

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Horry County
Honorable Michael G. Nettles, Circuit Court Judge
Appellate Case No. 2025-001023

RECEIVED
Sep 14 2026
SC Court of Appeals

THE STATE,

Respondent,

vs.

RODOLFO S. MORENO,

Appellant.

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUE ON APPEAL

“Did the trial court err by admitting Appellant’s statement to police when the police provided false assurances of confidentiality, and where the trial court agreed the false assurances were improper but found the statement voluntary despite the unconstitutional inducement and lack of evidence against Appellant?”

COUNTER-STATEMENT OF ISSUE ON APPEAL

Did the trial judge properly admit Appellant’s incriminating statements to law enforcement into evidence during trial when: (1) based on the totality of the circumstances, those statements were voluntarily made by Appellant after he had been fully advised of his rights and warned anything he said would be used against him; and (2) when viewed in context, nothing the detective said to Appellant during the interview could have reasonably been construed as a false assurance of blanket confidentiality to Appellant, particularly in light of the clear warning that had already been conveyed to him?

STATEMENT OF THE CASE

In July of 2022, Appellant Rodolfo S. Moreno, who was then forty-two years old, was arrested following an investigation into allegations he sexually abused his minor daughter on multiple prior occasions. Between October of 2022 and July of 2023, the Horry County Grand Jury indicted Appellant for two counts of second-degree criminal sexual conduct with a minor and two counts of third-degree criminal sexual conduct with a minor. On May 12, 2025, a jury trial was commenced in the Horry County Court of General Sessions with the Honorable Michael G. Nettles, circuit court judge, presiding. At the conclusion of the five-day trial, the jury convicted Appellant as indicted. Following the verdict, the trial judge sentenced Appellant to concurrent terms of imprisonment of fifteen years for the four convictions. Appellant then timely filed a notice of appeal.

STATEMENT OF FACTS

Toward the beginning of 2022, Appellant's then-fourteen-year-old daughter ("Victim") was experiencing substantial stress. (Tr. p. 120; pp. 134-135; p. 143). Her quinceañera was just a few months away, and such celebrations typically included a father-daughter dance. (Tr. pp. 134-135). However, Victim's relationship with her father—who had been separated from Victim's mother for roughly four or five years—was severely strained by that point, and Victim no longer stayed with or even saw him on a regular basis. (Tr. pp. 109-110; p. 133; p. 139; pp. 153-154). However, the fact she was no longer having regular contact with her father was not the reason Victim was stressed and uncomfortable about the prospect of a father-daughter dance; instead, the cause of Victim's stress was something much more sinister and disturbing. (Tr. pp. 124-132; pp. 134-135). Shockingly, Appellant sexually assaulted Victim—his own biological daughter—on multiple occasions when she was between the ages of twelve and thirteen years old, including once by raping her. (Tr. p. 120; pp. 134-135; p. 138; p. 143; p. 160).

For several years, Victim did not—just as she had been instructed not to do by Appellant—reveal the sexual abuse to anyone else.¹ (Tr. p. 131; pp. 133-134). However, as the date of her quinceañera drew closer and closer, Victim was suffering from mental health issues, nightmares, and problems sleeping as a direct result of the sexual abuse she had endured. (Tr.

¹ Notably, a delay in disclosure by a minor victim of sexual abuse is in no way uncommon. See John E. B. Meyers, Expert Testimony in Child Sexual Abuse Litigation: Consensus and Confusion, 14 U.C. Davis J. Juv. L. & Pol'y 1, 45-46 (2010) ("Psychological research demonstrates that delayed reporting is common among sexually abused children. Frequently when children finally disclose, they give slightly different versions of the abuse to different interviewers. Finally, although there is debate about how many sexually abused children recant, it is undisputed that some children recant and some recant their recantation. Thus, from a psychological point of view, expert testimony about delay, inconsistency, and recantation is not controversial. From the legal perspective, such testimony is not worrisome." (footnotes omitted)).

pp. 134-135). Ultimately, the stress led Victim to finally reveal² what had happened to her to her longtime best friend³ (“Friend”). (Tr. p. 105; p. 107; pp. 133-135).

From that point, the two children—not knowing what to do—continued to keep the sexual abuse a secret for a few more months until the early morning hours of July 10, 2022. (Tr. p. 108; pp. 135-136). That morning, Victim—with Friend’s encouragement and support—finally resolved to reveal the sexual abuse to her mother. (Tr. p. 108; p. 116; pp. 135-136). Victim did so by writing a letter and leaving it for her mother to find, which was how Victim frequently communicated with her mother about difficult subjects. (Tr. p. 108; pp. 135-136; pp. 143-144). Upon reading the letter, Victim’s mother was unsurprisingly upset, and she alerted the Horry County Police Department of what had been going on that same date. (Tr. pp. 136-137; p. 190).

In response to the shocking report, officers quickly responded to Victim’s home, and the then-fifteen-year-old victim recounted the repeated acts of sexual abuse she had suffered at Appellant’s hands over the years to the responding officers. (Tr. p. 109; p. 115; pp. 145-148; p. 150; p. 172; p. 179). Based on the disturbing details revealed, a detective was swiftly assigned to investigate the case, and Victim was referred to the Children’s Recovery Center, a local child advocacy center, for a medical evaluation. (Tr. p. 156; p. 177; p. 231; p. 233; p. 238).

On July 15, 2022, Dr. Carol Rahter, a physician and expert in the treatment and diagnosis of child maltreatment, conducted Victim’s examination. (Tr. p. 229; pp. 230-231; p. 233; p. 238). During that examination, Victim reported Appellant had both digitally penetrated and inserted his penis into her vagina several years earlier. (Tr. p. 238; p. 244). Consistent with

² As might be expected, Victim was highly emotional when she revealed the sexual abuse. (Tr. p. 108).

³ Victim’s best friend was one year younger than Victim. (Tr. p. 105; p. 113).

what would be expected based on the reported timing of the sexual assaults, Victim's examination results were normal. (Tr. p. 225; pp. 238-240).

As the investigation into the sexual abuse continued, Detective Paul Johnson, an investigator with the Horry County Police Department, spoke with Appellant and arranged an interview with him. (Tr. pp. 161-163; p. 186). Thereafter, around 5:00 p.m. on July 18, 2022, Appellant voluntarily came to the police department, and the detective met with him in an interview room outfitted with multiple visible cameras. (Tr. pp. 163-165; p. 167; p. 173; p. 186).

