IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-120

Filed: 20 September 2016

Durham County, Nos. 12 CRS 50666-67

STATE OF NORTH CAROLINA

v.

RAHMIL INGRAM

Appeal by the State from order entered 29 October 2015 by Judge G. Bryan Collins, Jr., in Durham County Superior Court. Heard in the Court of Appeals 11 August 2016.

Attorney General Roy Cooper, by Special Deputy Attorney General Derrick C. Mertz, for the State.

Appellate Defender Glenn Gerding, by Assistant Appellate Defender James R. Grant, for Defendant.

STEPHENS, Judge.

This is the second appeal by the State from an order granting Defendant's motion to suppress statements he made to law enforcement officers notwithstanding a waiver of his *Miranda* rights, raising issues of whether Defendant's waiver and subsequent statements were made voluntarily. On remand following the State's first appeal, the trial court made findings of fact on the issues this Court identified as necessary to a determination of voluntariness. Because those factual findings

support the court's legal conclusion that neither Defendant's waiver of his *Miranda* rights nor his statements to law enforcement officers were voluntary, we affirm.

Factual and Procedural History

On 24 January 2012, two officers with the Durham Police Selective Enforcement Unit ("SET") executed a search warrant for drugs and weapons at the home of Defendant Rahmil Ingram. When SET officers entered Ingram's home, they encountered Ingram pointing a shotgun in their direction. The SET officers shot and wounded Ingram in his arm and buttocks. The issues raised in both the State's previous appeal and this appeal relate not to the execution of the warrant or the shooting, but rather to Ingram's interactions with Special Agent Brian Fleming of the State Bureau of Investigation and Officer Greg Silla of the Durham Police Department during Ingram's hospitalization for the injuries resulting from the shooting.

Ingram was arrested and later indicted on two counts of assault with a firearm on a law enforcement officer.[1] On 2 September 2014, Ingram filed a pre-trial motion to suppress the statements he made to Fleming and Silla. It was undisputed that, regarding both his statement to Fleming and his statement to Silla, Ingram received the warnings required by *Miranda*. *See Miranda v. Arizona*, 384 U.S. 436, 444-45, 16 L. Ed. 2d 694, 706-07 (1966) (holding that the State generally may not use

[1] Ingram's brief states that he was indicted on additional firearms and drug charges, but the record on appeal includes only the assault indictments.

statements resulting from the custodial interrogation of a criminal defendant unless it demonstrates the use of certain procedural safeguards). The sole disputed issues were the voluntariness of Ingram's purported waiver of his *Miranda* rights and of the two statements he made notwithstanding the *Miranda* warning. In his motion to suppress and at the suppression hearing, Ingram argued that his waiver and the statements were not voluntarily or knowingly given on three bases: (1) that he was "under the influence of several doses of serious pain medication" when the statements were given; (2) "because [the statements] were coerced by torture by withholding lawfully prescribed pain medication"; and (3) that the statements were "unreliable, because they were made for the sole purpose of being allowed to receive lawfully prescribed pain medication that was being illegally withheld."

The motion was heard at the 24 September 2014 Criminal Session of Durham County Superior Court, the Honorable G. Bryan Collins, Jr., Judge presiding. Evidence at the hearing tended to show the following: Fleming arrived at the hospital to interview Ingram at about 2:30 p.m. on 24 January 2012.

> . . . Fleming testified he advised [Ingram] of his *Miranda* rights and that [Ingram] "said he understood.". . . The record indicates [Ingram] initialed the *Miranda* form at 2:38 p.m. . . . Fleming testified [Ingram] was unable to sign, because "he had been shot in the shoulder and that the pain made it hard for him to write. . . . So he just initialed the form.". . . Fleming testified that [Ingram] seemed to be "[i]n some pain" but appeared "calm[] and spoke plainly[] and coherently[]" during the nine-minute interview he conducted about the circumstances

> surrounding the shootings earlier that day. Agent Fleming wrote [Ingram's] statements in a police report.

State v. Ingram, __ N.C. App. __, __, 774 S.E.2d 433, 437 (2015). Ingram told Fleming his account of the circumstances surrounding the execution of the search warrant, and Fleming

> "kept asking clarification questions to try to pin down exactly . . . what [Ingram] did and what [the SET officers] did.". . . At approximately 2:47 p.m., medical personnel intervened and asked . . . Fleming to leave, so they could transport [Ingram] to the operating room. During cross-examination, . . . Fleming testified that he did not know what medications were administered to or prescribed for [Ingram] prior to interviewing him.

