



**COURT OF APPEALS  
SECOND DISTRICT OF TEXAS  
FORT WORTH**

**NO. 02-17-00085-CR  
NO. 02-17-00086-CR  
NO. 02-17-00087-CR**

DARNELL HAYNIE AKA DARNELL  
HANEY

APPELLANT

V.

THE STATE OF TEXAS

STATE

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FROM THE 297TH DISTRICT COURT OF TARRANT COUNTY  
TRIAL COURT NOS. 1485870D, 1440818D, 1442689D  
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**MEMORANDUM OPINION<sup>1</sup>**  
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**I. Introduction**

Just before midnight on January 5, 2016, a masked man wearing sunglasses and a hoodie pointed a two-toned Glock handgun at the assistant manager of a 24-hour gas station in Haltom City and demanded the money in the

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<sup>1</sup>See Tex. R. App. P. 47.4.

store's cash register. The police quickly arrived at the scene, took photos from the store's surveillance footage, and distributed the photos so that other officers could be on the lookout for the aggravated robbery suspect.

About an hour later the same masked man, carrying a white plastic bag, entered a convenience store in Euless, pointed the same two-toned Glock handgun at the clerk, and made the same demand. A customer who saw what was happening ran away to call the police.

After another hour had elapsed, Ericka Jenkins, a Fort Worth convenience store clerk and mother of five, saw the masked man on the surveillance monitor from behind the closed doors of her store's office. Alarmed by his attire—he was wearing a hoodie, sunglasses, and a yellow-green scarf acting as a mask over the lower half of his face—and because the store had been robbed only two weeks before, she called the police. During the call, she said that she was “being robbed,” but she also conceded that she could not be certain of the masked man's intentions as he prowled around the store. She described his attire and the white bag in his hand and said that while she did not see any weapons, it was difficult to tell from her vantage point.

While Jenkins was on the phone with the police, and as clearly audible on the 911 recording, the masked man banged on the office door several times. Four minutes elapsed before the police arrived, during which time Jenkins remained on the phone with 911. When the officers arrived, they apprehended

the man, who was subsequently identified as 20-year-old Appellant Darnell Haynie aka Darnell Haney.

After handcuffing Haynie, the arresting officers patted him down and found the Glock, which had a round in the chamber and three rounds in the magazine. They took him to a Fort Worth police station, where he was interviewed about his activities that evening.

A jury found Haynie guilty of two counts of aggravated robbery with a deadly weapon, each count for which he was sentenced to 40 years' confinement, and attempted aggravated robbery, for which he was sentenced to 20 years' confinement.<sup>2</sup>

In two issues, Haynie argues that the trial court erred first by denying his motion to suppress and second by denying his motion for instructed verdict as to the attempted aggravated robbery charge. We affirm.

## **II. Sufficiency of the Evidence**

In his second issue, Haynie complains that the trial court erred by denying his motion for instructed verdict. A challenge to the denial of a motion for instructed verdict is a challenge to the sufficiency of the evidence. *Canales v. State*, 98 S.W.3d 690, 693 (Tex. Crim. App.), *cert. denied*, 540 U.S. 1051 (2003). And because when performing a sufficiency review we must consider all of the

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<sup>2</sup>Haynie also pleaded guilty to, and was convicted of, unlawful possession of a firearm, the elements of which he stipulated to during trial and for which he was sentenced to ten years' confinement; he does not appeal this conviction. All of Haynie's sentences were set to run concurrently.

evidence admitted at trial, even if improperly admitted, we take up Haynie's second issue first. *Jenkins v. State*, 493 S.W.3d 583, 599 (Tex. Crim. App. 2016); *Moff v. State*, 131 S.W.3d 485, 489–90 (Tex. Crim. App. 2004).

On appeal, Haynie argues that, given Jenkins's testimony that she did not know his intentions and did not see a weapon, there is insufficient evidence to find that he had the requisite specific intent to commit aggravated robbery at the Fort Worth store. The State responds that the evidence is sufficient to support the attempted aggravated robbery conviction.

