

Walker Hearing

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff,

-v-

No. 01 178216 FC

CHESTER VAN THOMPkins, JR.,

Defendant.

DAVID G. GORCYCA (P41352)
OAKLAND COUNTY PROSECUTOR
1200 N TELEGRAPH RD
PONTIAC MI 48340
248 858-0646

CORBETT EDGE O'MEARA (P54716)
ATTORNEY FOR DEFENDANT
17212 MACK
GROSSE POINTE MI 48224
313 417-3343

OPINION AND ORDER DENYING DEFENDANT'S
MOTION TO SUPPRESS STATEMENTS

At a session of said Court held in the Courthouse
in the City of Pontiac, County of Oakland and
State of Michigan on May 10, 2002.

PRESENT: HONORABLE RICHARD D. KUHN, CIRCUIT JUDGE

This matter is before the Court on Defendant's Motion to
Suppress Statements. The Court heard oral argument, conducted an
evidentiary hearing, and took the motion under advisement.

Detective Helgert of the Southfield Police Department
testified that on February 22, 2001, he and Detective Doweling
met with the defendant at the Columbus County Jail in Ohio.
Defendant was provided with a "Notification of Constitutional
Rights" form and was asked to read one portion aloud as it

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appeared on the form, and the detectives then read aloud the balance of the form. The defendant was asked if he understood the rights as read to him and he responded, "Yes." Defendant was then asked to sign the form. He orally declined to sign the form.

Although the defendant did not sign the form, he did not invoke his right to remain silent, nor did he request the assistance of an attorney.

An interview lasting between 2 ½ to 3 hours was conducted. Detective Helgert described it not as a question and answer session, but more as a monologue on their part, where they kept telling the defendant this was his chance to tell his side. The detectives did most of the talking, however Helgert testified that the defendant did make eye contact, nod, and answer questions with, "I don't know". The detective understood that the defendant was engaging in conversation when he made non-verbal communication.

Toward the end of the interview, Detective Helgert testified that he asked the defendant if "he believed in God", to which the defendant responded, "Yes." The detective continued by asking if he had "asked God for forgiveness for shooting that boy down?", and again the defendant replied, "Yes." Shortly after this exchange the interview was terminated.

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or deprived him of food or medical attention. Additionally, the defendant was not injured, intoxicated or ill when he spoke to the detectives. *Abraham* at 645. Further, the police did not detain the defendant excessively, especially given the serious nature of the crimes they were investigating.

As for the second part of the test:

To establish a valid waiver of *Miranda* rights, the prosecution need only "present evidence sufficient to demonstrate that the accused understood that he did not have to speak, that he had the right to presence of counsel, and that the state could use what he said in a later trial against him."

Id. at 647.

Here, the evidence showed that the detectives read the defendant his rights, and that he responded that he understood them. The defendant never invoked his right to remain silent, and participated in the interview by making eye contact, nodding, and answering questions with, "I don't know". Defendant then answered the two questions at issue. Defendant knowingly and intelligently waived his rights.

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that Defendant's Motion to Suppress Statements is denied.

RICHARD D. KUHN

RICHARD D. KUHN, CIRCUIT JUDGE

A TRUE COPY
G. WILLIAM CADDELL
Oakland County Clerk - Register of Deeds

By Jose Hutchinson
Deputy