Circuit Court for Garrett County
Case No. 11-K-17-005383

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 993

September Term, 2018

MEGAN SHAFFER

v.

STATE OF MARYLAND

Kehoe,
Friedman,
Salmon, James P.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: February 5, 2020

A jury in the Circuit Court for Garrett County convicted appellant, Megan Shaffer, of second-degree murder. The circuit court sentenced Shaffer to 30 years in prison. On appeal, Shaffer asks us to consider whether the circuit court erred in denying her motion to suppress four statements that she made during the investigation of the matter. For the following reasons, we affirm.

FACTS AND LEGAL PROCEEDINGS

On the evening of January 3, 2017, Shaffer and her friend, Alexander Stevens, drove to a remote wooded area in Garrett County, apparently intending to partake in a cleansing ritual by burning personal items. The events of that night, however, resulted in Stevens's death and severe injury to Shaffer. Following a police investigation into Stevens's death, the State charged Shaffer with second-degree murder, manslaughter, and participation in assisted suicide.

On the morning of January 4, 2017, emergency medical personnel and Department of Natural Resources ("DNR") police responded to a residence in Allegany County, pursuant to a 911 call reporting that the caller, identified as Shaffer, had fallen from a 20 to 30-foot cliff and was injured. When the responders arrived at the residence, they found Shaffer, naked, hypothermic, and covered in cuts and bruises.

Based on statements Shaffer made to the responding paramedic and DNR police officer about the existence of a second victim, a helicopter search of the area ensued. Stevens was found dead, his throat cut, face-down in the water of a drainage ditch about a mile and a half from the base of the cliff. A kitchen knife was found next to his head.

Despite Shaffer's claims to police that Stevens committed suicide, the assistant medical examiner concluded that Stevens's cause of death was "sharp force injuries of the neck," and ruled the manner of death a homicide. This was based on her observation of at least seven "sawing motions" on Stevens's neck, which were forceful enough to cut through his carotid artery and jugular vein and nick the bone of his spinal column. The medical examiner testified that the wounds could not be self-inflicted as Stevens was already severely injured by the fall. Shaffer's expert forensic pathologist disagreed, opining that Stevens's death was was a suicide because his wounds were consistent with one of the statements Shaffer made to police—that she held the knife as Stevens gripped her hand and forced her to cut his throat.

Hearings on Motion to Suppress

January 29, 2018 Hearing

Between January 4 and January 6, 2017, Shaffer, following *Miranda* advisements and the waiver of her rights, gave three recorded statements to Maryland State Police Sergeant Jonathan Martin, Master Trooper Eric Schramm, and Master Trooper Andrew Mason. All three interviews were conducted at the hospital where Shaffer was being treated.

The first interview, with Mason and Schramm, took place in the emergency room on January 4, 2017, shortly after Shaffer arrived at the hospital, and lasted thirty minutes.[1]

[1] During the first interview, Shaffer told the troopers that she and Stevens had gone for a hike to partake in "like a cleansing of some type." Shaffer said that she and Stevens removed their clothes and walked to the edge of a cliff, from which they slipped and fell 20-30 feet. They lay at the bottom of the cliff, injured and in pain, for some time. Unable

At that time, Mason did not have a lot of information about the incident and his purpose for the interview was to learn about the events to "get an idea [of] what happened."

Although hypothermic, Shaffer did not suffer from any head or brain injuries, and medical personnel determined it was acceptable for police to speak with her. Mason advised Shaffer of her *Miranda* rights, after which she provided "clear, concise" answers to his questions. While some nurses may have entered the room briefly, neither Mason nor Schramm remembered anyone else being present during the interview. Moreover, neither trooper recalled Shaffer asking to speak to her family, and they denied telling hospital personnel that family members could not see Shaffer before or during the interview. Mason stated that, had Shaffer asked to speak to her family members, he would have permitted her to do so.