#### **A. Standard of Review and Applicable Law**

In our due process review of the sufficiency of the evidence to support a conviction, we view all of the evidence in the light most favorable to the verdict to determine whether any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S. Ct. 2781, 2789 (1979); *Jenkins*, 493 S.W.3d at 599. This standard gives full play to the responsibility of the trier of fact to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts. *Jackson*, 443 U.S. at 319, 99 S. Ct. at 2789; *Jenkins*, 493 S.W.3d at 599. The trier of fact is the sole judge of the weight and credibility of the evidence. See Tex. Code Crim. Proc. Ann. art. 38.04 (West 1979); *Blea v. State*, 483 S.W.3d 29, 33 (Tex. Crim. App. 2016).

In determining the sufficiency of the evidence to show an appellant's intent, and faced with a record that supports conflicting inferences, we "must presume—

even if it does not affirmatively appear in the record—that the trier of fact resolved any such conflict in favor of the prosecution, and must defer to that resolution.” *Matson v. State*, 819 S.W.2d 839, 846 (Tex. Crim. App. 1991).

The indictment alleged that on or about January 6, 2016, Haynie intentionally, with the specific intent to commit the offense of aggravated robbery of Jenkins, “enter[ed] a business with a loaded weapon while wearing a mask,” which amounted to more than mere preparation that tended but failed to effect the commission of the intended offense. See Tex. Penal Code Ann. §§ 15.01(a)–(b) (stating that a person commits the offense of criminal attempt if, with the specific intent to commit an offense, he does an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended and that if he attempts an offense that may be aggravated, his conduct constitutes an attempt to commit the aggravated offense if an element that aggravates the offense accompanies the attempt), 29.02(a)(2) (stating that a person commits the offense of robbery if, in the course of committing theft, he intentionally or knowingly threatens or places another in fear of imminent bodily injury or death), 29.03(a)(2) (stating that a person commits the offense of aggravated robbery if he commits robbery and uses or exhibits a deadly weapon) (West 2011).

## **B. Evidence**

Because Haynie does not challenge the sufficiency of the evidence to support his convictions for the two aggravated robberies committed before the

police arrested him outside of the Fort Worth convenience store, we will not further summarize the evidence specific to those robberies.

Jenkins testified that when she observed Haynie walking into the store on the surveillance monitor, she believed he was there to rob her and that she feared for her life and thought she might die. From her location in the convenience store's back office, she called 911. She described his suspicious attire—mask, hoodie, sunglasses—but when asked by the 911 dispatcher if she saw any weapons, she acknowledged that she could not see any. During cross-examination, she acknowledged that she had told the 911 responder, “I’m not too sure what his intentions are” and said that Haynie was never able to see her from her location in the back office. Jenkins testified that she did not see Haynie’s weapon “at first.”

Jenkins stayed hidden in the locked back office. She testified that she was quite scared because of how Haynie had been dressed, particularly since the store had been robbed during her shift two weeks before. After the previous robbery, she had resolved “from then on” to stay in the office and watch the monitors when working the overnight shift.

Jenkins testified that while she was on the phone with 911, Haynie banged forcefully on the office door multiple times, testimony that was borne out by the 911 recording. During the third minute of the 911 call, Jenkins asked for the police to please hurry. According to the 911 recording, Jenkins said, “Please hurry, he’s coming to the back again, please hurry,” and then the sound of ever-

more-forceful pounding on the office door resumed. Jenkins then added, “Ma’am, he’s getting really impatient, can you please hurry?” The 911 responder kept reassuring Jenkins that the police were on their way “as fast as they can.”

In the fourth minute of the 911 call, Jenkins started pleading for them to “hurry up” and then noted that he was “walking out the door.” Thirty seconds later, she saw the police on the surveillance monitor and saw that they had apprehended the suspect. Jenkins stayed in the locked office for several minutes more, until the 911 responder told her that it was safe to leave.

