STATE OF MINNESOTA
IN COURT OF APPEALS
A19-1033

State of Minnesota,
Appellant,

vs.

Judana Catherine Williams,
Respondent.

Filed January 21, 2020
Affirmed
Slieter, Judge

Rice County District Court
File No. 66-CR-18-2146

Keith Ellison, Attorney General, St. Paul, Minnesota; and

John L. Fossum, Rice County Attorney, Terence Swihart, Chief Assistant County Attorney, Faribault, Minnesota (for appellant)

Melvin R. Welch, Welch Law Firm, LLC, Minneapolis, Minnesota (for respondent)

Considered and decided by Larkin, Presiding Judge; Reyes, Judge; and Slieter, Judge.

U N P U B L I S H E D O P I N I O N

SLIETER, Judge

In this pretrial appeal by the state, appellant challenges the district court's suppression of respondent's statements made to law enforcement. Appellant argues that the district court erred in determining that respondent was in custody when she was

interrogated by a law-enforcement officer and in determining that respondent made an equivocal request for counsel that needed to be clarified before continuing the interrogation. Appellant contends that the district court's order will have a critical impact on the outcome of the trial.

Based upon the circumstances surrounding the interrogation of the respondent, a reasonable person would believe she was in custody associated with a formal arrest such that she should have been provided a *Miranda* warning prior to her first statement. While interrogating respondent a second time and following the *Miranda* warning, the detective failed to stop the interrogation to ask narrow clarifying questions after respondent made an equivocal request for counsel. For these reasons, we affirm.

FACTS

On September 7, 2018, police arrived at the Faribault trailer home of respondent Judana Catherine Williams's boyfriend in response to her multiple 911 calls. A Faribault police officer was the first to respond to the 911 calls and entered the trailer after hearing respondent screaming. The officer recognized respondent's boyfriend, M.B., lying on the floor and covered in blood. Respondent, who was also covered in blood, was kneeling next to M.B. and applying pressure to his wound. The officer asked respondent several times what happened though the respondent did not answer. The officer then noticed and kicked away a large kitchen knife that lay between respondent and M.B. Next, the officer placed handcuffs on respondent while informing her that it was for officer safety. The officer asked respondent if she stabbed M.B., and respondent replied that "he ran up on me, he ran up on me."

Several officers arrived on the scene including Detective Alexander of the Faribault Police Department who eventually interrogated respondent. Detective Alexander testified during the omnibus hearing that, "I approached [respondent] and ensured that she understood that she was not under arrest and asked if she would be willing to go to a different location to speak, which she agreed to do so, and at that point I removed her handcuffs that she was in." Detective Alexander drove himself to the police station, and respondent rode in the back of a separate marked squad car driven by a uniformed police officer.

A. First Interview

The first interview took place at approximately 9:43 a.m. Detective Alexander sat across from respondent in one of the police station's interrogation rooms. Detective Alexander began the interview by stating:

> And you're still not under arrest. Ok? The reason we came down here to the police station is to talk away from all the commotion and the chaos alright? Um, so in talking with you here alright and at any point you feel like you want to leave you can just tell me and the door is right there. You can open it up and walk out okay? Alright.

During the omnibus hearing, Detective Alexander testified that he knew, before starting the interview, that respondent had stabbed M.B. Detective Alexander did not read respondent a *Miranda* warning at this time but continued asking respondent open-ended questions. Respondent admitted that she used drugs with M.B. and that they began arguing. Respondent said the following:

> He was in my face (sigh). We both was yellin. He told me to get out you stupid b---h. I said ah now you want me to leave I

> was on drugs. (Inaudible) no drugs. (Sighs). He kinda grabbed me. I tried to shake back an he threw me to the closet an you can see the closet is kinda broke the door. It broke. Right there he threw me to the closet. (Crying). (Inaudible) I hate you an he hit me. I fell to the bed, tried to kick em. (Crying). He grabbed my leg an like pulled me off the bed. I tried to get up. He hit me again. I ran to the front, kinda grabbed my pepper spray. He ran up on me again, tried the pepper spray em. He said now you (inaudible) gonna f--k you up. (Crying). He ran towards me an right there on the si [sic] right there on the sink I tried to I grabbed a knife and I tried to run to the back and close the door but he f--king pushed the door open an an he ran up on me I stabbed him . . . .

