

Commonwealth v Williams

COMMONWEALTH OF PENNSYLVANIA v. MONTRAY WILLIAMS, Defendant  
Court of Common Pleas of the 39th Judicial District,  
Franklin County Branch  
Criminal Action No. 753-2012

*Waiver of Miranda Rights*

1. A criminal suspect must be given Miranda warnings prior to a custodial interrogation.
2. A defendant may waive Miranda rights as long as the waiver is made voluntarily, knowingly, and intelligently but if the defendant invokes his rights, all police questioning must cease.

*Assertion of the Right to Remain Silent*

1. Where a defendant neither explicitly invokes his Miranda rights nor declines to answer questions asked of him, there is no invocation of his Miranda rights.
2. A defendant's request to leave the police station during a custodial interrogation does not constitute an assertion of his right to remain silent.

*Voluntariness of a Confession*

1. The Court must look at the totality of the circumstances to determine if the custodial interrogation was so manipulative or coercive that it deprived the defendant of his ability to make a free and unconstrained decision to confess.
2. Applying the totality of the circumstances approach to determine the voluntariness of a confession requires the court to consider the following factors: 1) the duration and means of the interrogation; 2) the physical and psychological state of the defendant; 3) the conditions attendant to the detention; 4) the attitude of the investigators, and 5) any other factors that could drain a person's ability to withstand suggestion and coercion.
3. When a suspect voluntarily arrives at the police station at an officer's request, is given his Miranda rights, and proceeds to respond to police questioning, the interrogation does not suddenly become coercive once that suspect is told he is not allowed to leave the police station.
4. The Commonwealth has the burden of proving by a preponderance of the evidence that the defendant voluntarily confessed.

Appearances:

Montray Williams, *Defendant*  
Steven N. Necaster, *Attorney for Defendant*  
Franklin County District Attorney's Office  
Court Administration

OPINION

Meyers, J., October 17, 2012

On March 30, 2012 the Defendant was arrested and charged with Burglary, 18 Pa.C.S.A. § 3502(a), Theft by Unlawful Taking, 18 Pa.C.S.A. § 3921(a), Firearms Not to be Carried without a License, 18 Pa.C.S.A. § 6106(a)(1), and Corruption of Minors, 18 Pa.C.S.A. § 6301(a)(1)(i). On June 22, 2012 the Defendant filed an Omnibus Motion to Suppress Evidence. The Commonwealth responded on July 16, 2012 and the Court held hearing on September 20, 2012.

Facts

The Commonwealth first presented the testimony of Officer Rob Peterson who has been employed as a patrolman with

the Chambersburg Police Department for eighteen years. Officer Peterson stated that as a patrolman he investigates anything that may arise in the course of duty and had conducted hundreds, if not thousands, of interrogations in his career. On March 30, 2012, Officer Peterson investigated a stolen property complaint on Brumbaugh Avenue, Chambersburg, PA. The complainant believed that handguns had been stolen from him by his son. Officer Peterson believed that the Defendant might also be a suspect in the case and, as a result, made contact with the Defendant multiple times over a two day period. During these conversations, Officer Peterson attempted to persuade the Defendant to return the guns but the Defendant informed him that one of the guns had already been sold. The Defendant admitted to Officer Peterson that he was with "Thomas"<sup>[1]</sup> on the night in question but he thought Thomas had permission to be in his father's home. The Defendant stated that he could obtain both guns and told Officer Peterson where to find them in a location off Salem Road. Officer Peterson subsequently recovered the guns from that location.

After taking possession of the guns, Officer Peterson persuaded the Defendant meet with him at the police station for an interview. Officer Peterson testified that the Defendant appeared "normal" in that he did not appear to be intoxicated, sleepy or confused. Once in the interview room, Officer Peterson read the Defendant his Miranda rights and, after a long discussion about whether he wanted to sign the Miranda waiver form, the Defendant stated that he wanted to talk. Before agreeing to speak with Officer Peterson, the Defendant asked if he could leave the police station to which Officer Peterson replied "not right now, no." The interview room, as described by Officer Peterson, is approximately 10x14 feet with two desks and three or four chairs furnishing the room. It is also equipped with audio and video recording capabilities; the Commonwealth offered into evidence the video recording of this interview as Exhibit 1.<sup>[2]</sup> Officer Peterson and Corporal Greenawaldt were both in uniform while they were in the room with the Defendant, but their firearms were not displayed and they did not make any verbal threats to the Defendant.

The Commonwealth presented Officer Peterson with Exhibit 2, which was a Miranda waiver form used on the date in question. Officer Peterson admitted that he wrote in "yes" to one of the questions on the form and dated the form; the Defendant then signed the waiver.<sup>[3]</sup> Corporal Greenawaldt was watching through the one-way glass and entered the interview room after the Defendant signed the Miranda waiver form. Officer Peterson continued to stay in the room while Corporal Greenawaldt interviewed the Defendant. Officer Peterson testified that the Defendant did not invoke his right to remain silent or his right to counsel before or after signing the Miranda waiver and did not ask to stop the interview at any time. Officer Peterson did not tell the Defendant that the charges would not be filed if he came to speak with him nor did Officer Peterson promise the Defendant anything in return for speaking with him. Officer Peterson stated that, during the interview, the Defendant was trying to be helpful and truthful but did not want to go to jail.