Fort Worth Police Officer James Richey testified that he was apprised of a BOLO (“be on the lookout”) regarding a robbery that had occurred nearby when he began his shift earlier that evening. He was dispatched at 2:09 a.m. to respond to Jenkins’s 911 call. When he arrived at the scene, he saw a suspect matching dispatch’s description (yellow-green mask, black jacket, sunglasses) step outside the convenience store. The suspect pushed the door open with his left hand and had his right hand in his right coat pocket.

When the police arrested Haynie, they collected from him a yellow-green scarf, a white plastic bag, sunglasses, and—from Haynie’s right front jacket pocket—a two-toned Glock handgun. Fort Worth Police Officer Charles Cook, who assisted with the arrest, made the weapon safe by removing the round that was in its chamber and the three rounds that were in its magazine, which was capable of holding 17 rounds. Later that evening, the police also recovered

\$1,142.28 in cash in Haynie's possession. Officer Richey's body camera footage from that evening was admitted into evidence and published to the jury.

Former Fort Worth Police Officer Laurie Scheiern, who retired two days before the trial, testified that she had been assigned to the January 6, 2016 robbery, had photographed items of evidence that were recovered from the scene, including the money and the gun, and had documented the chain of custody for the evidence that was gathered, including Haynie's gloves, sunglasses, and scarf, the gun and bullets, and a white plastic bag, all of which were admitted into evidence.

Fort Worth Police Detective Samantha Horner testified that she was assigned Haynie's case and asked the officers at the scene to bring him to the police station. She obtained the BOLO photos from the Mid-Cities robberies from Officer Richey. Detective Horner introduced herself to Haynie just after 3:00 a.m. and then asked him some general questions related to his identifying information (name, date of birth) to make sure she was talking with the right person and to assess his competence. After she read his *Miranda* warnings to him, he waived his *Miranda* rights, signed the waiver, and agreed to be interviewed. Detective Horner said that during the interview, which began around 3:15 a.m., Haynie was coherent and able to engage in a back-and-forth conversation. Portions of Haynie's recorded interview with Detective Horner were admitted into evidence over Haynie's objection and published to the jury.



When Detective Horner asked Haynie how he came to be in contact with the police that evening, he told her that he had been out partying with friends and, on the way home, stopped at the convenience store “to get some munchies.” Haynie told her that no one appeared to be in the store but that he had thought the employees could be in the cooler or the stockroom, so he made some noise to see if anyone would come out. According to Haynie, he knocked on the cooler door and the office door and waited several minutes for someone to come to the counter but when no one came out, he left the store, and he was immediately arrested.

Haynie claimed he had been wearing a scarf on his face because it was cold outside, and he identified his gloves, scarf, and glasses in a photo. But according to Detective Horner’s recollection, the weather had been relatively mild and dry, and not cold enough to require a scarf over one’s face or a hoodie over one’s head.

Haynie denied the intent to commit a robbery. He also denied having been in North Richland Hills, Richland Hills, or the Hurst-Euless-Bedford area that evening. But when Detective Horner showed him the photos from one of the other convenience store robberies that evening and asked him how many “licks” he had hit that evening, Haynie said, “Just one,” and nodded to the photos. He claimed that the robbery in the photographs was the only one he had committed in the last month. Detective Horner testified that when she showed Haynie the

photos, he acknowledged that he was the person in the photos and explained that he needed money to make ends meet.

### **C. Analysis**

Haynie complains that the evidence is insufficient to prove that he had the specific intent to target Jenkins or the convenience store where she worked in a robbery or other criminal act because (1) Jenkins testified and stated in her 911 call that she did not know what his intent was and testified that she never saw a firearm or other deadly weapon on Haynie and (2) during his custodial interview, he told the police that he went to the convenience store that night to get snacks before going home.

