

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH

vs.

RODNEY HUGHES,  
Defendant

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: No. CR-1097-2022

: Omnibus Pretrial Motion

**OPINION AND ORDER**

Rodney Hughes (Defendant), is seeking through his omnibus pre-trial motion, to suppress evidence regarding alleged statements that he made to Detective Tyson Havens (Havens) of the Narcotics Enforcement Unit (NEU) on August 4, 2022. He also filed a request for discovery of certain information regarding the confidential informant (CI) used to conduct the alleged transaction with the Defendant. A hearing on the omnibus motion was held on February 27, 2023.

**Background and Testimony**

Havens arrested the Defendant on August 4, 2022 at 11:00 a.m. after allegedly observing the Defendant sell crack cocaine. He then transported the Defendant to the Williamsport Bureau of Police (WBP) headquarters and detained him in a holding area. From there, the Defendant informed Havens that he was a diabetic and that because he didn't eat anything, his blood sugar was low. Havens provided the Defendant with some food and a soda, but he was not eating it.

Havens read the Defendant his *Miranda* rights at noon. While Defendant initially stated that he did not understand the *Miranda* rights, he eventually acknowledged that he understood his rights. Following the reading of the *Miranda* rights, Havens and the Defendant briefly spoke; however, nothing came of this and Havens left.

At approximately 1:40 p.m. Defendant's wife showed up at the WBP headquarters to give her husband his insulin pen. Havens walked the Defendant's wife back to the holding area where she provided the Defendant with the insulin pen. The Defendant then states he also needs more food, not just his insulin pen. From there, the wife begins having conversations with the Defendant, and the Defendant begins apologizing to his wife about the situation they are in. While this is happening, the wife does not appear to be emotional or overly worried about her husband's physical condition, but rather she seems to be very caught up in how to get her car and keys back that were obtained by law enforcement. All the interactions between the Defendant and his wife appeared to be quite normal on the footage, much different than one might expect if your significant other was having a serious medical episode. The Defendant's wife then leaves to go get him a sandwich to take his insulin with.

At approximately 1:47 p.m., after the wife had left, the Defendant called to Havens wanting to talk. The bodycam footage corroborates this as well, however there is no audio up to this point on the third recording. When Havens gets to the door of where the Defendant is being held, he turns on audio. The Defendant can be heard asking Havens to turn off the bodycam. Havens then turns the camera off. Havens testified that during the time period after the camera was turned off, the Defendant made a confession to the alleged crime he had committed a couple hours earlier in the day.

At 2:05 p.m., the camera is turned back on by Havens, and the Defendant has still not taken his insulin or got more food; however, he is seen smoking a cigarette. This is while he is allegedly having a serious diabetic episode. The recording shows Havens taking the Defendant out to his vehicle to be transported to the Magisterial District Judge (MDJ) for arraignment, and while walking out to the car, Havens mentions the confession the Defendant

just made. The Defendant does not dispute the confession at all and, once in the car, the Defendant again asks Havens to turn the camera off while talking to him.

During the entirety of the bodycam footage, the Defendant is able to understand everyone who talks to him, and also communicate coherently back to them in a calm manner. There is no lashing out or inaudible speaking, nor are there any periods where the Defendant appears overly distressed by his alleged diabetic shock. The Defendant does not display any inability to understand the situation or what he is doing and he does not display any behavior to suggest he was not of a sound mind at the time of his alleged confession.

The Defendant argues that he did not knowingly, voluntarily or intelligently waive his *Miranda* rights and that any alleged statements made by him were not knowing, intelligent, and voluntary because of a diabetic episode. The Commonwealth argues that Havens read the Defendant his *Miranda* rights, that the Defendant waived his *Miranda* rights by his statements and his conduct, and that the Defendant was in a stable condition, meaning that everything he did and said was knowing, intelligent, and voluntary.

