STATE OF MINNESOTA
IN COURT OF APPEALS
A10-738

State of Minnesota,
Respondent,

vs.

Blake Gunderson Luther,
Appellant.

Filed January 11, 2011
Affirmed
Schellhas, Judge
Concurring specially, Ross, Judge

Hennepin County District Court
File No. 27-CR-09-62266

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Tania K. M. Lex, Assistant St. Louis Park City Attorney, Minneapolis, Minnesota (for respondent)

Robert D. Sicoli, Law Offices of Robert D. Sicoli, Minneapolis, Minnesota; and

Sarah M. MacGillis, MacGillis Law PA, Minneapolis, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Hudson, Judge; and Schellhas, Judge.

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

SCHELLHAS, Judge

Appellant challenges the district court's denial of his motion to suppress evidence, arguing that the police unconstitutionally searched his home and subjected him to custodial interrogation without a *Miranda* warning. Because we conclude that the officers' entry into appellant's home was reasonable under the emergency-aid exception, and that the district court did not clearly err by finding that appellant's questioning was noncustodial, we affirm.

FACTS

Shortly before midnight on October 6, 2009, Officers Peek and Hagen were dispatched to an address in St. Louis Park after a 911 caller reported a man yelling outside and then entering a home. As the officers approached the home, they could hear very loud pounding noises that sounded like someone or something was being thrown inside the home. The officers also could hear a female screaming.

The officers knocked several times. After about one minute, which Officer Peek considered to be a long time for this type of incident, appellant answered the door. Appellant exited the home to speak with the officers. He did not appear to have been involved in a physical fight or have any physical injuries. The officers told appellant that they were there to investigate a call of a disturbance or possible fight. Although the officers could still hear a female screaming and crying inside the home, appellant denied that anything was going on. The officers could not discern what the female was saying, but they were concerned about her because they "didn't know if she had been injured

during a possible domestic." They also did not know if there was a third person in the home. According to Officer Peek, appellant appeared "agitated" and "closed," as if he "didn't want [the officers] to be there" and "didn't want [them] to look into what was going on."

After speaking with the officers for a few moments, appellant turned around very quickly and grabbed the door handle as if he were going to enter the home. Because of appellant's quick movements and his unknown intentions, Officer Peek grabbed appellant's hand and opened the door. Without appellant's permission, the officers then entered the residence to check on the female's welfare. As they entered, Officer Peek continued to hold appellant, who became more agitated.

Once inside the home, the officers could hear the female crying upstairs "pretty much at the top of her lungs." Officer Peek testified that appellant "probably" offered to go get the female and bring her downstairs, but if he did so, the officers declined his offer. Appellant attempted to break away from Officer Peek's grasp, and Officer Peek placed him in handcuffs because he was concerned about the safety of the officers and the female. The officers did not inform appellant that he was or was not under arrest, and they did not advise him of his *Miranda* rights.

Because the officers felt that they were responding to a possible domestic assault, while Officer Hagen went to talk to the female, Officer Peek asked appellant "very simple open-ended questions about what was occurring inside the home and why the female was acting the way that she was." Appellant responded that he and his fiancée had attended the Twins game, gone to a bar, and then gotten into an argument. Officer

Peek asked appellant whether they had been drinking at the bar, and appellant responded that they each had a couple of drinks. He also said that he had driven home from the bar.

Noting that appellant's speech was slurred and mumbled, his mouth was very dry, his eyes were bloodshot, glassy, and watery, and he smelled strongly of alcohol, Officer Peek concluded that appellant was under the influence of alcohol. Officer Peek therefore administered a preliminary breath test (PBT), which indicated that appellant was over the legal limit for operation of a motor vehicle. Officer Peek advised appellant that he was under arrest for DWI, took him to the police station, and read him the Implied Consent Advisory. Appellant consented to a urine test, which revealed that he had an alcohol concentration of .14 at the time of the test.

Respondent State of Minnesota charged appellant with third-degree DWI, and appellant moved to suppress his statements to the police, the urine-test result, and any other evidence obtained as a result of the officers' entry into the home or questioning of him while he was handcuffed. After an evidentiary hearing, the district court denied appellant's motion. Appellant agreed to a stipulated-facts trial, and the court convicted him. This appeal follows.

