

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH

v.

**JAMES NOTTINGHAM,
Defendant**

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**CR: 1178-2011
CRIMINAL DIVISION**

OPINION AND ORDER

The Defendant filed an Omnibus Pre-Trial Motion on November 9, 2011, which included a Motion to Suppress. A hearing on the Motion to Suppress was held on December 16, 2011.

Background

On May 20, 2011, at approximately 11:05 p.m., Officer Jonathan Buynak of the Pennsylvania State Police arrived at the scene of a vehicle accident just south of Holmes Hollow Road in Shrewsbury Township. At the hearing on the Defendant's Motion to Suppress, Buynak testified that upon arriving at the scene, he observed a vehicle that appeared to have been overturned as it had indentations on all sides, a caved in roof, and front end damage. The vehicle was not operable and needed to be towed from the scene. Buynak also observed cans of alcoholic beverage inside the vehicle and determined that the owner of the vehicle was in an ambulance that had arrived on the scene. Buynak, who at that point suspected that the Defendant was the operator of the vehicle and that he was under the influence of alcohol, approached the Defendant, who was sitting up and had a visible head injury, to investigate the accident and asked him questions such as "where were you coming from?" and "what were you doing prior to the crash?" Buynak testified that he used no force or threat of force during the approximately

five (5) minute long conversation, that he smelled an odor of alcohol from the ambulance, and that the Defendant appeared to be under the influence of alcohol and admitted that he had in fact been drinking. The Defendant was thereafter arrested and charged with Driving Under the Influence of Alcohol or Controlled Substance, Driving on Roadways Laned for Traffic, and Restrictions on Alcoholic Beverages.

Discussion

The Defendant alleges in his Motion to Suppress that he was detained at the time Buynak questioned him about the accident, and that his Miranda Rights were violated as Buynak did not advise him of these rights prior to questioning. The Defendant also alleges that injuries sustained prevented him from making a voluntary, knowing and intelligent waiver of his Miranda rights.

The Court agrees that “[s]tatements made during custodial interrogation are presumptively involuntary, unless the accused is first advised of her Miranda rights.” Commonwealth v. Williams, 941 A.2d 14, 30 (Pa. Super. 2008) (See Commonwealth v. DiStefano, 782 A.2d 574, 579 (Pa. Super. 2001). Custodial interrogation is defined as “questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of [her] freedom of action in any significant way.” Williams at 30 (quoting Miranda v. Arizona, 384 U.S. 436 (1966). Miranda Rights should be given to a person in custody when they are “[s]ubjected to either express questioning or its functional equivalent.” Williams at 30 (quoting Commonwealth v. Gaul, 912 A.2d 252, 255 (Pa. 2006). Therefore, “[i]nterrogation occurs where the police should know that their words or actions are reasonably likely to elicit an incriminating response from the suspect.” Williams at 30 (quoting Commonwealth v. Ingram, 814 A.2d 264, 271 (Pa. Super. 2002). In making the determination as

to whether a person is in custody for Miranda purposes, the inquiry rests on whether “[t]here was a formal arrest or restraint on freedom of movement’ of the degree associated with a formal arrest.” Williams at 31 (quoting Commonwealth v. Pakacki, 901 A.2d 983, 988 (Pa. 2006).

However, it is also true that motorists have statutory obligations to provide the police with information at an accident scene. See 75 Pa.C.S. §3743 (relating to accidents involving damage to attended vehicle) and 75 Pa.C.S. §3744 (relating to duty to give information and render aid). “Thus, a motorist is not in custody for Miranda purposes when her freedom is restricted to the extent of her statutory obligation to remain at the scene and provide required information.” Williams at 32 (See Commonwealth v. Gonzalez, 546 A.2d 26 (Pa. 1988). In Gonzalez, upon responding to the scene of accident and ascertaining that the defendant was involved in the accident but was not injured, the police proceeded to ask the defendant to step out of his vehicle and asked him “what happened?” As the defendant relayed information about the accident, the officers could smell a strong odor of alcohol on his breath and observed that his eyes were watery and bloodshot, his conduct was sleepy, and that he was unsteady. Gonzalez at 28. The defendant was then arrested and was thereafter found guilty of Driving Under the Influence, Involuntary Manslaughter, Homicide by Vehicle while Driving Under the Influence. Gonzalez at 28. On appeal, the defendant claimed that the trial court erred by admitting the statements made to the police following the “what happened?” inquiry, as the he had not been given his Miranda rights at that time. Gonzalez at 28. The Superior Court concurred with the conclusion of the trial court and determined that “the officers were conducting a general on-the-scene questioning to determine whether there was a crime and *Miranda* warnings were not required.” Gonzalez at 29. The Superior Court further reasoned that “[w]hen the police officers approached the appellant at the accident scene and asked him if he was hurt and what had

happened, appellant was not in custody, nor could he have reasonably believed he was in custody for purposes of *Miranda*.” Gonzalez at 29.

The circumstances of this case are even more compelling than those found in Gonzalez for the Court to conclude that Miranda warnings did not apply at the time the Defendant was questioned. Similar to the situation in Gonzalez, the police in this case arrived at the scene of a vehicle accident and approached the Defendant, thought to be the driver of the vehicle involved in the accident, and asked him questions concerning the circumstances of the accident. However, unlike the defendant in Gonzalez, in this case the Defendant was observed to have a head injury and was in the ambulance at the scene at the time the police questioned him. The Court finds the Defendant’s treatment by EMS personnel on the scene even more persuasive to conclude that the Defendant was not in custody, nor could he have reasonably believed he was in custody for purposes of Miranda. The Court also notes that no force or threat of force was used on the Defendant by Buynak during questioning. The Court finds that Buynak’s questioning of the Defendant was for the purpose of determining whether a crime had occurred and Miranda warnings were not required. Therefore, whether or not the Defendant’s injuries prevented him from making a knowing, voluntary and intelligent waiver of his rights is irrelevant.

As the Court finds that the Defendant was not in custody for purposes of Miranda at the time he was questioned by the police, the Court declines to suppress the Defendant’s statements made as a result of Buynak’s questioning.

ORDER

AND NOW, this ____ day of January, 2012, based upon the foregoing Opinion, the Defendant's Motion to Suppress is hereby DENIED.

By the Court,

Nancy L. Butts, President Judge

xc: DA
George Lepley, Esq.