Corporal Greenawaldt also testified on behalf of the Commonwealth. At the time of his interview, Corporal Greenawaldt was the patrol corporal which entailed supervising daily operations as well as individual patrolmen. On April 2, 2012, Corporal Greenawaldt was behind the one-way glass during Officer Peterson's portion of the interview with the Defendant and identified Montray Williams as the Defendant. Corporal Greenawaldt noted that the Defendant appeared to be alert and there was nothing remarkable regarding his appearance on that date. Corporal Greenawaldt entered the interview room for a few moments after the Defendant signed the Miranda waiver and stated that the Defendant spoke to him freely. Corporal Greenawaldt acknowledged that he may use a number of methods when interviewing someone, such as positional control regarding physical proximity to the person, setting forth an examination of the facts, asking leading questions, and other techniques to break down barriers. In regard to this interrogation, he admitted to using some of these techniques on the Defendant but did not physically or verbally threaten him. Corporal Greenawaldt corroborated Officer Peterson's testimony that the Defendant did not request an attorney or assert his right to remain silent throughout the interview.

Lastly, Defense Counsel presented the testimony of the Defendant, Montray Williams. The Defendant stated that the interview took place at approximately 2:00 or 3:00 a.m. on April 1, 2012. He stated that he had not gone to sleep that night before going to the police station. The Defendant testified that he went to school through eighth grade, but did not have a high school diploma and had been diagnosed with Attention Deficit Hyperactivity Disorder. The Defendant also stated that he 'developed deep anxiety' while he was in jail, but it was unclear from his testimony whether he was actually diagnosed with an anxiety disorder while in jail.

In his recollection of the interview, the Defendant remembers Officer Peterson stating that he could not leave the police station. The Defendant stated that Officer Peterson also told him that he wanted to recover the guns and he would not charge the Defendant as long as the guns were returned. The Defendant recalled Officer Peterson saying, "I'm gonna go court tomorrow for Thomas, I just want you to come in and give a statement." Under the belief that he would provide a statement and then leave, the Defendant got a ride to the police station. Upon arrival at the police station, the Defendant was rushed downstairs to an interview room. The Defendant testified that he told Officer Peterson he wanted to

leave and was told he could not leave or “depending on what is said, you can leave.” The Defendant testified that he “did not think he would be charged” if he failed to speak with Officer Peterson.<sup>[4]</sup> In a contradictory follow-up statement, the Defendant said he “thought that talking was the only way out.”

In regard to his Miranda rights, the Defendant stated that he did not think he could have an attorney at that time and did not think an attorney would come to the police station. He also stated that he was not truly hearing what Officer Peterson was saying to him about the Miranda rights. The Defendant believed that his statement of “I want to leave” meant that he should get to leave. He admitted that he asked if he could go and then continued to answer more questions. The Defendant acknowledged that he did not tell the officers that he did not want to answer questions at any time during the interview. On re-direct, the Defendant stated that when Officer Peterson previously called him to say that he was giving a statement on Thomas, the Defendant recalls Officer Peterson telling him that “he wouldn’t be charged and if he was it wouldn’t be a felony.”

Upon reviewing the entire video, the Court confirms that Officer Peterson read the Defendant his Miranda rights. The Defendant answered yes when asked whether he understood, but hesitated to answer whether he wished to talk. Prior to agreeing to speak with Officer Peterson, it was clear from the discussion that the Defendant believed he was not going to be charged if he spoke with Officer Peterson, however, Officer Peterson stated, “I can’t guarantee you aren’t going to get charged.” After speaking with Officer Peterson for slightly less than eight minutes,<sup>[5]</sup> the Defendant agreed to sign the consent form and speak with the Officers.

## DISCUSSION

As the parties have stipulated that this was a custodial interrogation, the resultant issue for the Court to determine is whether the Defendant voluntarily waived his Miranda rights. A criminal suspect must be given Miranda warnings prior to a custodial interrogation. Miranda v. Arizona, 384 U.S. 436 (1966). A defendant may waive Miranda rights as long as the “waiver is made voluntarily, knowingly and intelligently. Id. at 444. If the Defendant invokes either of his rights, all police questioning must cease. Id.

At the start of this interrogation, Officer Peterson read the Defendant his Miranda rights and a brief discussion ensued prior to the Defendant agreeing to speak with the officer. During this discussion, the Defendant asks whether he can leave the police station, to which Officer Peterson replies that he cannot do so. Instead, Officer Peterson clearly gave the Defendant the option of telling his story or not talking to Officer Peterson at all. The Defendant stated that he understood his rights and proceeded to waive those rights in order to tell his side of the story to Officer Peterson. Officer Peterson and Corporal Greenawaldt testified that the Defendant did not appear to be intoxicated or otherwise unable to understand what was happening at that time. The Defendant was not threatened verbally or physically by Officer Peterson.