D E C I S I O N

Appellant challenges the district court's denial of his motion to suppress evidence. When reviewing a district court's decision on a motion to suppress, this court must "independently review the facts and determine, as a matter of law, whether the district court erred in suppressing—or not suppressing—the evidence." *State v. Harris*, 590 N.W.2d 90, 98 (Minn. 1999).

Warrantless Entry

Appellant first argues that all evidence stemming from the officers' warrantless entry into the home must be suppressed. This court reviews de novo whether a search or seizure was legally permissible but defers to the district court's findings of fact unless clearly erroneous. *State v. Burbach*, 706 N.W.2d 484, 487 (Minn. 2005).

The United States and Minnesota Constitutions prohibit unreasonable searches and seizures. U.S. Const. amend. IV; Minn. Const. art. I, § 10; *see also Mapp v. Ohio*, 367 U.S. 643, 655, 81 S. Ct. 1684, 1691 (1961) (applying the Fourth Amendment to the states by way of the Fourteenth Amendment's due-process clause). Warrantless searches and seizures inside a home are presumptively unreasonable. *State v. Lemieux*, 726 N.W.2d 783, 787 (Minn. 2007) (quoting *Payton v. New York*, 445 U.S. 573, 586, 100 S. Ct. 1371 (1980)). But "the warrant requirement is subject to certain limited exceptions, and law enforcement officers, in pursuing a community-caretaking function, may enter a home without a warrant to render emergency assistance to an injured occupant or to protect an occupant from imminent injury." *Id*. at 787–88 (quoting *Brigham City v. Stuart*, 547 U.S. 398, 126 S. Ct. 1943, 1947 (2006)) (quotation marks omitted). "[T]he burden is on the state to demonstrate that police conduct was justified under the exception . . . ." *Id.* at 788.

We use a three-prong test to determine whether officers' warrantless entry into a home may be justified by the emergency-aid exception:

> (1) The police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property.

> (2) The search must not be primarily motivated by intent to arrest and seize evidence.[1]
>
> (3) There must be some reasonable basis, approximating probable cause, to associate the emergency with the area or place to be searched.

Id. at 788. "[A]n objective standard should be applied to determine the reasonableness of the officer's belief that there was an emergency." *Id.*

When entering a residence under the emergency-aid exception, an officer's search "must be strictly circumscribed by the exigencies which justify its initiation." *Id.* (quoting *Mincey v. Arizona*, 437 U.S. 385, 393, 98 S. Ct. 2408 (1978)) (quotation marks omitted). The search "cannot be used as the occasion for a general voyage of discovery unrelated to the purpose of the entry." *Id.* (quotation omitted).

Reasonable Belief that Emergency Requiring Police Assistance Existed

In this case, the district court found that: there was a "911 call as to a female who was either screaming or in some distress"; "those screams could be heard from outside of the building"; and the "officers heard . . . pounding and noises and heard the female screaming and crying." These findings are supported by the record and are not clearly erroneous. We therefore defer to the district court's findings. Based on these findings, the district court concluded that the officers had reasonable grounds to believe that an emergency required their immediate assistance inside the home.

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[1] The United States Supreme Court rejected this second prong, involving the subjective motivations of the officers, in *Brigham City*, 547 U.S. at 404–05, 126 S. Ct. at 1948. *Lemieux*, 726 N.W.2d at 788. But in *Lemieux*, the Minnesota Supreme Court suggested that the second prong may still be relevant under state law. 726 N.W.2d at 790.

Appellant argues that the facts were not objectively sufficient to justify the officers' belief, and that *Lemieux* is distinguishable because there was no indication that a violent crime had occurred. But as in *Lemieux*, the officers in this case were *concerned* that someone may have been injured or be in danger, but did not have direct evidence that a violent crime had occurred. *See* 726 N.W.2d at 785. Nothing in *Lemieux* suggests that the emergency-aid exception is limited to situations that involve direct evidence of a violent crime. On the contrary, application of the emergency-aid exception does not require the commission of a crime, much less the commission of a serious or violent crime. *See State v. Halla-Poe*, 468 N.W.2d 570, 573 (Minn. App. 1991) (upholding warrantless entry into a home to check on an individual who was believed to be so intoxicated that she could not care for herself).

Appellant also argues that the officers' entry into the home was unnecessary because appellant offered to bring the female to the officers to show that she was alright. But according to Officer Peek's undisputed testimony, if appellant actually made this offer, he did so only after the officers were inside the home. Allowing appellant the freedom to bring the female to them could have endangered her and jeopardized the officers' safety. And if a domestic assault had occurred prior to the officers' arrival at the scene, speaking with the female in the presence of appellant would not reasonably have assured the officers about her safety.

