, the police officer stated that he believed the Defendant had been at the crime scene.[9] Elstad responded "'Yes, I was there.'"[10] Elstad was then escorted to the police station.[11] At the station, Elstad was read his *Miranda* rights. He indicated that he understood them, and wanted to speak with the officers.[12] Consequently, Elstad confessed to the burglary.

The Court held that "[w]hen a prior statement is actually coerced, the time that passes between confessions, the change in the place of interrogations, and the change in identity of the interrogators all bear on whether that coercion has carried over into the second confession."[13] Accordingly, Elstad's statements were admitted because his first statement was in his living room, and his second confession was one hour later at the police station. The Court, although ruling in favor of the State, indicated that it did not "condone inherently coercive police tactics or methods offensive to due process that render the initial admission

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[8] *Id*. at 1298.
[9] *Id*. at 1289.
[10] *Id*.
[11] *Elstad*, 105 S.Ct. at 1289.
[12] *Id*.
[13] *Id*. at 1293. (Internal citations omitted).

involuntary and undermine the suspect's will to invoke his rights once they are read to him."[14]

A decade later, in *Missouri v. Seibert*,[15] the United States Supreme Court held that a two-step interrogation scheme, involving one statement without *Miranda* warnings, and one thereafter with *Miranda* warnings, was unconstitutional.[16] Seibert, arrested for murder, was taken to the police station and left in the interrogation room for 15 to 20 minutes.[17] She was questioned by the police for 30 to 40 minutes without *Miranda* warnings.[18] During the 30 to 40 minutes, Seibert admitted to allowing the child to die in his sleep.[19] After her admission, she was given a 20 minute coffee break. Immediately upon her return, Seibert was given *Miranda* warnings and questioned again about letting the child die in his sleep.[20]

The issue before the Court was whether the second confession could be admitted despite the first confession being given without *Miranda* warnings. In holding that the practice was unconstitutional, the Court focused on "whether it

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[14] *Id*. at 1297.
[15] 124 S.Ct. 2601 (2004).
[16] *Id*. at 2611. According to the Court, the two-step process was "likely to mislead and 'deprive[e] a defendant of knowledge essential to his ability to understand the nature of his rights and the consequences of abandoning them.'" *Id.* citing *Moran v. Burbine*, 106 S.Ct. 1135 (1986).
[17] *Id*. at 2606.
[18] *Id*.
[19] *Id*.
[20] *Id*.

would be reasonable to find that in these circumstances the warnings could function 'effectively' as *Miranda* requires."[21] The Court used the following factors in considering whether mid-stream *Miranda* warnings would be effective: "the completeness and detail of the questions and answers in the first round of interrogation, the overlapping content of the two statements, the timing and setting of the first and the second, the continuity of the police personnel, and the degree to which the interrogator's questions treated the second round as continuous with the first."[22]

Applying the factors to Seibert's experience the Court found that

> [t]he unwarned interrogation was conducted in the station house, and the questioning was systematic, exhaustive, and managed with psychological skill. When the police were finished there was little, if anything, of incriminating potential left unsaid. The warned phase of questioning proceeded after a pause of only 15 to 20 minutes, in the same place as the unwarned segment. When the same officer who had conducted the first phase recited the *Miranda* warnings, he said nothing to counter the probable misimpression that the advice that anything Seibert said could be used against her also applied to the details of the inculpatory statement previously elicited. In particular, the police did not advise that her prior statement could not be used. Nothing was said or done to dispel the oddity of warning about legal rights to silence and counsel right after the police had led her through systematic interrogation…[23]

This Court disagrees with the State's reliance on *Oregon v. Elstad*.

[21] *Seibert*, 124 S.Ct. at 2610.
[22] *Id*. at 2612.
[23] *Id*.

Initially, this Court would like to note that Detective Spottswood has failed to comply with the procedural safeguards required by *Miranda*. Mattison was clearly in custody in that he was in the police interviewing room and could not leave by his own volition. More importantly, Mattison was interrogated. Spottswood's first question was "have you been drinking." Several minutes later he asked "what kinds of drugs do you use." These questions were asked by Detective Spottswood to elicit an incriminating response. Therefore, *Miranda* warnings should have been issued.

In addition, this Court finds that the mid-interrogation *Miranda* warnings cannot cure the first statements. While the facts of this case appear to fall somewhere between *Elstad* and *Seibert*, they are seemingly more similar to *Seibert*. Mattison, like Seibert, was interrogated in the police station for both the first and second statements. Both the *Elstad* and *Seibert* Courts held that location of the interrogations was a crucial factor to consider. If Mattison's first statement was given in an uncoercive environment, this Court would likely admit the second confession under *Elstad*. Conversely, because Mattison was alone with Detective Spottswood in the police station interrogation room, with a videotape filming his statements, this Court finds that *Seibert* governs.

Moreover, this Court finds that there was not a sufficient break in the chain of questioning allowing the *Miranda* warnings to cure the first statement. Unlike

Elstad and Seibert, Mattison was not given any time between statements. The first line of questioning ended and then Detective Spottswood gave Mattison the warnings. This Court finds that the post-*Miranda* warnings cannot function effectively because the second confession was not separate and distinct from the first line of questioning. While Mattison's first confession was not as elaborate as either Elstad's or Seibert's, he still indicated "I do crimes to get drugs." Mattison's second statement was merely an extremely detailed extension of his first statement that he did certain crimes to get drug money.

For the foregoing reasons, Defendant Mattison's Motion to Suppress is GRANTED**.**

The issue as to whether Mattison waived his *Miranda* rights is, therefore, moot.

IT IS SO ORDERED.

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Judge Calvin L. Scott, Jr.