

COMMONWEALTH : No. CR-1170-2015
:
vs. : CRIMINAL DIVISION
:
GEORGE BEAGHLEY, SR., :
Defendant : Motion to Suppress

OPINION AND ORDER

By Information filed on August 7, 2015, Defendant is charged with robbery, burglary, criminal trespass, terroristic threats, theft by unlawful taking or disposition, simple assault and receiving stolen property.

Defendant was arrested on July 1, 2015. Following his arrest, he was taken into custody and interviewed by Corporal Jeff Paulhamus of the Williamsport Bureau of Police. The Commonwealth alleges that Defendant verbally as well as in writing waived his *Miranda* rights. The Commonwealth contends as well that at some point later on during the interview, Defendant admitted to the robbery.

On April 22, 2016, Defendant filed a Motion to Suppress. Defendant contends that under all of the circumstances, Defendant was too intoxicated to not only waive his *Miranda* rights, but to give a voluntary statement.

A hearing on Defendant's motion was held on May 13, 2016. Corporal Paulhamus testified on behalf of the Commonwealth.

The robbery allegedly occurred on June 22, 2015. Corporal Paulhamus was tasked with the investigation.

He had been employed by the Williamsport Bureau of Police for approximately 10 years. During the course of his professional career, he was involved in

numerous cases involving intoxicated individuals. He testified that he had professional training and experience in detecting individuals under the influence of alcohol. He testified further that he was a certified standard field sobriety test instructor and had advanced professional training in determining impairment of individuals through alcohol and other substances.

Based upon his investigation, he arrested Defendant on July 1, 2015 and took him into custody. Defendant was brought into the Williamsport Police Station for an interview. Upon being taken into custody and prior to being interviewed, Corporal Paulhamus read Defendant's *Miranda* rights to him, showed him a *Miranda* rights form and let Defendant read the form. Defendant orally waived his *Miranda* rights and did so in writing as well. See, Commonwealth's Exhibit 1.

Prior to Defendant being read his *Miranda* rights and waiving them, Corporal Paulhamus did not notice any signs of alcohol impairment or intoxication. There was no odor of alcohol, Defendant did not have slurred speech or bloodshot eyes, Defendant's actions and behaviors were appropriate under the circumstances, Defendant indicated he understood what was going on, Defendant made no complaints or concerns about being intoxicated and there were no physical manifestations whatsoever of Defendant being under the influence of any substance.

A majority of the interview with Defendant was captured via an audio video tape recording. It was marked as Commonwealth's Exhibit 2 and was played for the Court.

In reviewing the audio videotaped interview, there was nothing at all about the Defendant's appearance, behaviors or speech which would support any conclusion that he was under the influence of any intoxicant whatsoever.

He sat still in the interview chair drinking a soda. He was not swaying, stumbling or falling down. His movements in drinking the soda were coordinated. He did not spill the soda nor did he have any problem picking it up and drinking it. At one point he fixed or adjusted the laces on both of his shoes and had no problem whatsoever doing so.

He was awake and coherent. He did not make any complaints or concerns about being intoxicated. He did not ask to use the bathroom. He wasn't mumbling or talking to himself.

In terms of answering the questions except for changing his story after a series of consistent denials, he responded appropriately. He answered each question, stayed on topic and provided detail. For close to 20 minutes, he specifically answered pointed questions with clarity, certainty and specificity. He never once indicated that he was under the influence although he did reference being drunk previously on other days.

The interview was concluded and according to Corporal Paulhamus, he and Defendant walked outside of the police department. They engaged in small talk while the Defendant smoked a cigarette. During the small talk, Corporal Paulhamus suggested to Defendant that maybe he was drunk when the robbery occurred. Defendant indicated "yeah I screwed up." He agreed to go back on tape.

Defendant was then taken back into the interview and admitted to the robbery. He indicated that at the time he robbed the lady, he was drunk and very sorry.

In addressing whether Defendant validly waived his *Miranda* rights, the courts utilize a two-pronged test. First, the court considers "whether the waiver was voluntary, in the sense that the defendant's choice was not the end result of governmental pressure." *Commonwealth v. Pruitt*, 597 Pa. 307, 951 A.2d 307, 318 (Pa. 2008) (citation

omitted), cert. denied, *Pruitt v. Pennsylvania*, 556 U.S. 1131, 129 S. Ct. 1614 (2009).

Second, the court considers “whether the waiver was knowing and intelligent, in the sense that it was made with full comprehension of both the nature of the right being abandoned and the consequence of that choice.” *Id.* The burden rests upon the Commonwealth to establish that the defendant knowingly and voluntarily waived his *Miranda* rights. *Id.*

In determining whether the Commonwealth meets its burden, the courts consider the totality of the circumstances. *Commonwealth v. Housman*, 604 Pa. 596, 986 A.2d 822, 840 (Pa. 2009), cert. denied, *Housman v. Pennsylvania*, 562 U.S. 881, 131, S. Ct. 199 (2010).

The courts evaluate many different factors including the duration and means of the interrogation, the defendant’s physical and psychological state, the conditions attendant to the detention, the attitude exhibited by the police during the interrogation, and any other factors which may serve to drain one’s powers of resistance to suggestion and coercion. *Commonwealth v. Perez*, 577 Pa. 360, 845 A.2d 779, 787 (Pa. 2004).

In connection with one’s alleged intoxication, it is a factor to be considered but it is not sufficient in and of itself to render the confession involuntary. *Commonwealth v. Manning*, 495 Pa. 652, 435 A.2d 1207, 1209 (Pa. 1981).

In this particular case, there is absolutely no evidence whatsoever that Defendant was impaired let alone to the extent that he was intoxicated. The Commonwealth has clearly established by a preponderance of the evidence that Defendant had sufficient cognitive awareness to understand the *Miranda* warnings and to choose to waive his rights.

Corporal Paulhamus’ testimony as to the events is credible. Moreover, the Court’s observations of Defendant, as well as the circumstances attendant to his waiver,

clearly support a conclusion that Defendant was aware of his rights and voluntarily chose to waive them.

Alternatively, Defendant argues that his intoxication rendered his admissions involuntary. Again, the court cannot agree.

The fact that an accused has been drinking does not automatically invalidate his subsequent incriminating statements. The test is whether he had sufficient mental capacity at the time of giving his statements to know what he was saying and to have voluntarily intended to say it. Recent imbibing or the existence of a hangover does not make his confession inadmissible, but only goes to the weight to be accorded to it.

Commonwealth v. Milligan, 693 A.2d 1313, 1316 (Pa. Super. 1997).

Was Defendant's confession the product of an essentially free and unconstrained choice? Clearly it was. There was no evidence whatsoever that Defendant was intoxicated. There was no evidence whatsoever that Defendant was coerced or pressured or provided any unlawful inducement or promise. Clearly, Defendant had sufficient mental capacity at the time he made his statements to know what he was saying and to have voluntarily intended to say them.

ORDER

AND NOW, this 27th day of May, 2016, following a hearing and argument, Defendant's motion to suppress is **DENIED**.

By The Court,

Marc F. Lovecchio, Judge

cc: Melissa Kalaus, Esquire (ADA)
Nicole Spring, Esquire (APD)
Gary Weber, Esquire (Lycoming Reporter)
Work file