The district court's conclusion that the officers had reasonable grounds to believe that an emergency required their immediate assistance inside the home is bolstered by additional undisputed facts in the record. The officers heard a female screaming and

crying in the home, and appellant was slow to open the door when they knocked. When appellant opened the door, the officers could still hear the female screaming and crying, and although appellant denied anything was going on, he appeared "agitated" and "closed" as if he "didn't want [the officers] to be there" and "didn't want [them] to look into what was going on." We agree with the district court that these circumstances were sufficient to give the officers reasonable grounds to believe that an emergency existed in the home that required their immediate assistance. Had the officers acted otherwise, they would have been derelict in their duty. *See Lemieux*, 726 N.W.2d at 788 n.2 ("[T]he question is whether the officers would have been derelict in their duty had they acted otherwise.") (quoting 3 Wayne R. LaFave, *Search & Seizure* § 6.6(a), at 452–53 (4th ed. 2004)).

Officers' Motivation in Entering the Home

The record shows that the officers were not primarily motivated by intent to arrest and seize evidence. They were dispatched to the scene after a 911 call and believed that a domestic assault may have occurred. Upon arriving at the scene, the officers had no reason to believe that a DWI had occurred. Officer Peek testified that officers sometimes enter a home and question the occupants and do not arrest anyone. Although appellant complains that the officers entered the home only because Officer Peek "believed that [appellant] was going to enter the home without him," this is consistent with the officers' concern that appellant could pose a danger to the female inside the home and their reasonable desire to assist or protect her.

Connection between Emergency and Search

Once inside the home, the officers' search was properly limited to the emergency they reasonably believed existed. The officers did not look around the house or ask questions unrelated to the circumstances presented. Rather, Officer Hagen checked on the female, while Officer Peek asked appellant questions related to the circumstances presented for the purpose of investigating the situation and ensuring the parties' safety. Only after Officer Peek smelled alcohol on appellant's breath and noticed indicia of intoxication did he realize that appellant may have driven while under the influence of alcohol. Officer Peek therefore administered the PBT and arrested appellant for DWI.

The district court properly rejected appellant's arguments that the officers' warrantless entry into the home was unlawful and properly denied appellant's motion to suppress on this basis.

Statements to Police

Appellant argues that his statements to police and the fruits thereof must be suppressed because he was in custody at the time of the questioning and was not given the warnings required by *Miranda v. Arizona*, 384 U.S. 436, 444, 86 S. Ct. 1602, 1612 (1966). *Miranda* provides that statements made by a suspect during a "custodial interrogation" are generally inadmissible unless the suspect was provided with the *Miranda* warnings. *State v. Heden*, 719 N.W.2d 689, 694–95 (Minn. 2006).

On appeal, "[w]e make an independent determination about whether a suspect was in custody," but defer to the district court's findings of fact relating to the issue unless clearly erroneous. *Id.* at 695. Overall, "[w]e grant considerable, but not unlimited,

deference to a trial court's fact-specific resolution of such an issue when the proper legal standard is applied." *Id.* (quotation omitted).

"The test for determining whether a suspect was in custody is whether a reasonable person in the suspect's situation would have understood that he was in custody." *Id.* "If a suspect has not yet been arrested, a district court must examine all of the surrounding circumstances and evaluate whether a reasonable person in the suspect's position would have believed he was in custody to the degree associated with arrest."[2] *Id.* (quotation omitted). "The test is *not* whether a reasonable person would believe he or she was not free to leave." *Id.* (emphasis added) (quotation omitted).

> In reviewing the circumstances to determine whether a suspect was in custody, we look to many factors. While no factor alone is determinative, we have noted that the following factors may combine to indicate custody: the police interviewing the suspect at the police station; the police telling the individual that he or she is the prime suspect; the police restraining the suspect's freedom; the suspect making a significant incriminating statement; the presence of multiple police officers; and a gun pointing at the suspect. We have also recognized circumstances that may indicate that a suspect is *not* in custody: questioning taking place in the suspect's home; the police expressly informing the suspect that he or she is not under arrest; the suspect leaving the police station at the close of the interview without hindrance; the brevity of questioning; the suspect's freedom to leave at

[2] The state argues that the Minnesota Supreme Court's legal standard on this issue, as set forth in *Heden*, is incorrect, and that this court should look to the standard provided by the United States Supreme Court in *Berkemer v. McCarty*, 468 U.S. 420, 104 S. Ct. 3138 (1984). The state describes the *Berkemer* standard as whether the suspect was *in fact* subject to restraints similar to formal arrest, rather than what a reasonable person would perceive. But even if this court were authorized to disregard *Heden*, which we are not, we note that *Heden* is consistent with *Berkemer*, which provides that "the only relevant inquiry is how a reasonable man in the suspect's position would have understood his situation." *Berkemer*, 468 U.S. at 442, 104 S. Ct. at 3151.