## **DISCUSSION**

### ***Motion to Suppress***

When a defendant files the motion to suppress evidence, the Commonwealth shall have the burden of proving to a preponderance of the evidence that the challenged evidence was not obtained in violation of the defendant's rights. Pa. R. Crim. P. 581 (H). A preponderance of the evidence standard is tantamount to a "more likely than not" burden of proof. *Commonwealth v. McJett*, 811 A.2d 104, 110 (Pa. Cmwlth. Ct. 2002). Because a waiver of one's *Miranda* rights is dealing with constitutional rights, "[the] courts should

indulge every reasonable presumption against waiver.” *Commonwealth v. Cohen*, 53 A.3d 882, 887 (Pa. Super. 2012).

***I. Did Defendant knowingly, voluntarily and intelligently waive his Miranda rights?***

In order to avoid a suppression of evidence based on a violation of a defendant's *Miranda* rights, it is the Commonwealth's burden to establish that the defendant (1) waived his *Miranda* rights and (2) that waiver was made knowingly and voluntarily. *Commonwealth v. Kunkle*, 79 A.3d 1173, 1182 (Pa. Super. 2013).

First, the Court must establish that there has been a waiver. Typically, the waiver of a defendant's *Miranda* rights will come in the form an affirmative statement in which the Defendant promptly voices that he wishes to waive his rights; however, this form of waiver is not required. *See Commonwealth v. Clemons*, 200 A.3d 441, 472 (Pa. 2019). A defendant's waiver can also be inferred from their actions, such as continuing to talk with law enforcement after they have been read their *Miranda* rights. *Clemmons*, 200 A.3d at 472.

In the present case, Havens read the Defendant his *Miranda* rights a number of different times. While the Defendant initially responded that he did not understand the rights, he eventually acknowledged to Havens that he did understand them and began speaking with Havens for a brief period. Two hours later the Defendant called to Havens, wishing to speak to him again, but this time with his bodycam turned off. While there was no affirmative statement of waiver at this point, the actions are those from which the Court infers a waiver. This is because the Defendant acknowledged that he understood his *Miranda* warnings and then, upon his own actions, he decided to speak with Havens on multiple occasions. These actions illustrate a manifestation of the Defendant's intent to waive his *Miranda* rights.

Now that the Court has established the Defendant did, in fact, make a waiver of his rights, it must determine whether that waiver was valid. The Pennsylvania Supreme Court explained that:

In considering whether a defendant has validly waived his *Miranda* rights, the trial court engages in a two-pronged analysis: “(1) whether the waiver was voluntary, in the sense that [the] defendant's choice was not the end result of governmental pressure[;] and (2) 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.”

*Commonwealth v. Pruitt*, 951 A.2d 307, 325 (Pa. 2008), quoting *Miranda v. Arizona*, 384 U.S. 436, 451 (1966).

This means that the first prong of this test is concerned with the actions taken by the law enforcement and how overbearing they may have been in pressuring the defendant into a waiver. *See Pruitt*, 951 A.2d at 326. However, the second prong is centered around the cognitive ability of the Defendant during the waiver of the rights to understand what he is doing. *Id.*

In regards to the 2<sup>nd</sup> prong specifically, there is no *per se* rule of suppression that kicks in when there has been showing of impairment during the time in which the defendant made his waiver. *Commonwealth v. Britcher*, 563 A.2d 502, 507 (Pa. Super. 1989). Rather, there is allowed to be some impairment during the waiver process so long as the Commonwealth can show that even with the impairment, the defendant had reasonable cognitive awareness and understanding during the interactions which produced the waiver. *Britcher*, 563 A.2d at 507. Decisions about ‘defendant understanding’ are to be made on a case-to-case basis, and the court is to rely heavily on the background, experience, and conduct of the accused during the waiver process. *Commonwealth v. Cohen*, 53 A.3d 882, 886 (Pa. Super. 2012). When

concluding about one's competency to waive his rights, trial judges shall be wary about deciding that one is incompetent simply because he suffers from mental or physical deficiencies, but rather the inquiry must stay focused on the circumstances surrounding the particular case. *Commonwealth v. Cephas*, 522 A.2d 63, 66 (Pa. Super. 1987) (Olzewski, J. concurring).