Id. Silla testified that he arrived at the hospital at about 2:40 p.m. and saw Ingram lying on a stretcher and being attended by medical staff. *Id.* Silla followed Ingram as he was transported to the operating room, and Ingram asked Silla

> "what [Silla was] doing there.". . . Silla responded: "When you're done here, you're going to jail." [Ingram] stated: "[I]f [I] knew that, [I] would have shot that cop.". . . Silla testified that this short exchange was the only interaction he had with [Ingram]. On cross-examination, . . . Silla testified that he did not know what medications were administered to or prescribed for [Ingram].

Id. Ingram presented evidence from forensic pathologist Christena Roberts about her review of his medical records from 24 January 2012:

> Dr. Roberts referred to a medication sheet in relaying the timing and dosage of pain medications given to [Ingram]. Dr. Roberts testified that, according to the medication sheet, [Ingram] was administered intravenously three

> doses of 50 micrograms of Fentanyl within an hour and nineteen minutes prior to his custodial interview with law enforcement. Dr. Roberts explained the effects of Fentanyl as follows: "in addition to pain relief, as many of the other strong narcotics, you also get some respiratory depression and you also get sedation. And then specifically with [F]entanyl, you also may get confusion." The three intravenously administered Fentanyl doses, doses indicated for "severe pain," were administered at 10:56 a.m., 11:05 a.m., and 12:15 p.m. Dr. Roberts testified a narcotic medication at this dosage would only be given in such a quick succession if "it wasn't providing adequate pain relief, and that's supported by the notes[.]" Dr. Roberts stated that another narcotic pain medication, Dilaudid, was written next on [Ingram's] medication sheet, but the time when it was administered was not listed, so she looked to the nurse['s] notes to find more information.
>
> Referring to a nurse's note, Dr. Roberts testified: " 'At 2:15 Dilaudid was prescribed for pain.' [The note] said, 'That the patient was crying loudly and yelling,' and so the doctor had prescribed the Dilaudid. The note continued to say that the medication was being held at the request of police until the SBI interview." The State objected to this testimony on hearsay grounds, which the trial court overruled. . . . Dr. Roberts was then asked by defense counsel: "And from your review of [Ingram's] medical records, was pain medication withheld at the request of the police?" She responded: "Yes. According to this handwritten nurse's note."

Id. at __, 774 S.E.2d at 437-38. At the conclusion of the hearing, the court entered an oral order granting Ingram's motion, suppressing two statements Ingram made to law enforcement officers. The trial court rejected the latter two bases for suppression, but concluded that Ingram's waiver and his statements must be suppressed because he was "in severe pain[] and under the influence of a sufficiently large dosage of a

strong narcotic medication." The court's order ("the first suppression order") was reduced to writing and entered on 15 October 2014.

From that order, the State appealed to this Court. This Court held that the trial court's findings of fact were supported by the evidence at the suppression hearing, but vacated the first suppression order and remanded the case for new findings of fact because

> the trial court suppressed [Ingram's] statements on the grounds [Ingram] was "in custody, in severe pain, and under the influence of a sufficiently large dosage of a strong narcotic medication[;]" however, the trial court failed to make any specific findings as to [Ingram's] mental condition, understanding, or coherence—relevant considerations in a voluntariness analysis—at the time his *Miranda* rights were waived and his statements were made. The trial court found only that Ingram was in severe pain and under the influence of several narcotic pain medications. These factors are not all the trial court should consider in determining whether his waiver of rights and statements were made voluntarily.

Id. at __, 774 S.E.2d at 443.

On remand, the trial court did not take further evidence. The court entered a new order ("the second suppression order"), again granting Ingram's motion and suppressing the statements he made to Fleming and Silla after his arrest. From the second suppression order, the State appeals.

Discussion

In this appeal, the State argues that (1) certain of the trial court's findings of fact are not supported by competent evidence and (2) the court erred in concluding that both Ingram's waiver of his *Miranda* rights and his subsequent statements to Fleming and Silla were not voluntarily given.[2] We reject the State's challenge to certain findings of fact in the second suppression order and further hold that the court made sufficient new factual findings regarding Ingram's "mental condition, understanding, or coherence" to support its legal conclusions, as directed by this Court in the State's first appeal. S*ee id.*

I. Standard of review

Our review of a trial court's denial of a motion to suppress is

> strictly limited to determining whether the trial judge's underlying findings of fact are supported by competent evidence, in which event they are conclusively binding on appeal, and whether those factual findings in turn support the judge's ultimate conclusions of law. . . . Indeed, an appellate court accords great deference to the trial court in this respect because it is entrusted with the duty to hear testimony, weigh and resolve any conflicts in the evidence, find the facts, and, then based upon those findings, render a legal decision, in the first instance, as to whether or not a constitutional violation of some kind has occurred.