> any time; a nonthreatening environment; and the suspect's ability to make phone calls.

Id.

Although "handcuffing restraint, by itself, [does] not mean [an individual is] in 'custody' for purposes of *Miranda*," *State v. Walsh*, 495 N.W.2d 602, 605 (Minn. 1993), Officer Peek's handcuffing of appellant before questioning him and without telling him that he was not under arrest or explaining the reason for the handcuffing suggests that the interrogation was custodial. *Cf. Walsh*, 495 N.W.2d at 603 (finding no custody where officers told defendant that "he was not under arrest but was being handcuffed for the officers' safety and to determine what had taken place"). But other circumstances in this case suggest that a reasonable person in appellant's position would not have believed he was in custody but, rather, would have understood that he was being handcuffed simply to allow the officers to secure the scene. Appellant had not yet revealed or exhibited any particular incriminating conduct to the officers; the officers did not tell appellant that he was suspected of committing a crime; a female was screaming and crying in another area of the home; and appellant was questioned in his own home, not in a police-department interrogation room.

Additionally, the circumstances in this case did not implicate the concerns of the *Miranda* Court. "The underlying purpose of *Miranda* was to stop certain coercive practices used by police in custodial interrogation." *State v. Champion*, 533 N.W.2d 40, 43 (Minn. 1995).

> [*Miranda*] is not intended to hamper the traditional function of police officers in investigating crime. General on-the-site

> questioning as to facts surrounding a crime or other general questioning of citizens in the fact-finding process is not affected by [*Miranda*]. In such situations the compelling atmosphere inherent in the process of in-custody interrogation is not necessarily present.

State v. Kline, 351 N.W.2d 388, 390 (Minn. App. 1984) (quoting *Miranda*, 384 U.S. at 477–78, 86 S. Ct. at 1629–30) (modifications omitted). *Miranda* need be enforced "only in those types of situations in which the concerns that powered the decision are implicated." *Berkemer v. McCarty*, 468 U.S. 420, 437, 104 S. Ct. 3138, 3148–49 (1984).

In this case, the police were at the home responding to an emergency call, not investigating a crime, and asked appellant "straight forward" and "open-ended" questions designed to get more information about what happened that evening. The officers only incidentally discovered facts that led them to suspect appellant might be guilty of DWI. Officer Peek's questions were not prompted by a suspicion that appellant had committed the crime of DWI, and appellant had no reason to believe that he was being questioned about a DWI. This case involved little risk of the officers transforming their investigation into the kind of coercive interrogation that powered the *Miranda* decision.

The district court concluded that the interrogation was noncustodial "on-site" questioning, and did not suppress appellant's admission that he had been driving and the fruits of that admission. Citing *Walsh*, the district court reached its conclusion based on the appropriate legal standard—that "the degree of the restraint is tested by whether a reasonable person in the place of the detainee would have believed he or she was in custody." 495 N.W.2d at 605. Considering the fact-specific nature of the custody decision in this case, we conclude that the district court did not clearly err by finding that

a reasonable person in these circumstances would believe that he was not in custody and concluding that appellant's interrogation was noncustodial. *See Heden*, 719 N.W.2d at 696 (noting that while applicable factors led to mixed result, based on overall circumstances, district court "did not clearly err in finding that a reasonable person in these circumstances would believe he was not in custody to the degree associated with arrest" where district court applied appropriate legal standard to particular set of facts in case).

