

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SAMI AMIR AL-SAAD, I,

Defendant-Appellant.

UNPUBLISHED

May 2, 2000

No. 214421

Kalamazoo Circuit Court

LC No. 97-001289-FH

Before: Wilder, P.J., and Sawyer and Markey, JJ.

MEMORANDUM.

Defendant appeals by right his conviction for possession with intent to deliver marijuana, MCL 333.7401(2)(d)(iii); MSA 14.15(7401)(2)(d)(iii), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that the trial court erred in denying his motion to suppress statements made during a search of his residence. Defendant asserts that he was not given the appropriate warnings before a custodial interrogation. We disagree.

Warnings pursuant to *Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966), are required when an accused is subject to custodial interrogation. Custodial interrogation consists of 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.* at 444. To determine whether a defendant was in custody at the time of the interrogation, a court must look at the totality of the circumstances, with the key question being whether the accused reasonably could have believed that he was not free to leave. *People v Zahn*, 234 Mich App 438, 449; 594 NW2d 120 (1999). The determination of custody depends on the objective circumstances of the interrogation rather than the subjective views harbored by either the interrogating officers or the person being questioned. *Id.*

The trial court did not err in finding that defendant was not in custody at the time of the questioning. Defendant acknowledged that he was told several times that he was not under arrest. He stated that he was not coerced into accompanying officers to the basement after marijuana was found there. The fact that defendant refused to answer several questions without consequences showed that

his answers were not compelled. Under the totality of the circumstances, the trial court could reasonably conclude that defendant was not in custody at the time of his initial questioning. *People v Mendez*, 225 Mich App 381; 571 NW2d 528 (1997).

We affirm.

/s/ Kurtis T. Wilder
/s/ David H. Sawyer
/s/ Jane E. Markey