FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D21-99

KEYA S. HUDSON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the County Court for Okaloosa County.
Jim Ward, Judge.

August 24, 2022

B.L. THOMAS, J.

After pleading no contest, Keya Hudson appeals the denial of her motion to suppress statements. The State stipulated that the motion raised a dispositive issue. We reverse and remand with directions to discharge Appellant.

An officer was advised about a potentially intoxicated driver, and after observing Appellant's vehicle, conducted a traffic stop. After Appellant stopped her vehicle in a public parking lot, the officer observed Appellant's slurred speech and the odor of alcohol on her breath. Another officer observed that Appellant seemed excited and erratic. After Appellant failed to comply with prompts to provide her license and registration, the officers handcuffed Appellant and detained her in the back of a patrol vehicle with the door open.

While Appellant was handcuffed in the back of the patrol vehicle but before she received *Miranda*[*] warnings, the officers told Appellant that an informant reported she might be intoxicated.

Then the officers asked Appellant if she went to a specific store earlier, and Appellant acknowledged that she had been there over four hours ago. The officers corrected Appellant by stating that Appellant was there about twenty minutes ago, and Appellant responded, "oh yeah, I did go twice." The officers then asked Appellant, "how much do you think you had to drink today? You had something but how many?" Appellant replied she had one beer earlier in the day and was driving to pick up her husband from work.

During this encounter, the officers seized the vehicle. The officers also called emergency medical services because Appellant complained of an asthma attack and fluctuated between being irate and jovial. Once Appellant calmed down, the officers asked her to complete field sobriety tests, and she agreed. After the exercises, the officers arrested Appellant for driving under the influence. Later at the police department, the officer informed Appellant of her rights under *Miranda*.

The trial court denied Appellant's motion to suppress, stating in part that "the questioning of a defendant pursuant to a routine traffic stop does not require *Miranda* warnings." The trial court also stated it was Appellant's actions that required her to be temporarily handcuffed and extended the length of time she was in the handcuffs. Further, the court stated that "placing handcuffs on an individual due to their behavior and for the safety of law enforcement officers does not change the status of the temporary detention/traffic stop and does not raise the level of custody for *Miranda* purposes." We must disagree.

"We review the trial court's denial of the motion to suppress under a mixed standard with the ultimate ruling reviewed *de novo*, but the factual findings on which the ruling is based are reviewed

[*] *Miranda v. Arizona*, 384 U.S. 436 (1966).

for competent, substantial evidence." *Thomason v. State*, 273 So. 3d 182, 186 (Fla. 1st DCA 2019).

Appellant argues she was in custody for *Miranda* purposes when the officers stopped her vehicle, handcuffed her, held her in a patrol car for over half an hour, and impounded her vehicle. Generally, law enforcement officers must administer *Miranda* warnings before conducting a "custodial interrogation." *Thomason*, 273 So. 3d at 186 (quoting *Pierce v. State*, 221 So. 3d 1218, 1220–21 (Fla. 1st DCA 2017)). This is not a case where a defendant made unsolicited admissions while sitting in a patrol car. The officers asked questions that a reasonable person would conclude were intended to lead to an incriminating response. *See State v. McAdams*, 193 So. 3d 824, 833 (Fla. 2016) (defining interrogation as "when a state agent asks questions or engages in actions that a reasonable person would conclude are intended to lead to an incriminating response").

Custody determinations are heavily fact dependent. *McAdams*, 193 So. 3d at 833. The test for whether a suspect is in custody is whether "based on the totality of the circumstances, a reasonable person would feel that [her] freedom of movement has been restricted to a degree associated with actual arrest." *Thomason*, 273 So. 3d at 186 (quoting *Myers v. State*, 211 So. 3d 962, 972 (Fla. 2017)). Florida courts consider the four factors in *Ramirez v. State*, 739 So. 2d 568 (Fla. 1999):

> (1) the manner in which police summon the suspect for questioning; (2) the purpose, place, and manner of the interrogation; (3) the extent to which the suspect is confronted with evidence of his or her guilt; (4) whether the suspect is informed that he or she is free to leave the place of questioning.

Ramirez, 739 So. 2d at 574.

Of these factors, the fourth factor supports the conclusion that Appellant was in custody for *Miranda* purposes. Appellant was never told that she was free to leave, and in fact, was not free to leave. Appellant was handcuffed in the patrol car for thirty-six minutes. When Appellant conveyed to the officers that she had asthma and needed her inhaler, the officers did not allow

Appellant to leave the patrol car with an officer to find the inhaler. One officer told Appellant that she would find the inhaler, but Appellant had to stay in the car with the door shut. Appellant told the officer that she did not want to be in custody and she did not want to be left in the car by herself.

Because Appellant provided incriminating statements in response to a custodial interrogation, the motion to suppress should have been granted as a matter of law.

REVERSED and REMANDED for discharge.

MAKAR and M.K. THOMAS, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Jessica J. Yeary, Public Defender, and Kathryn Lane, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Damaris E. Reynolds, Assistant Attorney General, Tallahassee, for Appellee.