At the outset of that interview, Detective Johnson advised Appellant of his rights both orally and in writing, and Appellant initialed and signed a rights form confirming he understood his rights and was aware anything he said could and would be used against him. (Tr. pp. 163-165; State's Ex. # 1 (Rights Form); State's Ex. # 10 (Interview Recording)). Upon receiving those advisements, Appellant—who appeared to understand his rights along with the words being spoken to him—waived his rights and agreed to talk with the detective. (Tr. p. 165; State's Ex. # 10).

During the ensuing discussion that occurred after that, Appellant confirmed he had not seen Victim or her brother in roughly a year and attributed his estrangement from his children to his ex-wife. (State's Ex. # 10). Appellant further characterized his children—including Victim—as well-mannered, well-behaved, and good, and he explained he never knew them to lie to him or make up “crazy stories.” (State's Ex. # 10).

Roughly ten minutes after the interview first began, Detective Johnson explained he was conducting the interview because Victim had reported Appellant inappropriately touched her. (State's Ex. # 10). In response, Appellant denied having done so several times. (State's Ex. # 10). However, Appellant did admit he had slept in the same bed with both Victim and his son in

the past, and he further admitted he had hugged and kissed Victim. (State's Ex. # 10).

Moreover, as a possible explanation for the allegations, Appellant suggested Victim had gotten "real jealous" in the past and accused him of not loving her after seeing him hug his current girlfriend, but he candidly acknowledged Victim had nothing to gain by making a false accusation against him. (State's Ex. # 10).

Roughly sixteen minutes into the interview, Detective Johnson left the room for a five-minute break. (State's Ex. # 10). When he returned, the interview resumed, and Appellant continued denying the allegations, including the allegation he had sex with Victim, several more times. (State's Ex. # 10). However, he did admit he had hugged Victim when they were watching television in bed together for the purported purpose of showing her he loved her. (State's Ex. # 10).

The conversation then shifted to a discussion about Appellant's church-going nature before Detective Johnson posed hypothetical questions to Appellant about whether an adult man who had sex with a thirteen-year-old girl was deserving of a "second chance" or should be sent to prison. (State's Ex. # 10). Appellant responded by indicating he believed someone in that situation should indeed get a second chance and should not go to prison because "he might have made a mistake." (State's Ex. # 10). Appellant did, however, affirm he did not personally believe it was okay for an adult to have sex with a thirteen-year-old child, and he further insisted he had not made a mistake like that.⁴ (State's Ex. # 10). After doing so, Appellant pivoted the discussion back to his church-going nature and suggested Victim was mad and upset with him because he had been taking her to church every single weekend prior to their enstrangement.

⁴ Around that point in the interview, Appellant's cell phone rang, and Appellant—who was allowed to remain in possession of his phone throughout the interview—quickly silenced the call. (State's Ex. # 10).

(State's Ex. # 10). Appellant further indicated he was unable to be with his children for some period because his brother had been killed in Mexico and his father became ill. (State's Ex. # 10).

Following that, Detective Johnson claimed—falsely—he had personally spoken with Victim and insisted Victim truly believed the allegations she was making. (Tr. pp. 172-173; p. 189; State's Ex. # 10). The detective further suggested to Appellant—who continued to deny the allegations—he may be able to repair his relationship with Victim if he apologized but he may cause Victim to experience severe issues⁵ if he failed to do so. (State's Ex. # 10). Detective Johnson then suggested Appellant may have simply had a “weak moment.” (State's Ex. # 10). In response, Appellant continued denying he inappropriately touched Victim and refuted the suggestion he had simply had a “weak moment.” (State's Ex. # 10).

As the discussion continued, Detective Johnson advised Appellant he believed he was lying to him. (State's Ex. # 10). The detective further questioned why Victim would make up the allegations while insisting Victim was not mad at Appellant. (State's Ex. # 10). At that point, Appellant indicated he would go ahead and say he had a “weak moment” if Victim believed he did. (State's Ex. # 10). However, Appellant continued to insist he did not have sex with Victim and asserted he only hugged her. (State's Ex. # 10).

Following that, Detective Johnson—roughly thirty-seven minutes after the interview first began—asked Appellant to tell him “what happened” with Victim. (State's Ex. # 10). Appellant responded: “We just hugged up.” (State's Ex. # 10). The following exchange then occurred:

[Detective Johnson]: Did you . . . when you hugged up, did you get a little too close and get excited?

⁵ More specifically, Detective Johnson indicated he had known some sexually-abused children to become drug addicts or experience mental health issues when they were unable to cope with what happened to them. (State's Ex. # 10).

[Appellant]: No, sir.

[Detective Johnson]: *It's okay if you did, Rudy. I mean, there's nobody in this room. We're not gonna go tell anybody. It's just us.*⁶

[Appellant]: No, sir. I, I didn't. I mean, I'm telling you the truth.

[Detective Johnson]: Did y'all have sex?

[Appellant]: No, sir.

(Tr. p. 209; State's Ex. # 10) (emphasis added).

After that exchange, Appellant continued to insist all he had done was hug Victim and denied having sex with her. (State's Ex. # 10). However, Appellant did acknowledge he slept in his boxer shorts and he had hugged Victim "for a while" when they were in bed together. (State's Ex. # 10). Nevertheless, Appellant insisted "nothing" happened between him and Victim, swore to God he did not have sex with Victim, and claimed he was telling the truth to the detective. (State's Ex. # 10).

As the conversation continued, Appellant began prefacing many of his remarks with "if," and Detective Johnson instructed Appellant to "stop" with the "ifs." (State's Ex. # 10). At that point, Appellant indicated he "guess[ed]" he touched Victim's breasts but did not know if his penis "got hard." (State's Ex. # 10). The detective then continued to press Appellant to reveal what happened, and Appellant insisted the only thing he did was hug Victim for a "long time." (State's Ex. # 10). However, Appellant conceded the length of the hug may have led Victim to believe he was trying to have sex with her. (State's Ex. # 10).

⁶ At that time, there was another officer present in the interview room with Appellant and Detective Johnson, but he was largely silent throughout the interview. (State's Ex. # 10).

Roughly fifty minutes into the interview, Detective Johnson left the interview room for another break. (State's Ex. # 10). About six minutes after that, the detective returned and insisted—falsely—he had just talked to Victim, who supposedly advised him Appellant had touched her thigh and breast before putting his hand in her pants.⁷ (Tr. pp. 172-173; p. 189; State's Ex. # 10). The detective then again pressed Appellant to reveal what happened, and Appellant insisted several times he did not touch Victim sexually and did not have sex with Victim. (State's Ex. # 10).