The record reflects that Haynie entered the convenience store at around 2 a.m., toting a loaded gun and wearing a mask and sunglasses, his head covered by a hoodie. He aggressively banged on doors when he did not see any store employees. The jury was entitled to believe, based on Jenkins's testimony, Haynie's attire, the evidence discovered during his arrest, and the rest of the evidence at trial that Haynie had the specific intent to commit the offense of aggravated robbery when he entered the business with a loaded weapon while wearing a mask, placing Jenkins in fear for her life, and that his specific intent was thwarted only by the police's timely arrival and Jenkins's refusal to leave the safety of the locked office to attend an armed, masked man late at night. See Tex. Penal Code Ann. §§ 15.01(a)–(b), 29.02(a)(2), 29.03(a)(2); see also *Chaparro v. State*, 505 S.W.3d 111, 118 (Tex. App.—Amarillo 2016, no pet.)

(discussing cases involving multi-robbery crime sprees and admissibility of extraneous offense evidence to prove identity); *cf. Burnett v. State*, 488 S.W.3d 913, 920 (Tex. App.—Eastland 2016) (stating, with regard to improper admission of evidence as same transaction contextual evidence, “This was not a crime spree in which multiple offenses occurred in a short amount of time . . . .”), *aff’d*, 541 S.W.3d 77 (Tex. Crim. App. 2017).

The jury was likewise entitled to disbelieve Haynie’s statements in his post-arrest interview that he had only stopped at the convenience store for snacks and that he had not intended to commit an aggravated robbery therein. *See Franklin v. State*, 193 S.W.3d 616, 620 (Tex. App.—Fort Worth 2006, no pet.) (“[T]he jury is free to accept or reject any or all of the evidence of either party, and any or all of the testimony of any witness.”). Accordingly, we hold that the evidence is sufficient to support Haynie’s conviction for attempted aggravated robbery, and we overrule his second issue.

### **III. Suppression**

In his first issue, Haynie argues that the trial court erred by overruling his motion to suppress under code of criminal procedure articles 38.21 and 38.22 because his statements “were the products of custodial interrogation and were involuntary.” Haynie complains that even though he signed a *Miranda* waiver, “he did so under the inherent coercion of an unreasonably lengthy interrogation,” having been held in the interrogation room for nine hours. At the suppression

hearing, Haynie pointed out that his interrogation began at 3:12 a.m. and did not end until 11:02 a.m.

The State responds that the length of the custodial interrogation, under the circumstances here, did not render Haynie's statements involuntary.

#### **A. Standard of Review and Applicable Law**

We review a trial court's ruling on a motion to suppress evidence under a bifurcated standard of review. *Amador v. State*, 221 S.W.3d 666, 673 (Tex. Crim. App. 2007); *Guzman v. State*, 955 S.W.2d 85, 89 (Tex. Crim. App. 1997). In reviewing the trial court's decision, we do not engage in our own factual review. *Romero v. State*, 800 S.W.2d 539, 543 (Tex. Crim. App. 1990); *Best v. State*, 118 S.W.3d 857, 861 (Tex. App.—Fort Worth 2003, no pet.). The trial judge is the sole trier of fact and judge of the credibility of the witnesses and the weight to be given their testimony. *Wiede v. State*, 214 S.W.3d 17, 24–25 (Tex. Crim. App. 2007); *State v. Ross*, 32 S.W.3d 853, 855 (Tex. Crim. App. 2000), *modified on other grounds by State v. Cullen*, 195 S.W.3d 696 (Tex. Crim. App. 2006). Therefore, we give almost total deference to the trial court's rulings on (1) questions of historical fact, even if the trial court's determination of those facts was not based on an evaluation of credibility and demeanor, and (2) application-of-law-to-fact questions that turn on an evaluation of credibility and demeanor. *Amador*, 221 S.W.3d at 673; *Montanez v. State*, 195 S.W.3d 101, 108–09 (Tex. Crim. App. 2006); *Johnson v. State*, 68 S.W.3d 644, 652–53 (Tex. Crim. App. 2002). But when application-of-law-to-fact questions do not turn on the credibility

and demeanor of the witnesses, we review the trial court's rulings on those questions de novo. *Amador*, 221 S.W.3d at 673; *Estrada v. State*, 154 S.W.3d 604, 607 (Tex. Crim. App. 2005); *Johnson*, 68 S.W.3d at 652–53.