The Defendant argues that this request to leave is an assertion of his right to remain silent. The Pennsylvania Supreme Court has held that if the defendant has not explicitly invoked Miranda rights nor declined to answer questions, there is not a valid invocation of Miranda rights. Commonwealth v. Marrero, 687 A.2d 1102, 1106 (Pa. 1996). Although Marrero dealt specifically with a defendant who failed to respond to police questioning, it can be instructive in the case at hand. The Defendant in this matter neither refused to respond to Officer Peterson nor made an explicit statement that he did not want to speak any longer. The Defendant’s request to leave cannot be construed as an explicit desire to invoke his right to remain silent. Following the rationale of the Marrero Court, “where a defendant neither explicitly invokes his Miranda rights nor declines to answer questions asked of him, there is no invocation of those rights.” Additionally, the Defendant specifically stated, at the omnibus hearing, that he believed his request to leave meant that he should get to leave. He did not state that he intended his request to mean that he did not want to answer any more questions. As such, the Court finds that the Defendant did not assert his right to remain silent and that his subsequent waiver of his Miranda rights was voluntary, knowing and intelligent.

The Court must look at the totality of the circumstances to determine if the custodial interrogation was so manipulative or coercive that it deprived the defendant of his ability to make a free and unconstrained decision to confess. Commonwealth v. Nester, 709 A.2d 879, 882 (Pa. 1998). Applying the totality of the circumstances approach requires the court to consider the following factors: 1) the duration and means of the interrogation; 2) the physical and psychological state of the defendant; 3) the conditions attendant to the detention; 4) the attitude of the investigators; and 5) any other factors that could drain a person’s ability to withstand suggestion and coercion. Id. The Commonwealth has the burden of proving by a preponderance of the evidence that the defendant voluntarily confessed. Commonwealth v. DiStefano, 782 A.2d 574 (Pa. 2001).

Here, the totality of the circumstances indicate that the Defendant’s confession was voluntary for a number of reasons.

First, he came to the police station of his own accord. Although the Defendant argues that he went to the police station because he believed he would not be charged if he gave a statement to Officer Peterson, this does not mean that he was manipulated by Officer Peterson. The Defendant repeatedly testified that Officer Peterson told him he would not be charged, however, this testimony on this issue became contradictory when he said that Officer Peterson told him he would not be charged, and, if he was, it would not be a felony. Furthermore, the Court found Officer Peterson's testimony to be credible as to his assertion that he did not make the Defendant any promises in return for his statement.

Second, the Court does not find the interrogation to have been so manipulative or coercive that it deprived the Defendant of his ability to make a free and unconstrained decision to confess. When the Defendant waived his rights, he was speaking with Officer Peterson in a conversational manner and asking questions, thereby, indicating that he understood what was happening. The officers did not verbally threaten him and there were no physical threats made towards the Defendant. The conditions of the interview room were standard and the Defendant's state of mind appeared to both officers to be "normal." The interrogation lasted slightly longer than one hour and the officers were not overly aggressive towards the Defendant in their questioning style. During the interview, the Defendant repeatedly stated that he wanted to leave the police station and the officers would not allow him to do so.

The Defendant's argument is centered around the fact that the police officers would not let him leave the station and he felt that Officer Peterson had lured him there under false pretenses. As stated above, he asserts that Officer Peterson promised him that he would not be charged with any crimes if he returned the guns and gave a statement. Although the Court notes that Officer Peterson denies making his promise to the Defendant, it is irrelevant to the Court's inquiry of whether the Defendant's subsequent agreement to speak with the police is valid. Officer Peterson may have lured the Defendant to the police station under the guise of giving a statement and letting him leave again, but that does not have any bearing on the interrogation. Once the Defendant was the subject of a custodial interrogation, he was read his Miranda rights, stated that he understood them, and proceeded to waive those rights in order to speak with the police. The Defendant does not assert that he explicitly invoked either his right to remain silent or his right to counsel. Furthermore, both Officer Peterson and Corporal Greenawaldt testified that the Defendant did not invoke either right during the course of the interrogation. The Court finds the Defendant's confession was voluntary and his statement may be admitted as evidence against him at trial. Accordingly, the Defendant's Omnibus Motion is denied.

An Order is attached.

#### Order of the Court

And now this 17th day of October, 2012, the Court having considered the Defendant's *Omnibus Motion to Suppress Evidence* and having held hearing on this matter, It is hereby ordered that the Motion to Suppress Evidence is denied.

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[1]The Court notes that this individual is only referenced as "Thomas" by the officers and the Defendant.

[2]The parties stipulated that the Court should review the entirety of the video in making this decision.

[3]. Officer Peterson stated on cross-examination that there was no witness signature on the Miranda waiver form.

[4]The Court took this statement to mean that the Defendant believed that he would be charged if he did not speak with Officer Peterson.

[5]The eight minute calculation began at the start of the interview and also includes Officer Peterson reading the Defendant his Miranda warnings.