However, a few minutes after that, Appellant—at a point approximately fifty-nine minutes into the interview—admitted he touched and rubbed Victim's stomach and touched her chest. (Tr. p. 220; State's Ex. # 10). Appellant further candidly admitted he did feel bad about it, and he likewise acknowledged his penis became erect. (State's Ex. # 10). Again though, Appellant insisted he never put his penis *on* Victim. (State's Ex. # 10). Detective Johnson then asserted it was just him, Appellant, and the other officer in the room, and Appellant—while gesturing toward a mirrored wall—responded: “And the people in the back.” (Tr. p. 44; State's Ex. # 10). At that point, the officers truthfully assured Appellant there was just a closet on the other side of the mirror. (Tr. p. 44; State's Ex. # 10).

As the conversation continued, Appellant confirmed he should not have done what he did and claimed he had apologized to Victim after it happened. (State's Ex. # 10). Appellant further admitted he told Victim he loved her and asked her not to tell anyone about what had occurred. (State's Ex. # 10). Nevertheless, he insisted he did not have sex with Victim or put a finger inside her and, instead, asserted all that had occurred was he put a condom on his penis and masturbated. (State's Ex. # 10). However, in addition to that, Appellant acknowledged he put

⁷ Later on, Detective Johnson opined that was “a big turning point” in the interview. (Tr. p. 174).

“it” right beside Victim, laid on top of her, rubbed her with his penis, and *thought* about having sex with her, which was purportedly what caused him to put the condom on his penis. (State’s Ex. # 10). He insisted, though, that he never penetrated Victim, and he claimed the inappropriate acts that did occur only happened one single time at his Conway residence. (State’s Ex. # 10).

Following those admissions, Detective Johnson again left the interview room roughly seventy-one minutes after the interview had begun. (State’s Ex. # 10). Approximately twelve minutes after that, Detective Johnson briefly returned, advised Appellant he was going to jail that night, and asked if he had anyone that could come get his truck. (State’s Ex. # 10). Appellant responded by asking the detective several times to give him a “chance,” but Detective Johnson insisted Appellant had to be arrested based on what he had admitted. (State’s Ex. # 10). Appellant was then again left alone in the interview room, and he engaged in a several-minute-long telephone conversation with his fiancée.⁸ (Tr. p. 298; State’s Ex. # 10). After that, Appellant—at his request—was permitted to use the bathroom, and, once he had done so, Appellant again spoke with his fiancée via his cell phone. (State’s Ex. # 10).

Thereafter, at approximately 6:36 p.m., Appellant was formally arrested and handcuffed. (Tr. p. 227; State’s Ex. # 10). And, as he was being handcuffed,⁹ Appellant accused Detective Johnson of lying to him while noting he could see the camera. (State’s Ex. # 10). In response, Detective Johnson explained he had never said there was not a camera and, instead, had only said no one was watching from the other room, which was true. (Tr. p. 44; State’s Ex. # 10).

⁸ Although it was not admitted into evidence during trial, the solicitor provided a transcript to the trial judge that contained a translated account of what was said during the call between Appellant and his fiancée. (Tr. pp. 37-38; State’s Ex. # 3 (Transcript)).

⁹ Notably, Appellant was handcuffed by an officer that had not been involved in the interview process, which could have led him to believe other officers had, in fact, been observing the interview from outside the room. (State’s Ex. # 10).

Subsequent to that, Appellant was indicted for multiple counts of second-degree and third-degree criminal sexual conduct with a minor, and he elected to proceed forward to trial. (Tr. p. 6; p. 22; Indictments). Toward the outset of trial, defense counsel moved to suppress Appellant’s statements to Detective Johnson, and the trial judge promptly conducted an in limine hearing on the matter. (Tr. p. 29). During that hearing, Detective Johnson testified about the details of his interview with Appellant, and a recording of that interview—along with the initialed-and-signed rights form—was presented to the trial judge for review. (Tr. pp. 30-59). Notably, as part of his testimony, Detective Johnson acknowledged he made the remark about how they “were not gonna go tell anybody” at one point during the interview but insisted that remark was not—in the context in which it was made—intended to be a blanket assurance of confidentiality to Appellant. (Tr. pp. 44-45). Meanwhile, Appellant elected *not* to personally testify during the in limine hearing. (Tr. pp. 29-59).

Following the presentation of that testimony and evidence, defense counsel acknowledged Appellant understood what was being said during the interview and conceded there were no issues in Appellant’s case as far as Miranda¹⁰ was concerned. (Tr. p. 59). Nevertheless, relying on State v. Collins, 442 S.C. 444, 900 S.E.2d 426 (2024), defense counsel argued Appellant’s statement should be suppressed as involuntary and violative of due process because Detective Johnson purportedly made a false assurance of confidentiality,¹¹ which, pursuant to Collins, “could” alone be conclusive on the issue of voluntariness. (Tr. pp. 59-66).

¹⁰ Miranda v. Arizona, 384 U.S. 436 (1966).

¹¹ More specifically, defense counsel characterized Detective Johnson’s remark as an assurance Appellant’s statement “would not go outside of that room, that they would not tell anybody.” (Tr. p. 66).

Conversely, the solicitor argued the challenged remark by Detective Johnson was distinguishable from the problematic remarks at issue in the Collins case because it was not highlighted, was “said in passing,” and was substantively different than what was said in Collins. (Tr. pp. 68-70). The solicitor further noted Appellant admitted to having a “weak moment” before the challenged remark was ever made and then *repeatedly* denied the allegations after it was made, including after a break was taken. (Tr. pp. 69-70).

After listening to the arguments of counsel, the trial judge took the matter under advisement overnight. (Tr. pp. 71-72). Thereafter, on the following morning, the trial judge ruled Appellant’s statement to law enforcement was voluntarily made and admissible. (Tr. p. 73). As support for that ruling, the trial judge found Appellant was advised of his rights at the outset of the interview, understood those rights, and signed the rights form. (Tr. p. 74). While noting the interview recording “pretty much speaks for itself,” the trial judge further found neither the setting nor length of the interview was problematic in Appellant’s case, no threats were made to Appellant, nothing suggested he had any intellectual issues, Appellant understood the conversation he was having with the officers and was “very coherent” throughout it, and there were no signs Appellant was intoxicated at that time. (Tr. pp. 73-74). Beyond that, the trial judge found the challenged remark—which he characterized as a statement “it won’t go beyond them”—was “certainly improper” and should not have been said. (Tr. pp. 73-74). Nevertheless, under the specific circumstances involved, the trial judge concluded that remark did not “overcome [Appellant’s] free will” and was “not so convincing as to render the statement involuntary” since: (1) Appellant repeatedly denied the allegations after the brief remark was made; (2) he never gave a full confession; and (3) he continued attempting to minimize or mitigate his own responsibility, which—in the trial judge’s view—suggested Appellant did not

truly believe all his statements to law enforcement were actually confidential as a result of the challenged remark from the officer.¹² (Tr. pp. 73-74).

