

IN THE COURT OF COMMON PLEAS FOR LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH

v.

**ULYSSES HOFFMAN,
Defendant**

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**No. 1353-2009
CRIMINAL**

OPINION AND ORDER

Defendant, Ulysses Hoffman filed a Motion to Suppress on October 6, 2009. A hearing on the Motion was held on December 14, 2009.

Background

The following is a summary of the facts presented at the Suppression Hearing. On August 9, 2009, around 4:30 p.m, Trooper Christian Rankey (Rankey) of the Pennsylvania State Police (PSP) assisted by Trooper Cooney, fingerprinted and photographed Ulysses Hoffman (Defendant) for processing purposes. While asking the Defendant his date of birth and other personal data, Defendant asked Rankey if he thought Defendant was a sick person. Rankey testified that he told Defendant he (Rankey) was not familiar with the case and that Defendant was not sick but what happened was sick. Defendant proceeded to ask Rankey if he would treat him (Defendant) differently because of the charges. Defendant also asked Rankey if he would get another opportunity to speak to Trooper Jennifer Jackson (Jackson) and Trooper Joseph Akers. Rankey explained that he never asked Defendant about the charges, did not illicit such

responses, and therefore, did not advise Defendant of his Miranda¹ rights. Rankey also related that he did not mention this conversation in his police report.

Jackson testified that on August 9, 2009, she spoke with Defendant regarding his charges, advised him of his Miranda rights, and that he signed a waiver of those rights. Jackson explained that prior to signing the waiver, she determined the Defendant could read and write. After Jackson spoke with the Defendant, Rankey processed him. Jackson related that the following morning Rankey advised her of his conversation with Defendant.

On August 10, 2009, Jackson went to the Lycoming County Prison to speak with the Defendant. Jackson related that she read Defendant his Miranda rights again as Defendant was now incarcerated and not free to leave. Jackson explained that Defendant read the Miranda form and signed the form that he wanted to speak to her. Defendant provided Jackson with a verbal statement. Following the verbal statement, Jackson asked Defendant to give a written statement to which the Defendant related he would. Jackson explained she read Defendant his Miranda rights again and provided him a custodial written statement form which he signed and wrote “yes” next to the questions. Defendant then provided a written statement to Jackson. She related that she never forced the Defendant to provide a statement and made no promises of help. Jackson explained the Defendant told her he needed help and she told him this was the start of getting help.

Defendant testified that he does not recall telling Rankey he wanted to speak to Jackson. Defendant explained he was surprised to see Jackson. Defendant related Jackson asked to speak to him again and he told her they talked yesterday. He testified that in the first interview with Jackson he denied any inappropriate contact with this daughter but on August 10, 2009, he

¹ Miranda v. Arizona, 384 U.S. 436 (1966).

admitted the contact after he saw the seriousness of the charges, was upset, afraid of what could happen to him in jail, and did not understand what all was going on. Defendant explained that he told Jackson he understood his rights. Defendant also testified he told Jackson that nothing happened at first but she told him she could not help him unless he talked to her. Defendant explained that he got upset because Jackson continued to push him to talk and continued to tell him that she could not help unless he told her something. Defendant testified that he told Jackson what he thought she wanted to hear. He explained that he only gave a statement because Jackson promised to get him help and would not have given the statement but for that promise.

Defendant also testified that he did sign the Miranda waiver forms and initialed them. He explained that Jackson did read the forms to him as well. Finally, Defendant testified that he was still under the influence of marijuana at the time of the interview because he had been smoking marijuana for months.

While the Defendant was on the witness stand, the Court inquired as to what type of help he was expecting, Defendant related that he just thought Jackson would help him with the charges. Defendant related that he knew he needed a lawyer and thought she would help him to get through this to “get it over and done with.” Defendant could not be specific as to the type of help, he just explained that the way Jackson spoke to him he thought he would get help in one way or another.

Discussion

Defendant asserts that the waiver of his Miranda rights was involuntary as it was made under the guise of receiving some form of help from Jackson. The Commonwealth asserts in

opposition that the Defendant made a knowing and voluntary waiver of his rights on three occasions.

According to the Pennsylvania Supreme Court, ““where a motion to suppress has been filed, the burden is on the Commonwealth to establish by a preponderance of the evidence that the challenged evidence is admissible.”” Commonwealth v. Bryant, 866 A.2d 1143, 1145 (Pa. Super. Ct. 2005) (quoting Commonwealth v. DeWitt, 608 A.2d 1030, 1031 (Pa. 1992)).

In order for a waiver of Miranda rights to be valid, it must be made knowingly, voluntarily, and intelligently. 384 U.S. at 475; See also Commonwealth v. Scarborough, 491 Pa. 300, 421 A.2d 147 (1980) (holding that “the Commonwealth need only show by a preponderance of the evidence that a voluntary, knowing and intelligent waiver of a constitutional right was made”). There are two requirements to determine if a Miranda waiver is valid. First, the waiver of one’s Miranda rights must have been voluntary, in that ““it was the product of a free and deliberate choice rather than intimidation, coercion, or deception. Second, the waiver must have been made with a full awareness both of the nature of the right being abandoned and the consequences of the decision to abandon it.”” Colorado v. Spring, 479 U.S. 564, 573 (U.S. 1987) (quoting Fare v. Michael C., 442 U.S. 707, 725 (1979)). The Court in determining the validity of a waiver under Miranda and the voluntariness of a confession looks to the ““totality of the circumstances surrounding the interrogation.”” Spring, 479 U.S. at 573 (quoting Fare, 442 U.S. at 725). See also Commonwealth v. Carter, 546 A.2d 1173 (Pa. Super. Ct. 1988). Factors the Court must consider include the following: “the duration and methods of interrogation, the conditions of detention, the manifest attitude of the police toward the accused, the accused’s physical and psychological state, and any other conditions which ‘may serve to drain one’s powers of

resistance to suggestion and undermine his self-determination.” Commonwealth v. Probst, 580 A.2d 832, 836 (Pa. Super. Ct. 1990) (quoting Commonwealth v. Carter, 546 A.2d 1173 (1988)).

The Court finds the Defendant’s Miranda waiver was valid. The testimony of Jackson reveals that on August 9, 2009, Defendant was advised of his Miranda rights and signed a waiver of those rights. Then on August 10, 2009, Defendant was once again read his Miranda rights and waived those rights. After a verbal statement, Defendant was read his Miranda rights a third time, and on the custodial written statement form he signed and initialed that he was waiving those rights. By Defendant’s own testimony, he admits that he signed the Miranda waiver forms, but that he did so under the guise of receiving help from Jackson. Although Defendant alleges Jackson made promises to help him, he is unable to identify to the Court exactly what those promises are, and therefore, the Court believes the Defendant did not waive his rights based upon any promises. Furthermore, as the Defendant signed the Miranda waiver forms not once, not twice, but three times, the Court finds that he knowingly, intelligently, and voluntarily waived his Miranda rights. As the Court finds the testimony of Jackson to be credible, the Defendant’s motion shall be denied.

ORDER

AND NOW, this ____day of December 2009, based on the foregoing Opinion, it is ORDERED and DIRECTED that Defendant's Suppression Motion is hereby DENIED.

By the Court,

Nancy L. Butts, Judge

xc: DA (MK)
PD (WM)
Trisha D. Hoover, Esq. (Law Clerk)
Gary L. Weber (LLA)