[2] For preservation purposes only, the State also reasserts its contention regarding the inadmissibility of nurse's notes, acknowledging that this argument was addressed and rejected in its previous appeal. *See Ingram*, __ N.C. App. at __, 774 S.E.2d at 440-42.

State v. Cooke, 306 N.C. 132, 134, 291 S.E.2d 618, 619-20 (1982) (citations omitted). However, a "trial court's conclusions of law . . . are fully reviewable on appeal." *State v. Hughes*, 353 N.C. 200, 208, 539 S.E.2d 625, 631 (2000).

II. Challenges to findings of fact

The State argues that findings of fact 15, 22, 23, 24, and 27 in the second suppression order are not supported by competent evidence and that denominated finding of fact 24 is actually a legal conclusion and not supported by the findings of fact. We address the State's challenge to denominated finding of fact 24 in part III of this opinion. As to its arguments regarding the other findings of fact, we conclude that further review has been foreclosed, and we thus reject the State's challenge to these findings.

In the second suppression order, the trial court found as fact:

> 15. During all times relevant to this suppression issue, [Ingram] was in severe pain and under the influence of strong narcotic medication.
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> . . . .
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> 22. At the time of . . . Fleming's interview of [Ingram], the Dilaudid had not been administered and [Ingram] was still in extreme pain.
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> 23. At the time [Ingram] made his statement to . . . Silla, he had still not been given the Dilaudid and he was still in extreme pain.
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> 24. The combination of extreme pain and the intoxicating effects of the three doses of Fentanyl caused [Ingram's]

> mental faculties to be impaired to the extent that he was unable to voluntarily waive his *Miranda* rights and unable to make voluntary statements to . . . Silla.
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> . . . .
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> 27. There is a conflict in the evidence concerning whether the police asked the nurses to withhold pain medication from [Ingram]. The [trial c]ourt does not find that any law enforcement officer directed medical personnel to withhold pain medication from [Ingram] in order to extract a statement from him. Thus, the court does not find that [Ingram] was coerced into making a statement. However, the failure of the medical personnel to administer the Dilaudid caused [Ingram] to remain in extreme pain during all relevant times and said failure factors into the analysis of whether his statements were voluntary.

(Italics added). In this appeal, the State asserts that the portions of these factual findings referencing Ingram's "extreme" or "severe" pain and his impairment caused by Fentanyl are not supported by the evidence because neither Ingram nor any other witness with "actual knowledge" testified regarding those matters at the suppression hearing. Because this Court addressed and rejected the State's previous challenge to a finding of fact that Ingram was in severe pain and under the influence of pain medication at all relevant times, we must reject the State's attempt to re-litigate this issue.

In its previous appeal in this matter, the State argued that several of the trial court's findings of fact in the first suppression order were unsupported by competent evidence, specifically including finding of fact 14, the wording of which is identical to

finding of fact 15 in the second suppression order: "During all times relevant to this suppression issue, [Ingram] was in severe pain and under the influence of strong narcotic medication." In that appeal, the State's challenge to finding of fact 14—as well as other findings of fact—was based solely upon its contention that "the trial court erred in admitting 'nurse['s] notes' for the truth of the matter contained within[] and making substantive findings on that evidence." *Id.* (internal quotation marks omitted). This Court "conclude[d that] the trial judge did not abuse his discretion in admitting the nurse's note[s] and making substantive findings solely thereupon and, therefore, . . . dismiss[ed] the State's argument on this issue." *Id.* at __, 774 S.E.2d at 442. In its first appeal, the State did not suggest that the nurse's notes, if properly considered by the trial court, were not competent evidence that Ingram "was in severe pain and under the influence of strong narcotic medication."

> As a general rule when an appellate court passes on a question and remands the cause for further proceedings, the questions there settled become the law of the case, both in subsequent proceedings in the trial court and on subsequent appeal, provided the same facts and the same questions which were determined in the previous appeal are involved in the second appeal.

State v. Lewis, 365 N.C. 488, 504, 724 S.E.2d 492, 503 (2012) (citation, internal quotation marks, and brackets omitted). Accordingly, it is the law of this case that, at all relevant times, Ingram "was in severe pain and under the influence of strong

narcotic medication[,]" and we will not consider the State's challenge to those issues in findings of fact 15, 22, 23, 24, and 27 of the second suppression order.

