

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	DIVISION ONE
Respondent,)	
)	No. 62659-1-I
v.)	
)	UNPUBLISHED OPINION
ERIC PAUL DAY,)	
)	
Appellant.)	FILED: August 2, 2010
_____)	

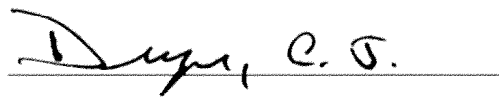
Dwyer, C.J. — Eric Paul Day appeals from his conviction of child molestation in the second degree. Day contends that evidence of incriminating statements that he made to a sheriff’s deputy should have been suppressed because the deputy did not advise him of his Miranda¹ rights. We disagree.

The United States Supreme Court recently explained that “[w]here the prosecution shows that a Miranda warning was given and that it was understood by the accused, an accused’s uncoerced statement establishes an implied waiver of the right to remain silent.” Berghuis v. Thompkins, ___ U.S. ___, 130 S. Ct. 2250, 2262, ___ L. Ed. 2d ___ (2010). Even when a suspect makes a statement many hours after receiving a Miranda warning, such a statement indicates waiver as “[p]olice are not required to rewarn suspects from time to

¹ Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

time.” Berghuis, 130 S. Ct. at 2263. Day made the statements at issue while being transported by a sheriff’s deputy in the deputy’s vehicle after he had completed a polygraph examination. Prior to the commencement of the polygraph examination, the polygraph examiner advised Day as to his Miranda rights. The deputy who subsequently transported Day had observed Day receive that advice but did not further advise Day of his rights. Assuming that Day was in custody and subject to interrogation while in the deputy’s vehicle, the deputy was not required to further advise Day as to his rights because Day had previously been advised and his subsequent statements constituted a waiver of those rights. Berghuis, 130 S. Ct. at 2263. There is no contention that Day either was improperly advised by the examiner or misunderstood his rights, was coerced into making statements in the deputy’s vehicle, or was somehow released from custody at the conclusion of the examination and then taken back into custody once inside the deputy’s vehicle. Accordingly, Day waived his Miranda rights. Berghuis, 130 S. Ct. at 2262–63. The trial court did not err.

Affirmed.

A handwritten signature in black ink, appearing to read "D. J. C. S.", is written over a horizontal line.

We concur:

Appelwick J

Jan, J.