Stated another way, when reviewing the trial court's ruling on a motion to suppress, we must view the evidence in the light most favorable to the trial court's ruling. *Wiede*, 214 S.W.3d at 24; *State v. Kelly*, 204 S.W.3d 808, 818 (Tex. Crim. App. 2006). When the trial court makes explicit fact findings, we determine whether the evidence, when viewed in the light most favorable to the trial court's ruling, supports those fact findings. *Kelly*, 204 S.W.3d at 818–19. We then review the trial court's legal ruling de novo unless its explicit fact findings that are supported by the record are also dispositive of the legal ruling. *Id.* at 818.

Code of criminal procedure article 38.22 sets out rules governing the admissibility of an accused's statements that are the product of custodial interrogation and requires that only "voluntary" statements that are "warned and waived" be admitted into evidence. *Oursbourn v. State*, 259 S.W.3d 159, 171–72 (Tex. Crim. App. 2008) ("[A]n accused's custodial-interrogation statement is not admissible unless, prior to making the statement, he received the warnings provided in Article 15.17 or Article 38.22, § 2(a) or § 3(a) (which incorporate the requirements of *Miranda*), and he knowingly, intelligently, and voluntarily waived those rights."); see also *Schneckloth v. Bustamonte*, 412 U.S. 218, 226, 93 S. Ct. 2041, 2047 (1973) (observing that in determining whether a defendant's will was

overborne in a particular case, a court should assess the totality of the circumstances, including both the accused's characteristics and the interrogation's details, which might include the accused's youth, lack of education, or low intelligence, and whether he received his warnings, as well as the detention's length, the repeated and prolonged nature of the questioning, and whether physical punishment, such as the deprivation of food or sleep, occurred).

An interrogation's duration, standing alone, is not sufficient to render a confession involuntary; rather, it is just one factor to be considered among the totality of the circumstances. See *Smith v. State*, 779 S.W.2d 417, 428–29 (Tex. Crim. App. 1989) (holding that the record supported the trial court's voluntariness conclusion even though, among other things, the appellant "was questioned more or less continuously for eight hours without having slept the night before, and without being fed"); *Martinez v. State*, 513 S.W.3d 87, 93–94 (Tex. App.—Houston [14th Dist.] 2016, no pet.) (holding that almost 16-hour interrogation, while somewhat coercive in nature, was not sufficient to render videotaped statement involuntary when the interview was spread over three days and appellant was not threatened or abused, made any promises, or deprived of food, water, or restroom breaks); *Fineron v. State*, 201 S.W.3d 361, 366 (Tex. App.—El Paso 2006, no pet.) (holding 7-hour interrogation not unreasonably long when appellant was given water and was allowed breaks, was offered food, and was offered cigarettes); see also *Bell v. State*, 169 S.W.3d 384, 391–92 (Tex. App.—Fort Worth 2005, pet. ref'd) (holding appellant's written statement was

voluntary when he was arrested at 11 a.m., the interview began around 2 p.m., and he signed his written statement around 10 p.m. but never indicated that he did not want to answer any more questions or that he wanted to speak to a lawyer, even though he was in handcuffs and leg shackles during the interview; there was no evidence that he had requested but was denied food, water, or bathroom breaks).

## **B. Suppression Hearing**

Detective Horner conducted the first interview with Haynie from 3:12 a.m. to 4:05 a.m. Her interview was followed by an interview with Fort Worth Police Detective Ramirez from 4:09 a.m. to 4:51 a.m. about some unrelated offenses. Two Bedford police officers then interviewed Haynie from 7:20 a.m. to 7:27 a.m., followed by two more Fort Worth police officers who interviewed Haynie from 10:17 a.m. to 10:49 a.m. Finally, Euless Police Detective John Haecker conducted an interview of Haynie from 10:55 a.m. to 11:02 a.m. At the suppression hearing, the prosecutors informed the trial court that the only interviews that would be offered at trial were Detective Horner's and Detective Haecker's.

