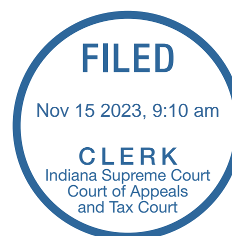
MEMORANDUM DECISION

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision is not binding precedent for any court and may be cited only for persuasive value or to establish res judicata, collateral estoppel, or law of the case.



ATTORNEY FOR APPELLANT

Barbara J. Simmons
Batesville, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Evan Matthew Comer
Deputy Attorney General
Indianapolis, Indiana

IN THE

COURT OF APPEALS OF INDIANA

Lissa Garcia,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff

November 15, 2023

Court of Appeals Case No. 23A-CR-213

Appeal from the Marion Superior Court

The Honorable Jose D. Salinas, Judge

Trial Court Cause No. 49D23-2202-CM-4637

Memorandum Decision by Judge Weissmann
Judges Riley and Bradford concur.

Weissmann, Judge.

[1] Lissa Garcia was self-admittedly so intoxicated that her friend splayed himself across the hood of a car to stop her from driving. Garcia appeals her resulting conviction for operating a vehicle while intoxicated endangering a person, arguing that she incriminated herself without being given *Miranda* warnings. Finding no error, we affirm.

Facts

[2] In the middle of a night in February 2022, Deputy Ronald Shockey, who was assigned to Eskenazi Hospital, responded to a report of a person driving down a city street with a person hanging onto the hood. Although no one was hanging onto the car's hood when Deputy Shockey arrived, John Ragland quickly emerged from the driver's side of a vehicle and approached Deputy Shockey while shouting incoherently and gesturing wildly. After subduing Ragland with handcuffs and putting him in his patrol car, Deputy Shockey returned and found Garcia sitting in the front passenger seat and an unidentified man sleeping in the back seat.

[3] Deputy Shockey began by asking Garcia, "What's going on?" Tr. Vol. II, p. 51. In response, Garcia moved from the front passenger seat to the driver's seat, saying, "This is where I was sitting anyway." *Id.* at 55. Deputy Shockey then asked Garcia who had been driving the vehicle. Garcia identified herself as the driver. Deputy Shockey also asked whether someone had been on the hood of

the vehicle. Garcia said that Ragland had thrown himself onto the hood of the S.U.V. to keep her from driving because she was too "f**ked up." *Id.* at 80.

[4] At this point, Deputy Shockey, noticing Garcia's "red and glassy eyes" and "the odor of [an] alcoholic beverage on her breath," suspected Garcia of operating a vehicle while intoxicated. *Id.* at 67. Instructing Garcia to step out of the vehicle, Deputy Shockey asked how much alcohol she had consumed. Garcia could not remember. Deputy Shockey then administered a series of field sobriety tests, all of which Garcia failed. Garcia consented to a chemical test, which indicated a blood-alcohol concentration above the legal limit.

[5] The State charged Garcia with three misdemeanor counts of operating a vehicle while intoxicated. During her bench trial, Garcia objected to Deputy Shockey's testimony that Garcia admitted driving the vehicle. Garcia argued her confession was inadmissible because she had not been advised of her *Miranda*[1] rights before questioning. The trial court preliminarily overruled the objection. At the close of evidence, the trial court took Garcia's objection and her motion for a directed verdict under advisement.

[6] In denying Garcia's motion for a directed verdict, the trial court found Deputy Shockey had no duty to read Garcia her *Miranda* rights. The court stated, "during the initial interaction between [Deputy Shockey] and Ms. Garcia, [Deputy Shockey] was just trying to find out what was going on, assessing all

---

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

possible angles of what he was confronted with." *Id.* at 98-99. Garcia was found guilty of one count of operating a vehicle while intoxicated in a manner that endangers a person.

Discussion and Decision

[7] On appeal, Garcia contends that her self-incriminating statements were inadmissible because she was not advised of her *Miranda* rights prior to questioning. We review questions of law, including a *Miranda* claim, de novo. *State v. Brown*, 70 N.E.3d 331, 335 (Ind. 2017).

[8] Miranda warnings are a procedural safeguard meant to prevent violations of a defendant's privilege against self-incrimination during a custodial interrogation. *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). A "custodial interrogation" is "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." *Id.* But not all police questioning rises to the level of custodial interrogation. In particular, questioning incidental to a routine traffic stop does not constitute custodial interrogation. *Berkemer v. McCarty*, 468 U.S. 420, 440 (1984).

[9] There are two criteria courts consider when determining whether a defendant was in custody. The first, and the only one relevant here, is whether a reasonable person in the same circumstances would feel free to terminate the

interrogation and leave.[2] *State v. E.R.*, 123 N.E.3d 675, 680 (Ind. 2019). This inquiry "requires a court to examine the totality of objective circumstances surrounding the interrogation." *Id.* Relevant factors include "the location, duration, and character of the questioning; statements made during the questioning; the number of law-enforcement officers present; the extent of police control over the environment; the degree of physical restraint; and how the interview begins and ends." *Id.* These factors weigh heavily against Garcia.

[10] To start, Deputy Shockey's questioning occurred in a public roadway—in response to a report of a dangerous traffic situation—and lasted only a few minutes. The questions amounted largely to: "What's going on?" Tr. Vol. II, p. 51. This sort of open-ended, "exploratory and conversational" questioning is a hallmark of non-custodial interrogation. *State v. Diego*, 169 N.E.3d 113, 120 (Ind. 2021). And Deputy Shockey's investigation into Garcia's sobriety developed only after he observed her "red and glassy eyes" and the "odor of alcohol." *Id.* at 67.

[11] Deputy Shockey also did not physically restrain Garcia during his questioning. Nonetheless, Garcia complains that she had reason to believe she was under arrest because she had seen the deputy place Ragland in handcuffs and put him in a patrol car. But it was Ragland's highly erratic behavior that led to his

---

[2] The second criteria is whether the defendant "undergoes 'the same inherently coercive pressures as the type of station house questioning at issue in *Miranda*.'" *E.R.*, 123 N.E.3d at 680 (quoting *Howes v. Fields*, 565 U.S. 499, 509 (2012)).

detention. Because Garcia was not engaged in similar conduct, we find no basis to conclude that she reasonably believed this fact transformed her encounter with law enforcement into a custodial interrogation. *See E.R.*, 123 N.E.3d at 680 ("Under *Miranda*, freedom of movement is curtailed when a reasonable person would feel not free to terminate the interrogation and leave.").

[12] In sum, the totality of the circumstances reveal that no custodial interrogation occurred, and thus Garcia had no right to any *Miranda* advisements.

[13] Affirmed.

Riley, J., and Bradford, J., concur.