When the conduct of a defendant displays that they understood the situation, they will have made a knowing and intelligent waiver; however, when the conduct of the defendant displays that they were unable to understand the situation, the waiver will not be found to be knowing and intelligent. *See Britcher* 563 A.2d at 507. In *Britcher*, a 19-year-old man had been illegally drinking significant amounts of alcohol with some of his friends at a late-night party. 568 A.2d at 504. At approximately 3:00 a.m. the 19-year-old defendant decided he was going to leave the party while also taking two friends back to their house. *Id.* On his way back, the drunken defendant crashed his car, killing one of the friends. *Id.* When the distraught defendant arrived at the hospital, he received his *Miranda* warnings, waived them, and then made a number of incriminating statements about his actions that night. *Id.* During this time the defendant had a BAC of .14%. *Id.* The defendant moved for a motion to suppress his statements given his lack of cognitive ability at the time in which he waived he waived his *Miranda* rights. *Id.* Nonetheless, the Court held that the defendant had the requisite and understanding for waiving his *Miranda* rights, regardless of the fact that there was some cognitive impairment. *Id.* at 508. They reasoned that when the defendant was waiving his *Miranda* rights, his conduct showed that he was still able to have coherent and continuing conversation with the investigating officers at the hospital. *Id.* Therefore, these conversations evidenced that when he waived the rights he must have known what he was doing. *Id.*

Distinguishable from *Britcher* is *Cephas*. In *Cephas*, a man was arrested for a variation of sexual crimes. 522 A.2d at 64. Prior to law enforcement conducting their interviews with him, the defendant was read his *Miranda* warnings, which he promptly waived. *Id.* Subsequently, he made a number of incriminating statements at the interviews. *Id.* However, the defendant was also a diagnosed schizophrenic who displayed a number of absurd and childish behaviors during his interviews as a result of his mental illness. *Id.* The detectives were unable to have a fluent conversation with the defendant, making it difficult for the two parties to communicate. *Id.* The defendant then filed to a motion suppress his statements based on his incompetence during the time in which he made the waiver. *Id.* With this, the Court held in favor of the defendant by granting the motion to suppress. *Id.* They reasoned that the defendant's absurd acts combined with his diagnosed mental disease served as sufficient evidence to deduce that he had an inability to understand what rights he was waiving prior to the interview and that he did not have a cognitive awareness of what was going on. *Id.*

The Court concludes that the Defendant knowingly, intelligently, and voluntarily waived his *Miranda* rights because the recorded interactions with Havens evidenced that the Defendant had sufficient cognitive awareness and understanding during the event.

First, the Court finds that the Commonwealth has shown that the Defendant's waiver of his rights was voluntary, not coerced by undue government pressure. There was no evidence or accusations on record to show that Havens applied excessive pressure in getting the Defendant to waive his *Miranda* rights.

Second, the Court finds that the Defendant made a knowing and intelligent waiver of his *Miranda* rights because he was of sufficient cognitive awareness, and this was evidenced by the bodycam footage showing his interactions with Havens.

This case can be analogized to *Britcher*, but distinguished from *Cephas*. This case is analogous to *Britcher* because in both cases, the Defendants displayed sufficient cognitive awareness as to understand what was happening, despite both defendants having some type of mental impairment at the time of their waiver. In *Britcher*, the defendant was apprehended while having a BAC of .14%, but nonetheless was able to hold coherent conversations with law enforcement and explain in detail what happened prior to the car accident. Similarly, the Defendant in this case was apprehended while allegedly having a diabetic episode, however, footage from Havens' bodycam shows that during this episode, the Defendant was able to have coherent interactions with Havens on multiple occasions. In both cases, the defendants had waived their *Miranda* rights and continued to engage in conversation with law enforcement, but then sought to suppress them after the fact for lack of cognitive ability. As in *Britcher*, the Court finds that the Defendant was of the requisite mind state when he waived his *Miranda* rights, regardless of the alleged impairment. This is so because, even with the alleged impairment, the Defendant had multiple conversations with Havens in which he carried on intelligent conversations with the officer, spoke fluently, and acted as a person normally would, given the situation he was in. Just as in *Britcher*, there was nothing atypical about the Defendant's behavior which would lead this Court to believe that his impairment dulled his mental capacity to a degree which left him unable to understand what was happening.