Following that ruling, the trial proceeded forward, and Victim¹³ testified about the details of the sexual abuse she suffered at Appellant's hands. (Tr. p. 81; pp. 119-160). More specifically, Victim recounted Appellant began inappropriately touching her breasts, thighs, and vagina beginning when she was around twelve years old at his residence in Conway and continued sexually abusing her for roughly a year or so after that. (Tr. pp. 124-125; p. 140; pp. 159-160). Victim likewise reported Appellant digitally penetrated her vagina on multiple occasions, sometimes kissed her on the lips when he was sexually assaulting her, attempted to get her to kiss his penis once, and made her touch his penis with her hands. (Tr. p. 128; p. 138). Beyond that, Victim confirmed Appellant on one occasion inappropriately touched her for a bit and then retrieved a condom from the closet, put it on his penis, rubbed his penis against her vagina, and proceeded to penetrate her with his penis. (Tr. pp. 129-132; p. 135; p. 160). Victim further indicated Appellant told her he loved her after raping her and asked her not to tell anyone. (Tr. p. 131; p. 135; p. 160).

In addition to Victim's testimony, several witnesses—including Friend—testified about Victim's eventual disclosure of the sexual abuse, and Friend confirmed the details of how Victim ultimately revealed the abuse to her mother, which led to the criminal investigation being initiated. (Tr. pp. 100-103; pp. 105-117). Along with that, Dr. Rahter, who—without objection—was qualified as an expert in the treatment and diagnosis of child maltreatment,

¹² More specifically, the trial judge stated: "If [Appellant] believed the statement I anticipate that he would [have] given a complete acceptance of responsibility, and it's clear to me that given the circumstances of the condom and what he's admitted to, that I think there's overwhelming circumstantial evidence that he had sex with his minor daughter." (Tr. pp. 73-74).

¹³ By the time of trial, Victim was eighteen years old. (Tr. p. 119).

discussed the details of her medical examination of Victim, confirmed the normal results of that examination were not unexpected based on the circumstances involved, and explained delayed disclosures of sexual abuse were common. (Tr. pp. 229-244).

Furthermore, Detective Johnson testified about the details of his interview with Appellant, which culminated in Appellant *eventually* admitting to *some* inappropriate behavior while nonetheless attempted to minimize his culpability. (Tr. pp. 161-227). And, during the detective's testimony, the initialed-and-signed rights form was introduced, and the recording of Appellant's interview was—over objection—admitted into evidence and played for the jury in full. (Tr. p. 164; pp. 16-170).

After all that testimony and evidence was presented, the State rested its case, and Appellant personally elected not to testify in his own defense. (Tr. p. 262; p. 265). However, defense counsel did present testimony from both Appellant's fiancée, Leyra Farinas, and Appellant's fiancée's daughter, Nicolle Farinas. (Tr. pp. 268-315; pp. 319-336). Through their testimony, Leyra suggested Appellant was *never* at any point home alone with his children during the time they were living together beginning in October or November of 2018, and Nicolle—who asserted she loved Appellant and “look[ed] at him like a father”—claimed she never personally witnessed anything strange or inappropriate occur between Appellant and Victim. (Tr. pp. 29-294; p. 327; p. 329). However, Leyra conceded Appellant stayed at his Conway residence for at least some period of time after they began living together, and Nicolle acknowledged she was not certain Appellant spent every night at her mother's home after the two moved in with one another. (Tr. p. 286; pp. 335-336). Moreover, Leyra further conceded Appellant called her after he was arrested, he told her she was “definitely going to hate [him]”

based on what he was calling about, and she responded by repeatedly asking him why he touched his daughter. (Tr. p. 298; pp. 314-315).

Following the presentation of that limited testimony, the defense rested, the parties presented their closing arguments to the jury, and the trial judge instructed the jury on the applicable law. (Tr. p. 337; pp. 340-370; pp. 373-385). The jury then began deliberating on the matter at approximately 10:00 a.m. (Tr. p. 389).

A little over two hours later, the trial judge indicated the jurors submitted a question asking how to proceed if they could not reach a verdict on *one* count. (Tr. p. 394). In response to that note, the trial judge presented an Allen¹⁴ charge to the jury at approximately 12:24 p.m., and the jury then resumed its deliberations. (Tr. pp. 396-398). Thereafter, after a little over two more hours of deliberations, the jury unanimously convicted Appellant of all four indicted offenses. (Tr. pp. 400-401).

¹⁴ Allen v. United States, 164 U.S. 492 (1896).

STANDARD OF REVIEW

In criminal cases, appellate courts sit to review errors of law only. State v. Baccus, 367 S.C. 41, 48, 625 S.E.2d 216, 220 (2006). Significantly, the question of whether a criminal defendant’s statement was voluntarily made constitutes a mixed question of law and fact. State v. Collins, 442 S.C. 444, 453, 900 S.E.2d 426, 431 (2024). Therefore, when confronted with a challenge to a voluntariness ruling on appeal, an appellate court “will review the trial court’s factual findings regarding voluntariness for any evidentiary support.” State v. Miller, 441 S.C. 106, 119, 893 S.E.2d 306, 313 (2023). Meanwhile, “the ultimate legal conclusion—whether, based on those facts, a statement was voluntarily made—is a question of law subject to de novo review.” Id.; see Arizona v. Fulminante, 499 U.S. 279, 287 (1991) (explaining “the ultimate issue of voluntariness is a legal question” (citations and internal quotations omitted)); cf. State v. Frasier, 437 S.C. 625, 633-634, 879 S.E.2d 762, 766 (2022) (“[A]ppellate review of a motion to suppress based on the Fourth Amendment involves a two-step analysis. This dual inquiry means we review the trial court’s factual findings for any evidentiary support, but the ultimate legal conclusion—in this case whether reasonable suspicion exists—is a question of law subject to de novo review.”).