And even if appellant *were* in custody at the time of the questioning, the questioning about his driving and alcohol consumption did not require *Miranda* warnings under the circumstances of this case. Officer Peek did not handcuff appellant because he was suspected of committing a DWI or because he appeared to be under the influence of alcohol; if Officer Peek suspected appellant of committing any crime, it was a crime of domestic assault. An individual who is in custody on an unrelated offense is not necessarily in custody for all *Miranda* purposes. *State v. Werner*, 725 N.W.2d 767, 770–71 (Minn. App. 2007) (citing *State v. Tibiatowski*, 590 N.W.2d 305, 309 (Minn. 1999)). "Where there is no evidence of restraint on the suspect's freedom other than that to which the suspect was already subject by reason of his custody for an unrelated offense, the suspect is not in custody for purposes of *Miranda*." *Id.* at 771 (quoting *Tibiatowski*, 590 N.W.2d at 309) (quotation marks and modification omitted). "[T]he issue is whether the circumstances of the custody would cause a reasonable person to feel compelled or coerced to confess to the offense for which the interrogation was being conducted." *Id.* (quoting *Tibiatowski*, 590 N.W.2d at 309) (quotation marks and modifications omitted).

In *Werner*, officers stopped the defendant in his motor vehicle solely because of an outstanding warrant for tax evasion. *Id.* at 769. The officers took the defendant into custody on the warrant and then noticed that the defendant exhibited indicia of intoxication. *Id.* Upon police questioning, the defendant admitted that he had consumed six or seven drinks. *Id.* The district court suppressed the statement and its fruits, but this court reversed on the basis that the defendant was under no additional restraints beyond those related to the tax-evasion arrest, and that the officer's questioning about intoxication was therefore noncustodial "on-site" questioning. *Id.* at 770–71.

Here, as in *Werner*, even if appellant were in custody at the time of Officer Peek's questioning, he was "under no additional restraints beyond those related to the" suspected domestic assault. The officers detained appellant relative to their investigation of the domestic-disturbance call, not because they suspected him of DWI. Therefore, even if appellant were in custody relative to the domestic-disturbance incident, his statements were noncustodial for the purposes of the DWI charges.

Affirmed.

ROSS, Judge (concurring specially)

I concur in the result but not in the reasoning of the court's opinion. In my view, Blake Luther clearly made his challenged statement while in police custody.

The police reasonably entered Luther's home, reasonably asked to speak with the woman crying inside, reasonably declined Luther's offer to contact the woman without the officers, reasonably pushed past Luther when he obstructed their access to the woman, and reasonably put Luther in handcuffs when he physically resisted the officers. So I agree that the officers' entry and the seizure are constitutionally sound. I would affirm the district court's decision not to suppress Luther's subsequent statements only because, based on *State v. Tibiatowski*, 590 N.W.2d 305, 309 (Minn. 1999), police who have already detained and handcuffed a person for one matter and who do not add to the extant restraint need not give the person a *Miranda* warning before asking him about an unrelated matter. *See also State v. Werner*, 725 N.W.2d 767, 771 (Minn. App. 2007). I would end the analysis there.

But the majority goes further and holds that Luther was not in police custody after being handcuffed. I do not join in that holding.

The custody analysis is straightforward. We must decide whether, on all the circumstances that Luther faced after police handcuffed him, a reasonable person in his shoes would have perceived that his freedom was restricted to the degree of a formal arrest. *See Berkemer v. McCarty*, 468 U.S. 420, 442, 104 S. Ct. 3138, 3151 (1984) (defining custody test to apply to *Miranda*); *State v. King*, 513 N.W.2d 245, 248 (Minn. 1994). It helps to remember that the only reason that an officer need not announce

"You're under arrest" for the person to be in custody for *Miranda* purposes is that reasonable people recognize the indicia of arrest even from nonverbal communication.

Generally, a reasonable person would recognize that he is in custody tantamount to arrest as soon as a police officer binds him in handcuffs. This is intuitively true, and caselaw also overwhelmingly supports it. *See Dunaway v. New York*, 442 U.S. 200, 215, 215 n.17, 99 S. Ct. 2248, 2258, 2258 n.17 (1979) (identifying handcuffing as among the "trappings of a technical formal arrest"); *see also United States v. Glenna*, 878 F.2d 967, 972 (7th Cir. 1989) ("[H]andcuffs are restraints on freedom of movement *normally* associated with arrest."); *United States v. Newton*, 369 F.3d 659, 676 (2nd Cir. 2004) ("Handcuffs are generally recognized as a hallmark of a formal arrest."); *United States v. Maguire*, 359 F.3d 71, 79 (1st Cir. 2004) ("[T]he use of handcuffs [is] one of the most recognizable indicia of traditional arrest.") (quotation omitted). I therefore agree with one federal court's statement that "a reasonable person finding himself placed in handcuffs by the police would ordinarily conclude that his detention would not necessarily be temporary or brief and that his movements were now totally under the control of the police—in other words, that he was restrained to a degree normally associated with formal arrest and, therefore, in custody." *Newton*, 369 F.3d at 676.