At the suppression hearing, Detective Horner testified that she began Haynie's interview at approximately 3:15 a.m., about an hour after he was arrested. She began by asking him identifying questions, like where he was from and where he lived, to confirm through observation that he was competent to be interviewed and not under the influence of drugs or alcohol. She then read him

his *Miranda* warnings while he read along with her on the form listing those warnings in print. Haynie indicated to her that he understood his rights by initialing beside each one and then signing a waiver and agreeing to be interviewed. Detective Horner described the entire interview as very cordial, testifying that Haynie never requested an attorney or asked to stop the interview and that she neither made promises to him nor denied him any basic necessities.

Detective Haecker did not testify at the suppression hearing, but the prosecutor informed the trial court that Detective Haecker had also given Haynie his *Miranda* warnings before he began his interview.

### **C. Recorded Interview**

The recording began at 2:51 a.m. An officer brought Haynie into the room three minutes later. After Haynie asked, “Will you tell me what they picked me up on?” an officer responded, “aggravated robbery,” and Haynie said, “I didn’t rob that place, though.” The officer told him that a detective would be coming in to talk with him. Haynie appeared to drift off to sleep a few times during the wait. At one point he asked to go to the restroom, but the officer told him that he would have to wait until the detective arrived. Detective Horner entered the interview room about ten minutes later, at 3:12 a.m. Haynie’s handcuffs were removed, he was patted down, and then he was escorted to the restroom. Haynie returned to the interview room around five minutes later and the first interview began.

The recording confirms Detective Horner’s testimony that she began by making sure she had the right information as to Haynie’s identity, such as his



birthdate, the correct spelling of his name, his address, and his phone number. She then read his rights to him and asked him to initial each one on a form as it was read to show that he understood each one. Haynie did so, read aloud the last paragraph regarding the free, knowing, and voluntary waiver of his rights, and then signed the form. Haynie said that this was the second time he had been arrested; the first time was for burglary of a habitation.

Detective Horner told Haynie that she was speaking with him to find out what happened that night because the convenience store clerk had called the police reporting that she was scared. Haynie told Detective Horner that he went into the store and there was no one there, so he knocked on the doors, and when he walked out, the police ordered him to the ground. Haynie told her that he had gotten to the store in “a vehicle,” that he had not been the driver, and that he had gone to the store to get “some munchies and stuff” before going home. He denied that his intention had been to commit a robbery. He told her that he had had a few beers around 6 p.m. that day.

Haynie told Detective Horner that he had worn the scarf over his face because it was cold outside. He identified his gloves, scarf, and glasses in a photo. When Haynie was patted down before his trip to the restroom, the officers found a large amount of cash, and when Detective Horner commented on this, Haynie told her that he had received some money for his birthday in November and at Christmas. When she asked him about the Glock, he told her that he had it for protection because of the amount of money he had been carrying.

Detective Horner asked Haynie where else he had been that evening in his outfit. Haynie claimed that he had been “on the west side” of Fort Worth, and he denied having been in North Richland Hills, Richland Hills, or the Hurst-Euless-Bedford area. Detective Horner then showed him the photos from one of the other robberies. When she asked him what was going on his life, Haynie said that he was just trying to pay bills, make ends meet, and take care of his young daughter. In response to Detective Horner’s question as to how many “licks” he had hit that evening, Haynie said, “Just one,” nodded to the photos, and claimed that the robbery in the photos was the only one he had committed.

Detective Horner then offered Haynie something to drink and gave him his choice of soft drinks. Haynie replied, “Yes, ma’am, please,” and requested a Sprite. Before she left the room to retrieve his soda, Haynie asked her whether they had caught his “co-defendant,” who had been driving the car. Detective Horner talked with him for a bit longer and then left the room at 3:50 a.m., at which time Haynie went back to sleep.