The second interview, with Martin and Schramm, took place on January 5, 2017 and lasted one hour.[2] Shaffer was "in a bed that day, but she seemed normal, attentive, and fine to talk" to the troopers. Shaffer's family members, who were with her when the troopers arrived, left the room at Martin's request. Shaffer waived her *Miranda* rights again and "answered some direct questions" by the troopers. The "significant portions" of the

to climb back up, they walked "down the mountain." Stevens then slit his throat with the knife. Shaffer denied killing Stevens or intending to hurt herself. At trial, Shaffer acknowledged that this statement was not true.

[2] In the second statement, Shaffer continued to assert that she and Stevens had slipped and fallen off the cliff and that she was three to four feet away from him when he slit his own throat because he was tired of suffering.

interview, however, involved Shaffer "talking openly and freely" about the incident. At the conclusion of the interview, Martin testified that he left Shaffer "on good terms."

Approximately eight hours later, Shaffer got word to Schramm that she wished to speak with the police again "to clear some things up." Martin and Schramm returned to the hospital and engaged in a third interview, after asking her family members to step out of the room.[3] The troopers again advised Shaffer of her *Miranda* rights. The interview, provided in narrative form by Shaffer, who was "cooperative and polite," lasted one hour.

Shaffer's mother, Brenda Shaffer, testified that after she and her husband arrived at the hospital, hospital personnel advised them that they were "not allowed" to see their daughter until she was questioned by the police. Shaffer similarly testified that when she arrived at the hospital, she was told her father was there and when she asked to seem him, "multiple nurses" told her that she was not permitted to until she talked to the police. Shaffer said she only spoke to the troopers because she wanted to see her family. She did not "exactly recall," however, whether she told the officers she wanted to speak to her family and acknowledged that her recorded statements did not contain any such request.

In closing, the State argued that even if "some unknown medical personnel" said that no one was permitted to enter Shaffer's room until she had given her statement to the police, it was not the police's (or the hospital's) "policy or practice," and any such directive

[3] During the third interview, Shaffer changed her version of events, stating that Stevens pulled her off the cliff with him and forced her to hold the knife while he fell on it. Before the end of the interview, Shaffer changed her story again to say that Stevens, while holding her hand, pulled the knife across his throat several times. She acknowledged that it was "possible" that Stevens intended to kill himself by jumping off the cliff.

was not made by or on behalf of the police, whose initial inquiry was only to find out what happened to Shaffer and the other victim. Although Shaffer may have believed she was not permitted to see her family until she spoke with police, only her "bald statement" that she would not have spoken with the troopers otherwise supported her claim that her will was overborne.

Defense counsel countered that it was not "logical" to believe that a 21-year-old, seriously injured woman did not ask to speak with her parents before giving the first statement to the police. Because the first statement was a condition precedent for seeing her parents, counsel concluded, all the statements she gave to the police in the hospital were involuntary and should be suppressed. Defense counsel's argument was that the first statement was improper and the other two statements—byproducts of the first—were "tainted by what was going on in the first statement."

The suppression court determined that Shaffer's three "informal and cordial" interviews with the police were conducted in a non-custodial setting at the hospital, with no threats or inducements by the police to force her to talk. From the suppression court's review of the recorded statements, it was "very clear" that the troopers never denied Shaffer access to her family and that Shaffer never asked to see them.[4] The suppression court also pointed out that by the second interview, Shaffer had already seen her family, and her family voluntarily left the room to allow for the interview to take place, so the "issue raised as to the inducement no longer applies."

[4] Our independent review of the transcripts of the statements is in accord with the suppression court's finding.

Acknowledging that the State bore the burden of presenting evidence to refute Shaffer's claim that her first statement was involuntary because of a promise made by the interrogating officers, the suppression court pointed out that the alleged inducement was made not by the police, but by hospital staff. Therefore, even if the suppression court believed that an unidentified hospital personnel made such a statement, in the absence of any evidence that the hospital staff was acting at the direction or on behalf of the police and were subject to their control, suppression was not required. Moreover, the State met its burden of proving the voluntariness of the statements by a preponderance of the evidence. The court, therefore, denied the motion to suppress the three statements Shaffer made to police.

March 12, 2018 Hearing

A second suppression hearing was held and focused on Shaffer's statement to paramedic Christopher Biggs when he responded to her 911 call.