There is a logical but limited exception to a reasonable person's concluding that he is in police custody once he is placed in handcuffs, but that exception does not apply here. A police officer can refute the circumstantially created inference of arrest by expressly countering, "You are *not* under arrest." *See State v. Walsh*, 495 N.W.2d 602, 604–05 (Minn. 1993) (holding that placing a person in handcuffs did not indicate arrest

specifically when police informed the person that he was not under arrest). In other words, a person handcuffed and pinned by police officers against his living-room wall engages in a sort of fact-finding exercise; he presumes from his confinement that he is under arrest, but he hopes the officers will rebut the presumption by expressly telling him that things are not as they seem. I add that there are exceptions to the exception: the facts establishing extraordinary restraint might so overwhelmingly indicate arrest that even an express disclaimer by police is ineffective. *See id.*; *Matter of Welfare of M.E.P.*, 523 N.W.2d 913, 919 (Minn. App. 1994) (holding that handcuffed juveniles were in custody despite police telling them they were not under arrest), *review denied* (Minn. Mar. 1, 1995); *Newton*, 369 F.3d at 677 (holding that handcuffed parolee was in custody under *Miranda* in his residence even though he was told he was not under arrest).

The federal caselaw on point consistently demonstrates the significance of in-home handcuffing in the *Miranda* custody analysis. In each of six federal opinions that I found in which the appellate court determined that the defendant had *not* been in custody when he answered police questions in his home, the court expressly emphasized that the defendant had not been handcuffed when he made the challenged statement. *United States v. Hinojosa*, 606 F.3d 875, 883 (6th Cir. 2010) (listing the fact that "officers did not place Defendant in handcuffs" as a factor weighing against arrest); *United States v. Panak*, 552 F.3d 462, 467 (6th Cir. 2009) (observing that "the officers did not handcuff [the defendant]" or "brandish, firearms or handcuffs"); *United States v. McCarty*, 475 F.3d 39, 46 (1st Cir. 2007) (noting that "[w]hen [the officer] began to question [the defendant], [he] was no longer handcuffed"); *United States v. Hernandez-Hernandez*, 327

F.3d 703, 706 (8th Cir. 2003) (emphasizing that the defendant "was not handcuffed or arrested until after he made the statements"); *United States v. Rith*, 164 F.3d 1323, 1332 (10th Cir. 1999) (noting "that the officers did not draw their weapons, handcuff [the defendant], or otherwise impose physical restraint upon him"); *United States v. Ritchie*, 35 F.3d 1477, 1485 (10th Cir. 1994) (reasoning that, although "the agents detained [the defendant] . . . they never held him at gunpoint, handcuffed him, or otherwise used force or threat of force").

And in both federal cases in which the defendant was handcuffed when making statements to police, the court of appeals determined that the defendant was in custody for the purposes of applying *Miranda*. *United States v. Revels*, 510 F.3d 1269, 1275 (10th Cir. 2007) (noting among other factors showing police control, that the defendant was "restrained in handcuffs"); *Newton*, 369 F.3d at 675 (specifically observing that "the handcuffs are the problematic factor in this set of circumstances").

This caselaw exposes a black-letter rule that, when applied here, supports only one result. The rule is that in-home handcuffing equates to police custody except when police have specifically informed the handcuffed person that he is not under arrest. Here, police entered Luther's home, verbally and physically tried to restrict his movement, and then handcuffed him when he physically resisted their efforts. Police may have wanted to detain Luther only temporarily while they safely investigated the crying woman. But they never told Luther that his detention was limited, and the circumstances would not lead a reasonable person to that understanding. The state's counsel volunteered during oral argument that a reasonable person would expect to be handcuffed after interfering

with the police as Luther did. Exactly so. And the reason for this expectation is that police arrest people who obstruct them in carrying out their duties. *See* Minn. Stat. § 609.50, subd. 1(1) (2010) (making it a crime to obstruct or prevent any legal process).

I disagree with the court's holding that the police handcuffing here constituted something less than custody for the purposes of *Miranda*. I think *Tibiatowski* and *Werner* provide the only basis to affirm.