Detective Alexander then asked clarifying questions to learn how respondent was holding the knife and to determine that the drug they used was cocaine. As Detective Alexander was preparing to leave the room, respondent asked, "I'm under arrest for . . . for self-defense?" Detective Alexander answered, "No, I need ta [sic] need to call and find out how [M.B. is] doing." Detective Alexander left the room around 9:53 a.m.

B. Second and Third Interviews

Detective Alexander returned to the room at approximately 10:01 a.m. This exchange followed:

> Detective: Alright. But I do want to remind you of your rights before we continue to [talk] about what happened ok? Um . . .
> Respondent: Can I have a lawyer present? (Inaudible)
> Detective: I'll I'll read it to you . . .
> Respondent: (Inaudible) am I suspect? Well obviously cuz I stabbed him right?
> Detective: Well you were the only two there right?
> Respondent: Right. Exactly. What . . .
> Detective: So so I just want now that we know a jist of what happened I just want to make sure that you understand your rights before we keep ironing out the details. So [respondent], you do have the

right to remain silent. Anything you say can and will be used against you in court. You have the right to talk to a lawyer now and have a lawyer present now or anytime during questioning. If you cannot afford one, one will be appointed to you without cost. Understand all that? Yes?

Respondent: Yes.

Detective: Kinda sounded like you did before I read it. Yeah. Ok. You alright talking to me still about what happened?

Respondent: Yeah, I don't care.

Detective: Ok.

Respondent: Yeah. Do I need a lawyer (inaudible)?

Detective: It's not up to me to decide that. I just have to tell you all that (inaudible). So how long have you been with [M.B.]?

Detective Alexander continued to ask questions for 25 minutes. During that time, respondent gave more incriminating details about the fight and circumstances surrounding that morning. Detective Alexander left the room for the second time at approximately 10:29 a.m. and returned for a third interview at approximately 10:43 a.m. After the interrogations, officers informed respondent that M.B. died, and the officers brought respondent to the hospital.

C. Charges and Court Proceedings

Respondent was arrested and charged with second-degree murder and second-degree assault with a dangerous weapon. Respondent filed a motion to suppress the out-of-court statements made by respondent, and the district court issued an order granting respondent's motion in part and denying in part. The district court ruled that the state could not use respondent's statements during the three different interviews with Detective Alexander in its case-in-chief. The district court reasoned that the statements made during

the first interview were inadmissible because they were made during a custodial interrogation without first providing a *Miranda* warning. All statements following respondent's equivocal requests for an attorney were suppressed because Detective Alexander did not stop and clarify respondent's statement regarding counsel.

This appeal follows.

D E C I S I O N

I. The district court's order suppressing respondent's statements has a critical impact on the outcome of the trial.

The state can appeal a pretrial order pursuant to Minn. R. Crim. P. 28.04, subd. 2. However, the state is not entitled to review as a matter of right. *State v. Sexter*, 935 N.W.2d 157, 161 (Minn. App. 2019). In order to obtain review, "the state must demonstrate that, unless the district court's allegedly erroneous ruling is reversed, it will have a critical impact on the outcome of the trial." *Id.* (quotation omitted). Critical impact "is intended to be a demanding standard, but with some flexibility." *State v. Underdahl*, 767 N.W.2d 677, 683 (Minn. 2009) (quotations omitted). "The state can satisfy the critical-impact standard if the challenged ruling either completely destroys the state's case or significantly reduces the likelihood of a prosecution." *Sexter*, 935 N.W.2d at 161 (quotations omitted). Appellate courts consider the critical impact of the evidence by examining it in light of all the admissible evidence. *Id.* In doing this, we weigh its "inherent qualities . . . its relevance and probative force, its chronological proximity to the alleged crime, its effect in filling gaps in the evidence viewed as a whole, its quality as a perspective of events different from

those otherwise available, its clarity and amount of detail and its origin." *Id.* (quoting *In re Welfare of L.E.P.*, 594 N.W.2d 163, 168 (Minn. 1999)).