Biggs testified that at the time of dispatch he only had a "report of a person who had possibly fallen from a cliff." A DNR police officer was also present and trying to ascertain whether there was a second victim. Biggs's concern about the second victim was that he would need additional medical units.

Aware that Shaffer had possibly fallen from a cliff, Biggs placed her in a cervical collar and on a full backboard to immobilize her spine. During Shaffer's transport, Biggs asked more detailed questions about her injuries and how the fall took place, as the height of the fall was pertinent to whether she might have internal injuries.

Shaffer explained to Biggs that she and a male friend had gone to the top of a cliffside, lit some candles, and removed their clothes before falling 20 to 30 feet from the cliff. She said she lay at the bottom of the cliff for an undetermined amount of time before finding that her friend had died from injuries he sustained in the fall.

During the 40-minute transport to the hospital, however, Shaffer changed her narrative several times. First, she said that her friend did not die from the fall, but that they both got up and walked through heavy brush. The friend then fell to the ground, and Shaffer thought he may have died. In her next explanation, the friend fell onto a knife and died. Finally, Shaffer said, she and her friend had made it to a body of water when he decided he wanted to kill himself and he cut his own throat. Shaffer told Biggs that "this is probably not going to look good, but when they find the knife, my handprints will be on the knife." Biggs did not inquire further, but documented the statements and determined that he should contact law enforcement personnel to meet them at the hospital.

Biggs characterized Shaffer's statements as the two "just having conversation and dialogue about her injuries and how those injuries were sustained. And in the process of ascertaining how those injuries were sustained is the different sequences of events." Any continued inquiry, he said, was solely to determine if there was a second victim, his location, and to "make sense of the differences of the events" Shaffer described.

Defense counsel argued that Shaffer, while strapped to a backboard, did not feel that she was free to leave the ambulance. She was, therefore, in custody during Biggs's questioning which amounted to interrogation on behalf of the DNR police officer, who had

directed Biggs to call if he obtained any information about the location of the second victim. Such questioning, thus, necessitated *Miranda* warnings, which were not given.

The State countered that Biggs had an ongoing duty to reassess the condition of his patient based on her explanation of how she was injured and what happened afterward, including the potential existence and location of a second victim. Additionally, Biggs, operating from the "emergency services side," was not a law enforcement officer or state agent whose questioning required *Miranda* advisements.

The suppression court ruled that, although Shaffer was confined on a backboard and in a cervical collar during the paramedic's questioning, she was not in custody. And Biggs's questioning did not amount to interrogation because his focus was confined to patient assessment and care and determining the condition and location of the other possible victim. Finally, Biggs was not operating as an agent of law enforcement, and his conversations with Shaffer did not appear to the suppression court to have been directed by or related to any kind of criminal investigation. The suppression court therefore denied Shaffer's motion to suppress her statements to the paramedic.

DISCUSSION

Shaffer contends that the suppression court erred in denying her motion to suppress the inculpatory statements she made to Martin, Mason, and Schramm at the hospital and to Biggs in the ambulance. In Shaffer's view, the first statement she made to the troopers should have been suppressed because it was non-voluntary, as she believed she was required to give the statement before she would be permitted to see her parents. She also contends that the second and third statements to the troopers should have been suppressed

as "fruits of the poisonous tree." Shaffer further argues that her statements to Biggs should have been suppressed because they were the result of a custodial interrogation by an individual operating on behalf of law enforcement officers in the absence of required *Miranda* advisements.

Our review of a trial court's denial of a motion to suppress is ordinarily limited to information contained in the record of the suppression hearing and not the record of the trial. *State v. Collins*, 367 Md. 700, 706-07 (2002). When, as here, the motion to suppress has been denied, we consider the facts in the light most favorable to the State, as the prevailing party on the motion. *Id.*

We do not engage in our own fact finding. *Haley v. State*, 398 Md. 106, 131 (2007). Instead, we "extend great deference to the findings of the motions court as to first-level findings of fact and as to the credibility of witnesses, unless those findings are clearly erroneous." *Brown v. State*, 397 Md. 89, 98 (2007). As to the ultimate conclusion of whether an action taken was proper, "we must make our own independent constitutional appraisal by reviewing the law and applying it to the facts of the case." *Collins*, 367 Md. at 707.