ARGUMENT

The trial judge properly admitted Appellant's incriminating statements to law enforcement into evidence during trial because: (1) based on the totality of the circumstances, those statements were voluntarily made by Appellant after he had been fully advised of his rights and warned anything he said would be used against him; and (2) when viewed in context, nothing the detective said to Appellant during the interview could have reasonably been construed as a false assurance of blanket confidentiality to Appellant, particularly in light of the clear warning that had already been conveyed to him.

Appellant contends the trial judge reversibly erred by allowing his incriminating statements to Detective Johnson to be admitted into evidence during trial. As support for that contention, Appellant maintains his incriminating admissions should have been excluded from evidence because his will was purportedly overborn through false assurances of confidentiality akin to the ones made in the Collins case along with other psychological coercive pressure, which supposedly led to an involuntary confession. Appellant further notes the trial judge specifically found some of the remarks made by Detective Johnson were improper and, thus, maintains the trial judge was wrong to conclude those improper remarks nevertheless did not render Appellant's incriminating statements involuntary. To the contrary, Detective Johnson's remarks—when viewed in the actual context in which they were made—did not constitute a blanket assurance of confidentiality to Appellant, and the totality of the circumstances surrounding Appellant's incriminating statements fully supported the trial judge's determination those statements were voluntarily made after a valid waiver of rights as opposed to being the product of any undue police coercion. Under such circumstances, the trial judge correctly admitted Appellant's incriminating statements into evidence during trial, and there are no proper grounds warranting a reversal of that sound decision on appeal. Appellant's convictions should be affirmed.

In a criminal prosecution, the State “may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination.”

Miranda v. Arizona, 384 U.S. 436, 444 (1966). Prior to custodial interrogation, a suspect must be warned he has a right to remain silent, any of his statements may be used against him, he has a right to an attorney, and an attorney will be appointed to him prior to any questioning if he desires one and cannot afford one. Id. at 479. Once those warnings are given to a suspect and the suspect is afforded an opportunity to exercise his rights, the suspect may knowingly and intelligently waive those rights and make a statement. Id.

Significantly, if a defendant is advised of his constitutional rights and then chooses to make a statement, the burden is on the State to prove by a preponderance of the evidence the defendant knowingly, intelligently, and voluntarily waived his rights. State v. Rochester, 301 S.C. 196, 200, 391 S.E.2d 244, 246 (1990); see Berghuis v. Thompkins, 560 U.S. 370, 384 (2010) (instructing the prosecution must establish the accused understood her rights in order for the accused’s waiver of those rights to be valid). In determining whether a valid waiver of rights occurred, the particular facts and circumstances surrounding the case must be examined, including the background, experience, and conduct of the accused. North Carolina v. Butler, 441 U.S. 369, 374-375 (1979). Furthermore, a valid waiver of rights can be established through proof of express written or oral statements or can be inferred from the actions and words of the person interrogated. Id. at 373; see Berghuis, 560 U.S. at 384 (“An ‘implicit waiver’ of the ‘right to remain silent’ is sufficient to admit a suspect’s statement into evidence.” (citation omitted)); State v. Kennedy, 333 S.C. 426, 429, 510 S.E.2d 714, 715 (1998) (“An express waiver is

unnecessary to support a finding that the defendant has waived the right to remain silent or the right to counsel guaranteed by Miranda.”).

However, even if a defendant validly waives his rights and makes a statement, a confession or statement by a defendant is nonetheless inadmissible unless voluntarily made. State v. Myers, 359 S.C. 40, 47, 596 S.E.2d 488, 492 (2004). The reason for the prohibition against the use of an involuntary confession is that “coerced confessions” have been recognized to be “inherently untrustworthy.” Dickerson v. United States, 530 U.S. 428, 433 (2000); see also Jackson v. Denno, 378 U.S. 368, 385-386 (1964) (“[T]he Fourteenth Amendment forbids the use of involuntary confessions not only because of the probable unreliability of confessions that are obtained in a manner deemed coercive, but also because of the strongly felt attitude of our society that important human values are sacrificed where an agency of the government, in the course of securing a conviction, wrings a confession out of an accused against his will, and because of the deep-rooted feeling that the police must obey the law while enforcing the law; that in the end life and liberty can be as much endangered from illegal methods used to convict those thought to be criminals as from the actual criminals themselves.” (citations and internal quotations omitted)).

When considering the voluntariness and admissibility of a defendant’s statements, the trial judge should examine the totality of the circumstances under which the statements were made to determine whether the State has met its burden of proving voluntariness by a preponderance of the evidence. State v. Rabon, 275 S.C. 459, 461, 272 S.E.2d 634, 635 (1980); see Boulden v. Holman, 394 U.S. 478, 480 (1969) (“The question whether a confession was voluntarily made necessarily turns on the totality of the circumstances[.]” (footnote and internal quotations omitted)); State v. Dye, 384 S.C. 42, 47, 681 S.E.2d 23, 26 (Ct. App. 2009)

(recognizing “the State must show the statement was voluntarily made by a preponderance of the evidence”). Factors to be considered in the totality-of-the-circumstances analysis include: (1) the age and maturity of the accused; (2) the educational level and intelligence of the accused; (3) the accused’s knowledge of her constitutional rights; (4) the physical condition of the accused, including whether the accused was intoxicated at the time of the interrogation; (5) the mental health of the accused; (6) the length of the accused’s detention; (7) the nature of the questioning and whether it was repeated and prolonged; (8) the location of the interrogation; (9) the presence or absence of the use of punishment, including deprivation of food or sleep; (10) whether specific promises of leniency were made; and (11) whether law enforcement made deliberate misrepresentations of the evidence. Schneckloth v. Bustamonte, 412 U.S. 218, 226 (1973); Miller, 441 S.C. at 121, 893 S.E.2d at 314. Significantly though, “no one factor is determinative,” and “each case requires careful scrutiny of all the surrounding circumstances.” State v. Pittman, 373 S.C. 527, 566, 647 S.E.2d 144, 164 (2007). Moreover, “[t]he mere existence of threats, violence, implied promises, improper influence, or other coercive police activity . . . does not automatically render a confession involuntary.” United States v. Braxton, 112 F.3d 777, 780 (4th Cir. 1997).