Five minutes later, Detective Horner returned with the Sprite and began to elicit more information from Haynie about the getaway car and the driver, Haynie’s brother. When Detective Horner concluded her interview at 4:05 a.m., she informed Haynie that Detective Ramirez would be talking with him next. Detective Horner’s interview was concluded within an hour and fifteen minutes after it began.

While awaiting Detective Ramirez, Haynie took a brief nap. Four minutes later, Detective Ramirez entered the room and conducted an interview that lasted less than an hour.

At 4:36 a.m., Haynie told Detective Ramirez that he wanted to go to sleep. A minute later, he had a coughing fit, but Detective Ramirez continued to question Haynie another fifteen minutes. After Detective Ramirez concluded his interview at 4:51 a.m., Haynie went back to sleep—his snoring was audible on the recording—and the room’s automatic lights turned off just a few minutes later.

Detective Ramirez reentered the interview room approximately an hour and a half later and woke Haynie to answer a few more questions. After Detective Ramirez left a minute later, Haynie was provided a restroom break. Not quite ten minutes later, Haynie returned and went back to sleep for about 30 minutes, until two Bedford detectives entered the room at 7:20 a.m.

After Haynie told the Bedford detectives that he was ready to “get booked” and “to start this show on the road,” they left, and Haynie went back to sleep. While his sleep appeared to be intermittent and somewhat fitful, Haynie remained undisturbed for almost three hours.

At 10:17 a.m., two Fort Worth officers came in and asked if they could ask Haynie some questions. Haynie assented. They offered to bring him something to drink, which he accepted.

When Haynie inquired as to the time and was informed that it was 10:40 a.m., he asked, “In the morning? What the f\*ck?” At 10:45 a.m., Haynie

asked if he could call his girlfriend, and the officer told him that she would let him make that call. As the other officer filled out the paperwork for a DNA sample, Haynie complained that he had spent “eight hours in this room” and that “at Mansfield” he would not have shackles on his feet. Shortly thereafter, he asked to use the restroom again and was told that someone would come to get him,

Within five minutes, Detective Haecker came into the room to show Haynie some photos that had been taken in the Euless robbery. After Detective Haecker re-Mirandized Haynie, Haynie signed the *Miranda* form to show that he had agreed to talk with the detective. Detective Haecker told Haynie that in light of the jacket and pants that Haynie was still wearing, he had no doubt that Haynie had robbed the store but wanted to know “what was going on.” Haynie told Detective Haecker that he had bought the two-toned gun “on the street” for \$250 and that he had robbed the store because it was open. After Haynie repeated his request for a restroom break, he was escorted to the restroom.

Five minutes later, Haynie was returned to the interview room. A few minutes later, Haynie pulled up his hood and put his head on the table. Haynie spent the next hour and fifteen minutes moving around in an apparent attempt to find a comfortable position. At 12:32 p.m., an officer came in to photograph Haynie and to collect Haynie’s jacket and shoes. Haynie was escorted on another restroom break at 12:36 p.m. After they brought him back to the interview room, the interview process (and the recording) ended at 12:43 p.m.

#### **D. Findings of Fact and Conclusions of Law**

The trial court filed the following findings of fact and conclusions of law:

The witness, Det. Samantha Horner of the Ft. Worth Police Department, testified truthfully. The defendant was under arrest at the time of the interview[] . . . . Detective Horner properly identified the defendant as the person she interviewed. RR 208. No promises were made to the defendant. RR 217. The defendant was not interviewed while wearing cuffs, Court's Ex 1. The interview was recorded, Court's Ex. 1. There appeared to be no gaps or missing portions of the interview, and the Court reviewed the recording of the interview. The interview recording start time, when the defendant enters the room, was 2:54:09 a.m., Court's Ex. 1, and the interview recording ended at 12:43:22 p.m., Court's Ex. 1.

The defendant was read his Miranda rights, RR209-210, Court's Ex. 1. Those rights defendant was read complied with 38.22 TCCP. The defendant indicated he understood his rights, RR 211, Court's Ex. 1. After being read his Miranda rights and understanding them, the defendant voluntarily waived his rights and spoke with Detective Horner, RR 211, Court's Ex. 1.