III. Challenge to denominated finding of fact 24

The State also challenges denominated finding of fact 24, which the State contends is actually a legal conclusion, and therefore subject to *de novo* review. We conclude that denominated finding of fact 24 is a mixed finding of fact and conclusion of law, and, further, that the factual portion is supported by competent evidence and the legal conclusion contained therein is supported by the court's findings of fact.

> The classification of a determination as either a finding of fact or a conclusion of law is admittedly difficult. As a general rule, however, any determination requiring the exercise of judgment, or the application of legal principles, is more properly classified a conclusion of law. Any determination reached through logical reasoning from the evidentiary facts is more properly classified a finding of fact.

In re Helms, 127 N.C. App. 505, 510, 491 S.E.2d 672, 675 (1997) (citations and internal quotation marks omitted). Our Supreme Court has further directed that "findings of fact which are essentially conclusions of law will be treated as such on appeal." *State v. Sparks*, 362 N.C. 181, 185, 657 S.E.2d 655, 658 (2008) (citations, internal quotation marks, brackets, and ellipsis omitted).

The first portion of denominated finding of fact 24—"[t]he combination of extreme pain and the intoxicating effects of the three doses of Fentanyl caused [Ingram's] mental faculties to be impaired"—is a "determination reached through

logical reasoning from the evidentiary facts" and, thus, is a finding of fact. *See In re Helms*, 127 N.C. App. at 510, 491 S.E.2d at 675 (citation and internal quotation marks omitted). The latter half of denominated finding of fact 24—"to the extent that he was unable to voluntarily waive his *Miranda* rights and unable to make voluntary statements"— required the application of legal principles and is therefore a conclusion of law. *See id.* Further, we reject the State's contention that the findings of fact in the second suppression order do not support the trial court's legal conclusion that Ingram's waiver and statement were not voluntary.

As noted *supra*, this case was remanded because the trial court (1) failed to resolve conflicts in the evidence regarding possible police coercion in the form of withholding pain medication from Ingram and (2) "failed to make any specific findings as to [Ingram's] *mental condition, understanding, or coherence*—relevant considerations in a voluntariness analysis—at the time his *Miranda* rights were waived and his statements were made." *Ingram*, __ N.C. App. at __, 774 S.E.2d at 443 (emphasis added). As this Court noted in the State's first appeal, "[i]nvoluntariness may be found when circumstances precluding understanding or the free exercise of will were present[,]" and, thus, intoxication and other circumstances that affect "the mental condition of the declarant" are highly relevant to the analysis of whether a waiver of *Miranda* rights or statement to a law enforcement officer was voluntary. *Id.* at __, 774 S.E.2d at 442 (citations and internal

quotation marks omitted). The factual portion of finding 24—that "[t]he combination of extreme pain and the intoxicating effects of the three doses of Fentanyl caused [Ingram's] mental faculties to be impaired"—is plainly a "specific finding[] as to [Ingram's] mental condition, understanding, or coherence . . . ." *See id.*

In addition to the new finding of fact about the effect of Fentanyl and his gunshot wound on Ingram's mental condition, the second suppression order includes several additional and/or amended findings of fact regarding the failure of hospital personnel to administer a narcotic pain reliever, Dilaudid, and Ingram's resulting extreme pain. In the first suppression order, the only factual finding made by the trial court regarding Dilaudid was that it had been ordered but, "[a]t the time of the interview and at the time of the statement to . . . Silla, the Dilaudid had not been administered to [Ingram.]" In the second suppression order, the court found as fact that, "[a]t the time of . . . Fleming's interview of [Ingram], the Dilaudid had not been administered and [Ingram] was still *in extreme pain*"; "[a]t the time [Ingram] made his statement to . . . Silla, he had still not been given the Dilaudid and he was still *in extreme pain*"; and "the failure of the medical personnel to administer the Dilaudid caused [Ingram] to remain *in extreme pain* during all relevant times and said failure factors into the analysis of whether his statements were voluntary."

In sum, on remand, the trial court addressed the two issues identified by this Court: (1) resolving conflicts in the evidence regarding police coercion by means of

withholding pain medication and (2) making additional findings about Ingram's mental condition and ability to voluntarily waive his *Miranda* rights. The trial court's findings of fact in turn support its totality-of-the-circumstances legal conclusion that, due to the impairment of his mental faculties from having been given the strong narcotic Fentanyl and continuing to suffer from the extreme pain of his gunshot wound as a result of the failure of medical personnel to administer Dilaudid, Ingram was unable to voluntarily waive his rights and make statements. Accordingly, the second suppression order is

AFFIRMED.

Judges McCULLOUGH and ZACHARY concur.

Report per Rule 30(e).