In the end, the “ultimate test” of voluntariness involves determining whether the confession was “the product of an essentially free and unconstrained choice by its maker” or was the product of an overborne will and critically-impaired capacity for self-determination. Schneckloth, 412 U.S. at 225-226; see State v. Von Dohlen, 322 S.C. 234, 243, 471 S.E.2d 689, 695 (1996) (“The question is whether the defendant’s will was overborne when he confessed.”); see also Miller v. Fenton, 796 F.2d 598, 604 (3rd Cir. 1986) (“We emphasize that the test for voluntariness is not a but-for test: we do not ask whether the confession would have been made

in the absence of the interrogation. Few criminals feel impelled to confess to the police purely of their own accord, without any questioning at all.”). Importantly, “the determination will depend upon a weighing of the circumstances of pressure against the power of resistance of the person confessing.” Miller, 441 S.C. at 120, 893 S.E.2d at 314 (citation and internal quotations omitted). Furthermore, the defendant’s statement must have actually been the product of some coercive law enforcement activity or state action for it to be found involuntary. See Colorado v. Connelly, 479 U.S. 157, 167 (1986) (“[C]oercive police activity is a necessary predicate to the finding that a confession is not ‘voluntary’ within the meaning of the Due Process Clause of the Fourteenth Amendment.”).

Through the State v. Collins appeal, both this Court and our Supreme Court were somewhat recently confronted with an issue centered on the voluntariness of a confession. Collins, 442 S.C. at 448, 900 S.E.2d at 428. In that particular case, law enforcement officers interviewed Collins several times as part of an investigation into a fatal trailer fire that resulted in the tragic death of a twelve-year-old boy. Id. at 448-499, 900 S.E.2d at 428-429. During one of the interviews, Collins was advised of his rights toward the outset and warned anything he said could be used in court as evidence against him. Id. at 450, 900 S.E.2d at 429. Following that, the interview proceeded forward, the officers spoke with Collins about the fire, and Collins denied any involvement in it. Id. One of the officers—Agent Scott Hardee from the South Carolina Law Enforcement Division (“SLED”)—then “reassured Collins that the interview was confidential, emphasizing that the door was shut and the blinds were closed in the interview room and that *anything* Collins told them was only for the file and would not leave the room.” Id. at 451, 900 S.E.2d at 429 (emphasis added and internal quotations omitted). Eventually, after that *clear* and *indisputable* assurance of confidentiality—which was expressly applicable to

“whatever” he said—was communicated, Collins incriminatingly admitted he was at the scene of the crime when the fire was started and had been asked to burn down the trailer in exchange for \$5,000. Id. at 451-452, 900 S.E.2d at 430. Thereafter, Collins was later arrested and charged with first-degree arson and criminal conspiracy, his incriminating statements were admitted into evidence during trial, and he was convicted as charged. Id. at 452, 900 S.E.2d at 430. Collins then appealed. Id.

On appeal, this Court reversed Collins’s convictions after concluding it was “inescapable” Collins’s confession was involuntary based on what occurred during the interview. State v. Collins, 435 S.C. 31, 54, 864 S.E.2d 914, 926 (Ct. App. 2021). Specifically, in reaching such a conclusion, this Court noted Agent Hardee’s assurance to Collins clearly and indisputably communicated to Collins *whatever* he told the officers would not be used against him. Id. at 51, 864 S.E.2d at 924.

Following that decision, the State petitioned for a writ of certiorari in the Supreme Court, and that petition was granted. Collins, 442 S.C. at 448, 900 S.E.2d at 428. Ultimately though, the Supreme Court affirmed this Court’s decision as modified, holding “Collins’s statement was rendered involuntary when law enforcement gave Collins Miranda warnings and subsequently negated them by falsely advising him that his statements would remain confidential.” Id. (footnote omitted). In so holding, the Supreme Court concluded it was and is improper for law enforcement officers to make false assurances of confidentiality when interviewing a suspect. Id. at 455, 800 S.E.2d at 432. The Supreme Court then looked to what had specifically been said in Collins’s case and found “the *only* reasonable interpretation of the officer’s statements to Collins—that the door was closed and the blinds were drawn because nothing would ever leave that room or the ‘file’—[wa]s that they constituted a false promise of confidentiality” that

rendered Collins’s statement involuntary. Id. at 459-460, 900 S.E.2d at 434. Beyond that, the Supreme Court clarified such “a false statement of confidentiality *can* be conclusive on the issue of voluntariness, regardless of the existence or negation of Miranda warnings (or the need to examine the totality of the circumstances).” Id. at 460, 900 S.E.2d at 434 (emphasis added).

With those principles in mind, Appellant’s incriminating admissions in the case sub judice did *not*—despite what Appellant now contends—follow any clear, indisputable, and unambiguous assurances from Detective Johnson that anything and everything Appellant said in the interview would remain confidential and would not be used against him. Demonstrating that fact, Detective Johnson—unlike the agent participating in the interview of Collins—never at any point made any broad assurances to Appellant that “[w]hatever [he] told [him], it ain’t gonna leave th[e interview] room.” Id. at 451, 900 S.E.2d at 430 (emphasis removed). Nor did the detective ever blanketly advise Appellant what he said in the interview room “would be off-the-record and would not be used against him, even if it were incriminating.” Redmond v. People, 501 P.2d 1051, 1052 (Colo. 1972). Furthermore, Detective Johnson never—repeatedly or otherwise—explicitly assured Appellant “whatever he said was between them[.]” State v. Stanga, 617 N.W.2d 486, 490 (N.D. 2000); see State v. Parker, 999 A.2d 314, 320 (N.H. 2010) (“The detective’s statement ‘what you tell me and what we deal with in here can stay between me and you’ can reasonably be interpreted only one way—that what the defendant told the detective would be kept confidential.” (brackets omitted)).

Instead, the only remark Detective Johnson made during the interview that could have reasonably or logically been interpreted as an assurance of confidentiality of any kind was a highly-specific and limited one that did not broadly extend to anything, everything, and whatever Appellant said in the interview room regardless of whether incriminating or not. More

specifically, Detective Johnson’s narrow assurance to Appellant was that if Appellant got too close and *became excited* when he self-admittedly “hugged up” to his daughter, they were “not gonna go tell anybody” and it was “okay if [he] did.”¹⁵ Thus, to the extent Detective Johnson assured Appellant of any confidentiality, the offered assurance—when viewed in the context in which it was made and afforded its logical contextual meaning—*only* extended to the limited matter of whether Appellant became aroused when he hugged his daughter.

And, in the context in which that assurance was made, such a limited interpretation was entirely logical and understandable at that point in the interview. A father becoming sexually aroused when hugging his minor daughter was and is something that most normal people would consider to be creepy, disturbing, shameful, unnatural, and worthy of scorn, and Appellant—who had not yet confessed to doing anything illegal—certainly would not have wanted that fact to be shared with anyone else had he admitted at that point to having become excited when he hugged Victim. However, if all Appellant had truly done was become inappropriately excited during a hug, such an occurrence would not have independently meant Appellant had committed a crime

¹⁵ Again, Detective Johnson’s key exchange with Appellant was as follows:

[Detective Johnson]: Did you . . . when you hugged up, did you get a little too close and get excited?