Shaffer's Statements to Martin, Mason, and Schramm at the Hospital

Shaffer argues that the suppression court erred in declining to suppress the statements she made to the troopers at the hospital. She claims that the first statement was involuntary because it was the result of an improper inducement that overbore her will, that is, the refusal of the hospital staff—at the direction of the troopers or with their consent—to permit her to see her parents unless and until she spoke to the police. The other two

statements, she concludes, were inadmissible as "fruits of the poisonous tree." Although the State agrees with Shaffer that none of the statements would be admissible if the first statement was involuntary, the State argues that the suppression court did not err in finding that there was no improper inducement in eliciting the first statement. We agree.

A confession or incriminating statement by a criminal defendant is admissible only if it was made voluntarily. *Hill v. State*, 418 Md. 62, 74 (2011) (citing *Knight v. State*, 381 Md. 517, 531 (2004)). If a statement is obtained through coercion, "improper threats, promises, inducements, or psychological pressures," the statement is involuntary. *Winder v. State*, 362 Md. 275, 305 (2001). A trial court's determination of whether an incriminating statement made during a police interrogation was involuntary because it was induced by threat or promise is a mixed question of law and fact that we review *de novo*. *Id*. at 310-11.

In assessing voluntariness, the Court of Appeals has observed that confessions that are "the result of police conduct that overbears the will of the suspect and induces the suspect to confess" are prohibited. *Lee v. State*, 418 Md. 136, 159 (2011) (citing *Arizona v. Fulminante*, 499 U.S. 279, 288 (1991)). The State bears the burden of proving voluntariness, and courts considering a motion to suppress a statement "must examine the totality of the circumstances affecting the interrogation and confession." *Id*. at 160; *Hill*, 418 Md. at 75.

In *Hillard v. State*, the Court of Appeals established a two-prong test to determine whether a confession was improperly induced, and therefore inadmissible. 286 Md. 145 (1979). The first prong requires a determination whether a police officer promised or

implied that special consideration or assistance will result from a confession. *Hill*, 418 Md. at 76. This inquiry is objective. *Id*. To make this determination, a court must ask whether a reasonable layperson in the position of the accused would infer an express or implied inducement in the officer's conduct that would move the accused to make an inculpatory statement. *Id*.

If the first prong is satisfied, the court must then "determine whether the accused relied on that inducement in making the statement he or she seeks to suppress." *Id*. at 77. The second prong is subjective. During a suppression hearing, it is the State's burden to demonstrate, by a preponderance of the evidence, that there was no reliance. *Id*. Reliance depends on a variety of factors, including the "amount of time elapsed between the inducement and confession" and "whether any factors, other than the interrogating officer's statements, may have caused the confession." *Winder*, 362 Md. at 312. The suppression court may also consider any testimony the defendant gives about the interrogation. *Hill*, 418 Md. at 77.

Here, Shaffer sought to suppress the three conflicting statements she made to the police at the hospital. Defense counsel argued that the first statement was induced by the hospital staff refusing to allow Shaffer to see her parents until she gave the statement. Shaffer claims that she would not have given the statement otherwise.

The suppression court denied the motion to suppress, reasoning that the only evidence that an unidentified hospital staff members told Shaffer she had to speak to the police before seeing her parents came from Shaffer and her mother, both of whom exhibited

significant "potential for bias" in Shaffer's favor. Shaffer produced no hospital staff members or written policy manuals at the hearing to support her claim.

Even assuming, for the sake of argument, that hospital staff members did make such a statement, the suppression court continued, there was no evidence presented during the hearing to indicate that the troopers instructed the staff to do so, or that the troopers even knew the statement was made. All three troopers testified at the suppression hearing and denied instructing hospital staff to bar Shaffer's access to her parents until she spoke with them. In fact, Mason specifically stated that if Shaffer had asked for her parents to be present, he would have permitted them to be in the room. Moreover, at no time during Shaffer's "cordial" conversation with the troopers, which she agreed was accurately reflected by the recording and transcript, did she request to see her parents or ask to stop the interview for any reason. The suppression court also found that Shaffer presented no evidence, other than her own testimony, that she relied on the alleged statements by hospital personnel in deciding to speak with the troopers. In consideration of all the circumstances, the suppression court determined that the three statements to the troopers were voluntary.

