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Nov 22 2024

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Deadra L. Jefferson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

TOYA DANIELLE STEWARD,

APPELLANT

APPELLATE CASE NO. 2024-000331

ANDERS BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial judge err in refusing to suppress inculpatory statements made by Appellant pursuant to a custodial interrogation by a detective, without the benefit of *Miranda* warnings, when the detective knew that Appellant was a suspect in the arson case being investigated and Appellant was arrested immediately following the interrogation?

STATEMENT OF THE CASE

In July of 2023, the Charleston County Grand Jury indicted¹ Appellant, Toya Danielle Steward, for arson second degree, burglary second degree non-violent and attempted murder, indictments #2023-GS-1-03323, 3324, 3325. (R. p. 1344-45; 1348-49). On February 26, 2024, Appellant proceeded to jury trial before the Honorable Deadra L. Jefferson. Nicholas G. D'Angelo and Cameron Blazer represented Appellant at trial. Nina Savas and Catherine Fries prosecuted the case. The jury found Appellant not guilty of attempted murder but guilty of arson and burglary. Judge Jefferson sentenced Appellant to ten (10) years suspended upon the service of seven (7) years with five (5) years of probation for the burglary charge and a concurrent fifteen (15) years suspended upon the service of ten (10) years for the arson charge. A timely notice of intent to appeal was served on March 6, 2024. This appeal follows.

¹ It is difficult to read the name listed as the witness who appeared before the Charleston County Grand Jury or what connection that person had to the case.

STANDARD OF REVIEW

“ ‘Appellate review of whether a person is in custody is confined to a determination of whether the ruling by the trial judge is supported by the record.’ State v. Evans, 354 S.C. 579, 583, 582 S.E.2d 407, 409 (2003); see also State v. Navy, 386 S.C. 294, 301, 688 S.E.2d 838, 841 (2010) (upholding the trial court’s ruling when the question of whether the defendant was in custody was debatable and the ruling was therefore supported by the record).” State v. Walker, 430 S.C. 411, 416–17, 844 S.E.2d 405, 408 (Ct. App. 2020)

ARGUMENT

The trial judge erred in refusing to suppress inculpatory statements made by Appellant pursuant to a custodial interrogation by a detective, without the benefit of *Miranda* warnings, when the detective knew that Appellant was a suspect in the arson case being investigated and Appellant was arrested immediately following the interrogation.

The jury found Appellant guilty of setting her former boyfriend's house on fire. Prior to trial Appellant objected to the admission of statements she made to Detective Muirheid. (Tr. p. 74, line 8 – pp. 75-94). Prior to the detective's testimony, the judge held a Jackson v. Denno² hearing. (Tr. pp. 449-487). During the hearing the detective testified that, on the same day as the arson involving Appellant's former boyfriend's house, February 8, 2020, he went to Appellant's residence to talk with her because she was a suspect in that arson case. (Tr. p. 462, line 18 – p. 463, lines 1-24). The detective confirmed that he knew a witness placed Appellant at the scene of the arson. (Tr. p. 477, lines 1-14).

The detective testified that when he arrived at Appellant's apartment a Mt. Pleasant patrol officer was in the parking lot and together they went to the apartment and knocked on her door. (Tr. p. 452, line 17 – p. 453, lines 1-6). The detective testified, “. . . I asked her if she would come back with me to the station. She said she didn't want to. I said that's fine. Can we speak there? We did that. (Tr. p. 453, lines 9-12). The detective admitted that Appellant was not given *Miranda* warnings. (Tr. p. 454, lines 20-21). After a protective sweep of the apartment was completed, the Mt. Pleasant patrol officer left and the detective questioned Appellant. (Tr. p. 453, lines 13-20). The questioning was recorded but the audio was not introduced in evidence.

The detective admitted that he told Appellant he believed she started the fire. (Tr. p. 479, lines 2-4). The detective admitted that he told Appellant no matter how many times that you tell

² 378 U.S. 368.

me you did not do it, I personally am not going to believe you. (Tr. p. 479, lines 5-8). The detective testified that he was originally there to get a timeline from Appellant but then testified, “After I decided that I believe she started the fire at that point, then yes, I do want to elicit a confession. I think that’s an important piece of the – case.” (Tr. p. 481, lines 12-19). The detective remembered that when Appellant asked for a lawyer, he stopped speaking with her. (Tr. p. 482, lines 10-20). The detective admitted that Appellant was arrested after the interview. (Tr. p. 483, lines 9-23).

Appellant argued that the interview with the detective was a custodial interrogation. (Tr. pp. 488-492). The judge found that Appellant was not in custody but suppressed the last ten minutes of the interview writing:

And again, as I’ve already observed, the last 10 minutes, the tone of the interview changed and clearly Miranda warning should have been given at that time out of an abundance of caution as the questioning went beyond the interview stage and began to seek inculpatory statements from Ms. Steward.

Under the totality of the circumstances and looking at the circumstances objectively, it is clear that Ms. Steward was not in custody or otherwise deprived of her freedom of action in any significant way during her February 8, 2020 interview. Accordingly, Miranda warnings were not required and the statements the state seeks to introduce are admissible to the extent they’re relevant and probative on the issues before the court. The motion is denied.