[Appellant]: No, sir.

[Detective Johnson]: It’s okay if you did, Rudy. I mean, there’s nobody in this room. We’re not gonna go tell anybody. It’s just us.

[Appellant]: No, sir. I, I didn’t. I mean, I’m telling you the truth.

[Detective Johnson]: Did y’all have sex?

[Appellant]: No, sir.

(Tr. p. 209; State’s Ex. # 10) (emphasis added).

and would not itself have been unlawful in any way. Therefore, Detective Johnson's assurance to Appellant they were not going to go and reveal a reprehensible-but-not-illegal fact to others if Appellant admitted to it was a perfectly sensible offer that Appellant—or anyone else hearing the remark—could and would have reasonably understood in the limited context in which it was made.

At the same time, those narrowly-tailored remarks could not—unlike the remarks made in Collins—reasonably have been construed as a *blanket* assurance of total confidentiality as to anything and everything Appellant said in the interview room. Indeed, as Appellant was unquestionably well aware by that point, the interview was taking place at a police department as part of a criminal investigation actively being conducted by law enforcement personnel into allegations he—and no one else—sexually abused his minor daughter. And, prior to that point, Appellant—with just himself and two officers present in the room at the time—had already been advised orally and in written form that anything he said during the interview *would* be used against him a court of law, and Appellant—a mature, literate adult who fluently spoke at least two different languages—confirmed he did indeed understand the advisements he had been given, including that critical warning. Thus, it would have been entirely illogical and nonsensical for Detective Johnson to have been offering blanket confidentiality to Appellant—the sole suspect in the criminal investigation that was ongoing at that time—through the limited assurance the detective made to him, and Appellant could not have reasonably interpreted that carefully-restricted assurance as a promise of total confidentiality no matter what was said.

Under such circumstances, the brief and circumscribed remark from Detective Johnson—although imprudent and improper regardless of the context in which it was made—was not, just as the trial judge recognized, sufficiently convincing to have rendered Appellant's confession

involuntary since it could not have reasonably or realistically led Appellant to believe *nothing* he said—no matter whether outright incriminating or not—would be used against him, including even if he fully admitted to raping his minor daughter. See People v. Gurule, 51 P.3d 224, 257 (Cal. 2002) (concluding an officer’s statement “what you tell us we’re going to keep between us” did not render the defendant’s confession involuntary when it was a “fleeting comment” and nothing established the defendant understood the comment “to mean that *all* that was said would remain confidential” (emphasis added)); People v. Matias, 249 N.Y.S.3d 458, 460-461 (N.Y. App. Div. 2026) (concluding a defendant’s incriminating admissions were voluntary and not obtained in violation of due process even though both a detective and a prosecutor made assurances indicating they were not going to tell anybody about the defendant’s statements because, even though the assurances could not be condoned, the defendant “was not offered unqualified confidentiality, and it was not specifically conveyed to him that his statements were off the record and would not be offered at trial”); see also Rochester, 301 S.C. at 200, 391 S.E.2d at 246-247 (“A statement induced by a promise of leniency is involuntary only if so connected with the inducement as to be a consequence of the promise.”); cf. State v. Hernandez, 34 A.3d 669, 675 (N.H. 2011) (“Here, . . . Testaverde used a phrase one time that, at most, implied confidentiality. While we continue to discourage the police from using this type of language, and will continue to examine possible police promises of confidentiality closely, we conclude that in the narrow circumstances of this case, Testaverde’s use of the phrase ‘between you and me’ did not rise to the level of such a promise.”). And, indeed, Appellant—who chose not to testify during the in limine hearing or trial—never even personally claimed the challenged remark from Detective Johnson was what led him to eventually confess in the partial manner he did. See State v. Hill, 361 S.C. 297, 307, 604 S.E.2d 696, 701 (2004) (finding the trial judge

properly admitted Hill’s statement in part because “there [wa]s no testimony in the record that [Hill] felt coerced by this statement”); cf. State v. Breeze, 379 S.C. 538, 545, 665 S.E.2d 247, 251 (Ct. App. 2008) (“Conversely, Breeze did not contradict [the officer]’s testimony with respect to the issue of whether the statement was voluntary. . . . Faced with [the officer]’s undisputed testimony the trial court concluded the State had showed that Breeze voluntarily made the statement. Based on [the officer]’s testimony, we cannot conclude the trial court’s ruling is unsupported by any evidence.”).

Meanwhile, beyond Detective Johnson’s limited assurance solely concerning the matter of whether Appellant became excited while hugging his daughter, none of the other circumstances surrounding Appellant’s interview supported a conclusion his will had been overborn and his incriminating admissions were the involuntary product of any undue police coercion. More specifically, Appellant was a mature bilingual forty-two-year-old employed father who owned a home¹⁶ and could read and write, and nothing was presented suggesting he was unintelligent, impaired at the time of the interview, or otherwise infirmed in any way. Appellant was also explicitly advised of his rights at the outset of the interview, was warned anything he said would be used against him, appeared to fully understand those well-known advisements, and personally confirmed his understanding in writing. See Berkemer v. McCarty, 468 U.S. 420, 433 n. 20 (1984) (“[C]ases in which a defendant can make a colorable argument that a self-incriminating statement was ‘compelled’ despite the fact that the law enforcement authorities adhered to the dictates of Miranda are rare.”); Frazier v. Cupp, 394 U.S. 731, 739 (1969) (“Before [Frazier] made any incriminating statements, he received partial warnings of his constitutional rights; this is, of course, a circumstance quite relevant to a finding of

¹⁶ Notably, Appellant continued to own his Conway home even after he began living with his fiancée, and he apparently still owned that home at the time of trial. (Tr. p. 312).