The defendant was not intoxicated. RR 209, Court Ex. 1. The defendant appeared to have his mental faculties and there was no coercion on the part of Detective Horner, Court's Ex. 1. The Defendant did not invoke his rights during the interview, RR 211, Court's Ex. 1. The defendant did not ask to stop the interview nor did he invoke his right to counsel, RR 211, Court's Ex. 1. The Defendant was not under the influence of alcohol or a controlled substance, RR 209, Court's Ex. 1.

The Court finds there was no police overreaching or coercion in the interview of the defendant. The defendant's statement was made under voluntary conditions. The defendant was not under hospital care and did not appear to be sedated. The defendant was not held in custody while he was on prescription medications. The detectives used no coercive tactics in order to get the defendant to make an involuntary statement. The defendant did not appear to be ill. The defendant appeared to have all his mental faculties and he was able to converse in complete sentences and in complete thoughts. The defendant did not show any signs of mental impairment and did not appear to be intoxicated.

While the entire recording lasted approximately 9:43:13, the defendant was only actually interviewed by law enforcement for less than two hours. The remainder of the time was mostly taken up by the defendant sleeping and restroom breaks.

While the defendant did appear to be sleepy, he was given the opportunity to go to sleep during the pendency of the interview and numerous times during the course of the entirety of the recorded interview. The Court finds that any lack of sleep did not affect the voluntariness of his statement to law enforcement. Neither was the defendant's will overborne by the length of detention. The defendant was given something to drink and was allowed to use the restroom facilities and did not exhibit a reluctance to speak to detectives. There were no promises made to this defendant.

The Court also finds that 38.22 TCCP was complied with and the defendant understood and voluntarily waived his rights under 38.22 and did not terminate the interview.

For these reasons stated above, the Court finds the defendant knowingly, intelligently, and voluntarily waived the rights set out in Article 38.22. The Court further finds the interview of the defendant in Court's Exhibit 1 was freely and voluntarily given by this defendant.

## **E. Analysis**

Haynie argues that his statements were involuntary because of the overly lengthy interrogation and that, absent the admitted statements, the jury would not have convicted him. The State responds that Haynie "conflates 'length of interrogation' with confinement in an interrogation room" and points out that he slept for most of the time he was in the police station—from 4:52 a.m. until 6:40 a.m. and then again from 7:28 a.m. to 10:17 a.m.—in addition to receiving bathroom breaks upon request and beverages.

Viewed in the light most favorable to the trial court's ruling, we conclude that the evidence supports the trial court's written findings of fact and conclusions of law: Haynie received his warnings and knowingly, intelligently, and voluntarily waived his rights before the interviews in question. Despite the lateness of the hour, Haynie was coherent and clear-headed, and he was offered and received beverages and was taken to the restroom each time he requested it. Even though the recording lasted for several hours, much of it consisted of Haynie's sleeping. Perhaps most significant, Detective Horner's interview—the one in which he first admitted to committing a robbery—was the first one of the evening, occurring not long after Haynie's arrest, and he was then given the opportunity to rest before any other questioning. Although Haynie subsequently complained hours later about sitting in the interview room, he never asked for a lawyer or for any of the interviews to end, and he expressed surprise when he learned how long he had been in the interview room after being informed of the time.

Because the trial court's explicit fact findings are also dispositive of its legal ruling—that Haynie's statement was voluntary—we overrule Haynie's first issue. See *Kelly*, 204 S.W.3d at 818–19; see also *Bell*, 169 S.W.3d at 392.

#### **IV. Conclusion**

Having overruled both of Haynie's issues, we affirm the trial court's judgments.

/s/ Bonnie Sudderth

**BONNIE SUDDERTH  
CHIEF JUSTICE**

PANEL: SUDDERTH, C.J.; GABRIEL and KERR, JJ.

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Tex. R. App. P. 47.2(b)

DELIVERED: August 30, 2018