We agree with the suppression court. No objective evidence supports Shaffer's claim that her first statement to Martin, Mason, and Schramm was induced by an improper threat or promise. Nothing the troopers said or did induced Shaffer's statements, let alone induced them improperly. We, therefore, find no error in the suppression court's denial of Shaffer's motion to suppress the statements made to the police in the hospital.

Shaffer's Statements to Biggs in the Ambulance

The suppression court denied Shaffer's motion to suppress her statements to Biggs during her transport to the hospital on the grounds that: (1) Shaffer was not "in custody" for *Miranda* purposes; (2) Biggs's questioning did not amount to interrogation because his focus was on patient care and determining the location and status of the second victim; and (3) the conversation was not directed by Biggs, nor related to any kind of criminal investigation, and Biggs was not operating as a law enforcement agent.

As this Court has explained, "before a defendant can claim the benefit of *Miranda* warnings, the defendant must establish two things: (1) custody; and (2) interrogation." *State v. Thomas*, 202 Md. App. 545, 565 (2011). The burden of proving that there was custody and interrogation is on the defendant. *Smith v. State*, 186 Md. 498, 520 (2009).

If the suspect is not in custody, the absence of *Miranda* warnings is immaterial, and their inculpatory statements may be admitted at trial. *Owens v. State*, 399 Md. 388, 427 (2007).We determine whether a person is in custody for purposes of *Miranda* "objectively in light of the totality of circumstances of the situation, taken as a whole." *Brown v. State*, 452 Md. 196, 211 (2017).

Shaffer claims that because she was restrained in a cervical collar and on a backboard during the ambulance transport to the hospital, she was in custody. But not all "restraints on freedom" constitute custody for *Miranda* purposes. *Id*. at 211. The "'ultimate inquiry [is]: was there a formal arrest or restraint on freedom of movement to the degree associated with a formal arrest?'" *Id*. (quoting *Thompson v. Keohane*, 516 U.S. 99, 112 (1995)). Here, the answer is, no.

Shaffer called 911 and consented to treatment and transport to the hospital. Although she was confined to a cervical collar and backboard in an ambulance, she was not under arrest, and her restraint—solely to immobilize her in case of broken bones or back and neck injuries—cannot be said to be a formal arrest. Indeed, at the time of her transport, there was no suggestion or evidence that a crime had been committed.

In addition, as the suppression court concluded, Biggs's questions to Shaffer did not rise to the level of interrogation. While Biggs was employed by the State, he was neither a law enforcement officer capable of initiating arrest, nor the functional equivalent of a law enforcement officer. As a paramedic, his sole focus was on the assessment and treatment of Shaffer's injuries. The questions Biggs asked Shaffer related to her care and the possibility of a second victim, not to a criminal investigation. Moreover, Biggs did not direct the course of Shaffer's statement; she volunteered the several versions of the events leading to Stevens's death. *See Reinert v. Larkins*, 379 F.3d 76, 79-80, 85-86 (3d Cir. 2004) (affirming the suppression court's ruling that a defendant was not in custody, or even a suspect, when he stated to the EMT in the ambulance that he had stabbed his friend and then himself because the statement was volunteered by defendant in response to a routine question, even though police officers rode with him in the ambulance, because the officers reasonably could have assumed defendant was a second victim who could identify the perpetrator).[5]

[5] The presence of the DNR police officer at the residence does not affect our analysis because the officer was not in the ambulance when the statements were made. Moreover, the DNR police officer, like Biggs, had no reason at that time to believe a crime had been committed.

The suppression court, having considered the totality of the circumstances, concluded that Shaffer was not subject to custodial interrogation. We agree. Therefore, no *Miranda* advisements were required to render Shaffer's statement to Biggs admissible, and the suppression court properly denied her motion to suppress.

JUDGMENT OF THE CIRCUIT COURT FOR GARRETT COUNTY AFFIRMED; COSTS ASSESSED TO APPELLANT.