Appellant argues that suppressing respondent's statement significantly reduces the likelihood of prosecution because there were no witnesses to the crime and respondent's statements show the required intent for both crimes. Respondent argues that suppressing the statements does not significantly reduce the likelihood of prosecution because the state has other strong circumstantial evidence.

Respondent correctly notes that appellant has significant evidence to support their case absent the confessions. Police found respondent kneeling over the victim, covered in blood and in close proximity to the knife. Further, the incident took place in a small trailer home when respondent and M.B. were the only two people present. Finally, the district court ruled that respondent's 911 call and response to the officer's onsite questioning is admissible. This includes respondent's response of "he ran up on me, he ran up on me," to the question of whether she stabbed M.B. However, it is still likely that respondent's statements have a critical impact on the prosecution if the absence of the statements significantly reduces the likelihood of a successful prosecution.

"[G]enerally the suppression of a confession will have a critical impact on the prosecution." *State v. Scott*, 584 N.W.2d 412, 416 (Minn. 1998) (stating suppression of defendant's confession has critical impact despite the state having two eyewitnesses because suppression reduces likelihood of successful prosecution); *see also State v. Ronnebaum*, 449 N.W.2d 722, 724 (Minn. 1990) ("Even if the state's case is as strong as the court of appeals says it is, that does not mean that the suppression of the confession

will not significantly reduce the likelihood of a successful prosecution."); *State v. Dressel*, 765 N.W.2d 419, 424 (Minn. App. 2009) (holding that defendant's statements had critical impact on the state's ability to prosecute because they provided additional clarity and detail and filled gaps from his previous statements.). We conclude that respondent's statements have a critical impact regardless of the evidence separately obtained by the state. The state's appeal is properly taken from the suppression ruling because the suppressed statements have a critical impact on the case. We will next consider the merits.

II. The district court properly suppressed respondent's statements from the first interview because respondent was in custody and the state did not provide a *Miranda* warning.

Appellant contends that Detective Alexander was not required to read respondent a *Miranda* warning before the first interview because respondent was not in custody. Before the suspect's words are admissible, a *Miranda* warning must be given if a suspect is in custody and subject to an interrogation. *State v. Thompson*, 788 N.W.2d 485, 491 (Minn. 2010). There is no dispute that the questioning by Detective Alexander constituted an interrogation. Appellant solely challenges whether the district court properly ruled that respondent was in custody for *Miranda* purposes during the first interview.

Determining whether a suspect is in custody is a mixed question of law and fact. *State v. Horst*, 880 N.W.2d 24, 31 (Minn. 2016). Appellate courts "examine a district court's factual findings for clear error, but review independently the legal conclusion regarding whether the interrogation was custodial." *Id.*

"An interrogation is custodial if, based on all the surrounding circumstances, a reasonable person under the circumstances would believe that he or she was in police

custody of the degree associated with formal arrest." *Thompson*, 788 N.W.2d at 491. No one factor is conclusive in considering the circumstances under which the statements were given. *State v. Vue*, 797 N.W.2d 5, 11 (Minn. 2011). Six factors have been identified to consider whether a suspect is in custody:

> (1) the police interviewing the suspect at the police station; (2) the suspect being told he or she is a prime suspect in a crime; (3) the police restraining the suspect's freedom of movement; (4) the suspect making a significantly incriminating statement; (5) the presence of multiple officers; and (6) a gun pointing at the suspect.

Id. (citing *State v. Staats*, 658 N.W.2d 207, 211 (Minn. 2003) (quotation omitted)). "The mere fact that an interrogation occurs at the police station," or the mere fact that a suspect makes "a significantly incriminating statement does not automatically convert a noncustodial interrogation into a custodial interrogation." *Id.*

Additional factors may combine to indicate that a suspect is not in custody. Those are:

> (1) questioning the suspect in his or her home; (2) law enforcement expressly informing the suspect that he or she is not under arrest; (3) the suspect's leaving the police station without hindrance; (4) the brevity of the questioning; (5) the suspect's ability to leave at any time; (6) the existence of a nonthreatening environment; and (7) the suspect's ability to make phone calls.