voluntariness.”); see also Michigan v. Tucker, 417 U.S. 433, 439 (1974) (“At this point in our history virtually every schoolboy is familiar with the concept, if not the language, of the provision that reads: ‘No person . . . shall be compelled in any criminal case to be a witness against himself . . .’ ”). Appellant also voluntarily came in for the interview on his own accord, and it took place in a standard location for such things—a police department interview room—around 5:00 p.m. as opposed to in the middle of the night. See Berghuis, 560 U.S. at 387 (finding no coercion where “[t]he interrogation was conducted in a standard-sized room in the middle of the afternoon”). And, at the time the interview was conducted, Appellant was not under arrest, handcuffed, or otherwise restrained in any way, and he was even permitted to retain possession of his phone throughout it. See Braxton, 112 F.3d at 784 (“The officers did not deprive Braxton of anything.”); Miller, 441 S.C. at 124, 893 S.E.2d at 315 (“During the interview, [Miller] was not handcuffed and, at that time, had not been charged with any crimes.”). Additionally, even including the spans in which Appellant was left alone in the interview room for breaks, the interview itself lasted only an hour and forty-five minutes in total, which was decidedly *not* an oppressive or onerous length of time. See Berghuis, 560 U.S. at 387 (rejecting the suggestion three hours of interrogation was “inherently coercive”); United States v. Locklear, 829 F.2d 1314, 1317 (4th Cir. 1987) (concluding the defendant’s statements were voluntarily made when “the interviews were not an exercise in endurance” and “[t]he longest meeting lasted two hours”); see also Miller, 796 F.2d at 606 (“It is significant that cases in which psychological coercion has been found typically involved longer periods of interrogation than that to which Miller was submitted.”). Likewise, during the interview, only two officers were ever present in the interview room with Appellant at any one time, Detective Johnson did virtually all the speaking on law enforcement’s behalf, and the conversation that took place

between Appellant and the officers was not overly aggressive or threatening in tone. See Braxton, 112 F.3d at 781 (concluding a statement was voluntarily made when nothing credibly established the officers “were so intimidating and overpowering that [the defendant]’s will to resist was overcome”); Miller, 441 S.C. at 124, 893 S.E.2d at 316 (“The questioning by Agents Johnson and Merrell was not unduly repetitious or prolonged.”); Dye, 384 S.C. at 49, 681 S.E.2d at 27 (concluding Dye was not subjected to “a police-dominated atmosphere” since only one officer was present in the room). Furthermore, Appellant was never threatened or promised any leniency in exchange for a confession, and the various ploys used by Detective Johnson—such as discussing Appellant’s religious beliefs, falsely representing he had personally spoken to Victim, and suggesting Victim might experience mental health issues¹⁷ or drug problems if Appellant did not apologize to her—were *not* “so manipulative or coercive that they deprived” Appellant “of his ability to make an unconstrained, autonomous decision to confess” as necessary for his eventual confession to have been an involuntary one. Miller, 796 F.2d at 605; see Frazier, 394 U.S. at 739 (concluding false statements about the evidence, although relevant to the analysis, did not render the confession involuntary); Rochester, 301 S.C. at 201, 391 S.E.2d at 247 (“In addition to our finding that [Rochester]’s confession was not induced by a promise of leniency, there is sufficient evidence that shows [Rochester] was not worn down by improper interrogation tactics such as lengthy questioning, trickery, or deceit. Appellant’s confession was not induced by force, psychological or physical, or by direct or implied threat.”); State v. Johnson, 422 S.C. 439, 457-458, 812 S.E.2d 739, 749 (Ct. App. 2018) (concluding Johnson’s incriminating statement was not rendered the involuntary product of an overborne will even though officers made misrepresentations regarding evidence, mentioned the death penalty as a possible

¹⁷ For what it’s worth, Victim was *already* experiencing mental health issues due to the sexual abuse she had endured before Appellant ever met with Detective Johnson. (Tr. p. 135).

punishment, and opined about how Johnson’s daughter would view him); In re Christopher W., 285 S.C. 329, 331, 329 S.E.2d 769, 770 (Ct. App. 1985) (concluding a confession made by an eleven-year-old child was voluntary even though the interrogating officer brought up religion, presented a Bible to the child, and asked him if he could swear to his innocence while touching it).

Accordingly, when viewed in their totality, the circumstances involved—just as the trial judge recognized—supported a conclusion Appellant’s incriminating admissions were voluntarily made after a valid waiver of rights as opposed to being the product of any overbearing coercive activity on the part of the police. See Von Dohlen, 322 S.C. at 245, 471 S.E.2d at 696 (“In sum, the totality of the circumstances does not demonstrate that Von Dohlen’s will was overborne by police. He was repeatedly read his Miranda rights, was questioned from approximately 7:00 to 10:00 p.m., was permitted to use the phone, bathroom, etc., and was not threatened or coerced. Accordingly, the trial court properly admitted his statement to police.”), overruled on other grounds by State v. Burdette, 427 S.C. 490, 832 S.E.2d 575 (2019); cf. Miller, 796 F.2d at 613 (“Boyce’s manner and his statements may have stirred this urge in Miller, but, in our view, they did not produce psychological pressure strong enough to overbear the will of a mature, experienced man, who was suffering from no mental or physical illness and was interrogated for less than an hour at a police station close to his home.”); Commonwealth v. Santana, 82 N.E.3d 986, 995 (Mass. 2017) (finding Santana’s statement was voluntarily made despite the detective’s false assurance of confidentiality because—amongst other circumstances—Santana’s request to cease the audio recording after being advised of his rights and other actions during the interview “suggest that the defendant understood the statement could be used against him”); State v. Didlot, 521 P.3d 159, 170 (Or. Ct. App. 2022) (“The total

time of the interview was relatively short—approximately 90 minutes—and the time Murray spent interacting with defendant was a little over an hour. Before any questioning began, Murray advised defendant of his Miranda rights, which defendant indicated that he understood. Murray did not notice any signs of impairment or cognitive defect on the part of defendant; the trial court specifically found that defendant followed the conversation with ease and did not exhibit any difficulty in tracking the conversation. Murray and defendant were cordial with each other, their voices were calm, and their body language did not indicate posturing by either of them that could be viewed as intimidating, threatening, or coercive. At one point, Murray offered defendant water and provided coffee to defendant when he asked for that instead. On the whole, the entire interview indicated that defendant's responses were voluntary, and his will was not overborne.” (internal quotations omitted)). As a result, the trial judge correctly admitted the evidence of Appellant’s incriminating admissions during trial, and that sound ruling should be upheld on appeal. See Miranda, 384 U.S. at 478 (“Confessions remain a proper element in law enforcement. Any statement given freely and voluntarily without any compelling influences is, of course, admissible in evidence.”). Appellant’s convictions should be affirmed.

CONCLUSION

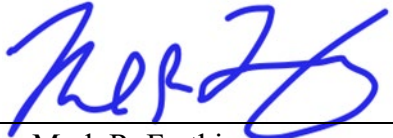
For all the foregoing reasons, it is respectfully submitted the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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September 13, 2026