(Tr. p. 521, lines 2-18). The detective then testified, before the jury, about the statements made by Appellant. (Tr. pp. 529 – 552). The trial judge erred in finding that Appellant was not in custody. The entire interrogation by the detective should have been suppressed.

“Statements made by a defendant during a custodial interrogation are inadmissible unless preceded by warnings from law enforcement informing the defendant of his *Miranda* rights. See Berghuis v. Thompkins, 560 U.S. 370, 380, 130 S.Ct. 2250, 176 L.Ed.2d 1098 (2010).” State v. Hill, 425 S.C. 374, 380, 822 S.E.2d 344, 347–48 (Ct. App. 2018). The questioning of Appellant

by the detective was an interrogation. The trial judge, however, found that Appellant was not in custody. In State v. Evans, 354 S.C. 579, 583, 582 S.E.2d 407, 409–10 (2003), the South Carolina Supreme Court wrote:

The purpose of the *Miranda* warnings is to apprise the defendant of her constitutional privilege to not incriminate herself while in the custody of law enforcement. Miranda, 384 U.S. at 444, 86 S.Ct. at 1612. Law enforcement must state the *Miranda* warnings “after a person has been taken into custody or otherwise deprived of his freedom of action in any way.” Id. To determine whether a suspect is in custody, the trial court must examine the totality of the circumstances, which include factors such as the place, purpose, and length of interrogation, as well as whether the suspect was free to leave the place of questioning. Berkemer v. McCarty, 468 U.S. 420, 104 S.Ct. 3138, 82 L.Ed.2d 317 (1984); United States v. Helmel, 769 F.2d 1306, 1320 (8th Cir.1985); Robert Kaupp v. Texas, 538 U.S. 626, 123 S.Ct. 1843, 155 L.Ed.2d 814, 2003 WL 2010974 (2003). The custodial determination is an objective analysis based on whether a reasonable person would have concluded that he was in police custody. Bradley v. State, 316 S.C. 255, 257, 449 S.E.2d 492, 493–494 (1994); State v. Sprouse, 325 S.C. 275, 282, 478 S.E.2d 871, 875 (Ct.App.1996).

Based on the totality of the circumstances, including the fact that Appellant was the suspect in the case when the detective questioned her, a reasonable person would have concluded that she was in police custody.

In Hill this Court wrote:


A person is in custody if formally arrested or deprived of his freedom of action to a significant degree. See Miranda, 384 U.S. at 444, 86 S.Ct. 1602; Stansbury v. California, 511 U.S. 318, 322, 114 S.Ct. 1526, 128 L.Ed.2d 293 (1994). We must decide if a reasonable person—faced with the same circumstances confronting Hill—would have felt free to leave. See Yarborough v. Alvarado, 541 U.S. 652, 662, 124 S.Ct. 2140, 158 L.Ed.2d 938 (2004). Hill testified he believed he was not free to leave, but his subjective view is as weightless as the Investigator's conclusory testimony that Hill was not in custody. See J.D.B., 564 U.S. at 271, 131 S.Ct. 2394 (the subjective views of investigating officers and person being questioned are irrelevant). Our inquiry is objective, centering on whether one in Hill's position would have believed he was free to stop the questioning and depart. See id. It entails reconstructing the circumstances of the interrogation, such as the time, place, purpose, and length of the questioning. Evans, 354 S.C. at 583, 582 S.E.2d at 410. Other factors include the use or absence of physical restraints, the

statements made by the police, and whether the defendant was released at the end of the encounter. Howes v. Fields, 565 U.S. 499, 509, 132 S.Ct. 1181, 182 L.Ed.2d 17 (2012).

Hill, 425 S.C. at 380–81, 822 S.E.2d at 348. While the interrogation took place in Appellant’s apartment, the purpose was to determine her involvement in the arson and the detective knew that a witness placed Appellant at the scene of the arson. A person in Appellant’s position would not have felt free to stop the questioning. Appellant was arrested immediately following the interrogation. The trial judge erred in finding that Appellant was not in custody for purposes of *Miranda*. The judge erred in failing to suppress the entire interrogation. The error was not harmless.

CONCLUSION

Based on the above argument, this Court should reverse the convictions and remand for a new trial.


Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 22nd day of November, 2024.

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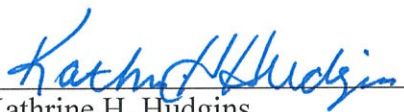
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Toya Danielle Steward states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge Deadra L. Jefferson, which was held on Feb. 26 -March 1, 2024, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

Wherefore, she asks the Court to relieve her as counsel for Toya Danielle Steward.

Respectfully Submitted,



Kathrine H. Hudgins
Senior Appellate Defender

ATTORNEY FOR APPELLANT

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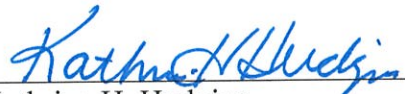
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**DESIGNATION OF MATTER TO BE
INCLUDED IN RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

- (1) True-billed indictments and sentencing sheets;
- (2) The entire trial transcript pages 1-1343.

I certify that this designation contains no matter which is irrelevant to this appeal.



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CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."



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CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Toya Danielle Steward, #298984, at Leath Correctional Institution, 2809 Airport Road, Greenwood, SC 29649, this 22nd day of November, 2024.


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