Id. (citing *Thompson*, 788 N.W.2d at 491-92). These two sets of factors are jointly known as the *Staats* factors. *See Thompson*, 788 N.W.2d at 492.

Prior to determining that the respondent was in custody, the district court thoroughly considered and weighed the circumstances with all the custodial factors. Two of the factors

clearly weigh in support of the district court's finding that respondent was in custody: respondent was questioned at the police station, and she made significant incriminating statements. The district court also noted that "[t]he police controlled [respondent's] environment from the time the first officer arrived at the trailer through [respondent] being escorted to the interview room." This fact is supported by the record. Respondent was still in handcuffs when Detective Alexander asked her if she wanted to go to the station to answer questions. She was then escorted into the back of a marked squad car by a fully uniformed police officer and transported to the police station. Once they arrived at the police station, she was brought to the interview room where the doors were closed and she was constantly monitored by one or more police officers. Additionally, Detective Alexander believed that respondent stabbed M.B. before he started the first interview with her.

The district court also carefully considered those factors which might suggest the respondent was not in custody. Specifically, Detective Alexander told respondent she was not under arrest and she was free to leave at any time.

In balancing all the *Staats* factors, the district court ruled that "the weight of the evidence comes down in favor of the conclusion that the [respondent] was subject to custodial interrogation during the [f]irst [i]nterview [q]uestioning." Taken as a whole, these facts show that respondent was in custody at the time of her first interview before which she was not provided a *Miranda* warning. The district court did not err in suppressing respondent's first interview statements.

III. The district court properly suppressed respondent's statements made during the second and third interviews.

The district court suppressed respondent's statements from the second and third interviews because Detective Alexander did not stop and clarify respondent's equivocal request for counsel during the second interview. "When a suspect asks for counsel, questioning must cease 'until counsel has been made available to him, unless the accused himself initiates further communication, exchanges, or conversations with the police.'" *State v. Farrah*, 735 N.W.2d 336, 342 (Minn. 2007) (quoting *Edwards v. Arizona*, 451 U.S. 477, 484-85, 101 S.Ct 1880, 1885 (1981)). This request must be unequivocal. *Id.* Minnesota also extends a decreased protection to *equivocal* requests for counsel. "[W]hen a suspect indicates by an equivocal or ambiguous statement, which is subject to a construction that the accused is requesting counsel, all further questioning must stop except that narrow questions designed to 'clarify' the accused's true desires respecting counsel may continue." *State v. Robinson*, 427 N.W.2d 217, 223 (Minn. 1988). Appellate courts review the district court's application of the "stop-and-clarify" rule *de novo*. *State v. Ortega*, 798 N.W.2d 59, 70 (Minn. 2011).

The district court found, and the record supports, that respondent made an equivocal request for an attorney when she asked whether she needed a lawyer after receiving her *Miranda* warning. Appellant points to both of respondent's references to an attorney and argues Detective Alexander satisfied the *Robinson* "stop-and-clarify" rule for the first request by reading respondent her *Miranda* rights. The second reference to an attorney

was not an equivocal request for an attorney that might otherwise require the *Robinson* "stop-and-clarify" rule.

Appellant correctly notes that an officer satisfies the "stop-and-clarify" requirement by reading the suspect his or her *Miranda* rights. *Id.* at 73. Detective Alexander read respondent her *Miranda* rights directly after her first equivocal request for an attorney. Therefore, Detective Alexander properly addressed respondent's first request for an attorney, and the request would not have prevented the admissibility of subsequent statements if such statements had occurred. Instead, respondent's second equivocal request for an attorney immediately followed.

Respondent's second mention of an attorney was as follows: "Yeah. Do I need a lawyer (inaudible)?" In *Ortega*, the supreme court stated that the defendant's statement "Am I supposed to have a lawyer present?" was "[a]t minimum . . . an equivocal request for an attorney." *Id.* at 75. These two statements are substantially the same. After respondent asked the question, Detective Alexander answered, "It's not up to me to decide that. I just have to tell you all that (inaudible). So how long have you been with [M.B.]?" Detective Alexander did not stop and clarify respondent's equivocal request for counsel. Therefore, we affirm the district court's suppression of the statements made after respondent's second equivocal request for counsel in the second and third interviews.

Affirmed.