Additionally, this Court finds persuasive the bodycam footage presented by the Commonwealth displaying the Defendant with his wife. The wife seems to act normal around her husband, not in distress about his condition. In fact, most of the concern displayed by her was about attaining the family keys. This leads the Court to make the reasonable inference that her husband's condition was normal rather than severely impaired as the Defendant argues, otherwise the wife would have shown some emotional concern for the Defendant's condition in that moment.

Furthermore, the Defendant is viewed smoking a cigarette in the bodycam footage at the same time in which he is alleging that he was having a serious diabetic episode. The Court finds this incredibly inconsistent with how a defendant that was truly in a diabetic crisis physical state would act.

This case is distinguishable from *Cephas* because in that case the defendant lacked the cognitive awareness and it was clearly evidenced by his absurd and childish communications with law enforcement. In this case, however, the bodycam footage shows the Defendant interacting normally with law enforcement. In *Cephas*, the defendant was a diagnosed schizophrenic that promptly waived his *Miranda* rights after being arrested for a number of sexual crimes. In an interview following the arrest, the defendant made a number of incriminating statements while also acting in a bizarre manner towards law enforcement. When the defendant then filed a motion to suppress his statement on the basis of an invalid *Miranda* waiver, the court granted his motion because it was clear based upon how the defendant handled himself during law enforcement interactions that he was not of sufficient cognitive ability to understand what he was doing when he waived his *Miranda* rights. Additionally, his condition was one which severely impacted his mind. However, in this case,

the Defendant was allegedly having a diabetic episode when he waived his *Miranda* rights prior to making a confession to Havens. Even with the diabetic episode occurring, the Defendant was able to act reasonably and communicate coherently with Havens. Furthermore, the Defendant's alleged medical condition is not one which primarily effects the mind such as in *Cephas*.

Up to this point, the Court has primarily relied on the Defendant's display of conduct during the events to come to its conclusion that the Defendant understood what was happening when he waived his *Miranda* rights. However, this Court may also factor in the background and experience of the Defendant, including one's prior run-ins with law enforcement. *Commonwealth v. Cohen*, 53 A.3d 882, 887 (Pa. Super. 2012).

In the bodycam footage, there is mention of the Defendant being detained for a parole violation, regardless of whether the defendant would be held for these pending charges. This means that the Defendant has had at least one prior experience in which he had been arrested by law enforcement. With this, the Court concludes that Defendant has at least some familiarity with the way in which the *Miranda* waiver process works, further evidencing his understanding of the situation.

Therefore, the Court concludes that the *Miranda* warnings were properly provided to and waived by the Defendant because the recorded interactions with Officer Havens evidenced that the Defendant had sufficient cognitive awareness and understanding during the event.

The Court also finds that the Defendant's *Miranda* rights were not violated in this case because he made spontaneous utterances to Havens.

Statements that are made by a defendant to law enforcement officials during custodial interrogations are presumptively involuntary, unless the accused first been advised of their Miranda rights. *Commonwealth v. DiStefano*, 782 A.2d 574, 579 (Pa. Super. 2001) However, custodial interrogations are only understood to be situations in which the “questioning [is] initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of [his] freedom of action in any significant way.” *Commonwealth v. Kunkle*, 79 A.3d 1173, 1179 (Pa. Super 2013). This means the *Miranda* safeguards only come into play when the defendant is subject to express questioning from law enforcement or its functional equivalent. *Commonwealth v. Gaul*, 912 A.2d 252, 255 (Pa. 2006). When in a custodial setting but not confronted with questioning, volunteered or spontaneous utterances by an individual are admissible without *Miranda* warnings because the defendant is offering up this information on their own initiative, not in response to some questions being posed to them by law enforcement. *Kunkle*, 79 A.3d at 1181.

In the case at bar, the Defendant was taken in custody, however, he was not being faced with questioning from Havens, but was rather being held in a detainment area until Havens could complete the criminal complaint and the Defendant could be transported to his preliminary arraignment before the MDJ. The Defendant then on his own initiative, decided that he wanted to tell Havens something about the alleged crime. Therefore, he decided to get Havens’ attention and began speaking to him. With this course of events being corroborated quite well by the bodycam footage, this Court concludes that the statements made to Havens by the Defendant were spontaneous utterances, made not in response to any questions being posed by Havens. Hence, even without the previous conclusion on the *Miranda* waiver, the Defendant would still not be entitled to suppression of his statements.

Hence, the Court concludes that the statements made by the Defendant were spontaneous utterances, as he voiced these statements to Havens upon his own initiative.

***II. Were the Defendant's statements made knowingly, intelligently and voluntarily***

For a defendant's statement to be considered as being voluntary, they must come as a product of his own free will as an unconstrained choice. *Commonwealth v. O'Bryant*, 388 A.2d 1059, 1062 (Pa. 1978). The voluntariness of a statement is determined using a totality of the circumstances test which include the following factors: the duration and methods of interrogation; the condition of confinement; the attitudes of the police toward the defendant; and the defendants physical and psychological condition. *Id.* For a defendant's statements to be considered knowing and intelligent, he must have been of sufficient cognitive awareness and understanding during the situation. *See Commonwealth v. Kichline*, 361 A.2d 282, 290 (Pa. 1976).

For similar reasons that the Court concluded that the Defendant's waiver was knowing and intelligent, the Court concludes that the Defendant's statement was knowing and intelligent.

Although the Defendant was at WBP headquarters for a couple of hours, he was not subjected to continuous and uninterrupted interrogation. Havens left the Defendant alone while he handled other tasks related to the Defendant's case, such as preparing the criminal complaint. Havens also provided the Defendant with food, drink, cigarettes and his necessary medicine. Havens spoke with the Defendant in a conversational tone. His demeanor and conduct were not threatening or coercive; he was professional. While the Defendant may have had some minor mental impairment from the alleged diabetic episode, the bodycam

footage shows that he was still able to interact reasonably with Havens and therefore could not have been so impaired as to not understand what he was saying.

The Court concludes that the Defendant's statements were voluntary given that all factors. The Court also concludes that the Defendant's confession was knowing, intelligent, and voluntary because the totality of the circumstances show that it came as a result of the Defendant's own free will and his actions display that he understood what he was doing.

### ***Motion for Discovery***

The Court believes that the motion for discovery is moot except perhaps for information regarding any plea offers or promises of leniency or preferential treatment to the individual who allegedly purchased crack cocaine from the Defendant. The Defendant is entitled to this type of information. *See Giglio v. United States*, 405 U.S. 150 (1972). Therefore, the Court will direct the Commonwealth to provide to defense counsel within 14 days of the date of the Order a written statement regarding any plea offers or promises of leniency or preferential treatment made to the individual who allegedly purchased crack cocaine from the Defendant. If the Commonwealth has not made any plea offers or promises of leniency or preferential treatment, it shall so state in writing within the 14-day deadline.

### ***Conclusion***

In sum, the Court concludes that the motion to suppress the Defendant's statement shall not be granted because (1) the *Miranda* warnings were properly provided to and waived by the Defendant, (2) the statements made by the Defendant were knowing, intelligent, and voluntary, and (3) the statements made by the Defendant were also spontaneous utterances.

The Defendant, however, is entitled to know of any plea offers or promises of leniency or preferential treatment to the individual who allegedly purchased crack cocaine from the Defendant.

Accordingly, the following Order is entered.

**ORDER**

AND NOW, on this 5<sup>th</sup> day of June 2023, the Court DENIES the Defendant's motion to suppress his statements. The Court GRANTS Defendant's request for discovery. Within 14 days of the date of this Order, the Commonwealth shall provide to defense counsel documentation or a written statement of any plea offers or promises of leniency or preferential treatment made to the individual who allegedly purchased cocaine from the Defendant or his attorney. If there are none, the Commonwealth shall so state in a writing provided to defense counsel within the 14-day period.

By The Court,

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Nancy L. Butts, President Judge