

NOTICE
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2018 IL App (5th) 150413-U

NO. 5-15-0413

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Jackson County.
)	
v.)	No. 12-CF-255
)	
JARROD W. RUDDER,)	Honorable
)	Ralph R. Bloodworth III,
Defendant-Appellant.)	Judge, presiding.

JUSTICE GOLDENHERSH delivered the judgment of the court.
Justices Welch and Cates concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not err in denying defendant's motion to suppress his confession where the confession was voluntary and not a product of defendant's willpower being exploited. Consequently, defendant's first degree murder conviction is affirmed.

¶ 2 Following a jury trial, defendant, Jarrod W. Rudder, was convicted of first degree murder (720 ILCS 5/9-1(a)(2) (West 2012)) and sentenced to 80 years in the Illinois Department of Corrections to be followed by 3 years of mandatory supervised release. On appeal, defendant alleges the trial court erred in denying his motion to suppress his confession because the confession was involuntary as a result of the officers' exploitation of defendant's vulnerabilities and willpower during the interrogations. We affirm.

¶ 3

BACKGROUND

¶ 4 Initially, we note that the single issue we are asked to address on appeal is whether the trial court erred in denying defendant's motion to suppress his confession. Accordingly, we limit our background discussion to those facts relevant to this issue.

¶ 5 Defendant was arrested on April 22, 2012, and charged the next day with two counts of first degree murder in relation to the death of M.P., a two-year-old child. 720 ILCS 5/9-1(a)(2), (3) (West 2012). The charges alleged that on April 20, 2012, defendant swung the victim by the wrist into a lamp and wall, thereby causing the victim to hit his head and die as a result. Defendant lived with the victim's mother, Amanda Howell, and her two children at the time of the incident, and was at the home with the victim when the incident occurred. Amanda was at work when the incident occurred.

¶ 6 The record shows that late in the evening on April 20, 2012, defendant called 911 and reported that the victim had become unresponsive after falling in the bathtub. Officers from the Jackson County Sheriff's Department responded to the scene, as well as first responders who transported the victim to a hospital for medical treatment. In the early morning of April 21, 2012, the officers transported defendant to the sheriff's department for questioning. Defendant was not in custody at the time he was taken to the sheriff's department. Relevant to this appeal, officers administered seven recorded interviews of defendant between April 21 and April 23, 2012.

¶ 7 The first recorded interview took place at approximately 3:50 a.m. on April 21, 2012, and lasted until approximately 5:30 a.m. Defendant was not restrained during this interview. Defendant stated that the victim had fallen at some point earlier in the day on

April 20, 2012. Later that night, defendant stated that he found the victim leaning over the bathtub's edge while vomiting. Thereafter, defendant claimed that he walked the victim to the living room, where defendant noticed the victim's complexion turning blue. Defendant stated that he performed CPR on the victim and administered asthma medicine. Defendant stated that he contacted the victim's mother and called 911. Defendant denied hitting the victim. After the interview concluded, defendant was transported home.

¶ 8 The second recorded interview occurred at approximately 4:45 p.m. on April 21, 2012, and lasted approximately 2 hours and 50 minutes. Officers picked defendant up from his house and took him to the sheriff's department. Defendant was not restrained during this interview and was read his *Miranda* rights. *Miranda v. Arizona*, 384 U.S. 436 (1966). Defendant essentially described the same incidents that he described in the first interview when explaining the victim's injuries. Defendant did not know how all of the injuries occurred. Defendant stated that he did not call 911 immediately because he initially called the victim's mother, Amanda, who was at work. The detectives displayed photographs of the victim's injuries to defendant during the interview. At approximately 7:30 p.m., defendant stated that he was tired. Thereafter, the interview concluded and defendant was taken home.

¶ 9 The third interview took place the next day on April 22, 2012, at approximately 12:30 p.m. Defendant stated that he was unable to get to sleep at a reasonable time the night before (defendant later testified at the suppression hearing that crime scene investigators were working at his home between the interviews). Defendant reiterated the

timeline of what transpired the day of the incident and essentially described the same incidents that he described in the previous interviews. The interview lasted approximately 45 minutes. Defendant was transported home after the interview concluded.

¶ 10 The fourth interview was conducted at approximately 6:20 p.m. that same day. Defendant initiated the interview by contacting Detective Michael Ryan. Thereafter, defendant was picked up from his house and transported to the sheriff's department for questioning. Defendant was read his *Miranda* rights and agreed to talk. In this interview, defendant accused the victim's mother, Amanda, of pushing the victim into a wall on the night in question, causing a dent in the wall. Defendant further asserted that Amanda had repeatedly beaten the victim. Defendant denied intentionally hurting the victim but acknowledged that he may have accidentally hurt the victim when trying to administer CPR. About an hour and a half into the interview, the victim's mother, Amanda, walked into the interrogation room. Defendant and Amanda argued and accused each other of hurting the victim in the past. Shortly thereafter, defendant was arrested.

¶ 11 The fifth interview was conducted at approximately 9:25 p.m. that same night, where officers informed defendant that the victim had died. Defendant wore a jail outfit and was in shackles during the interview. After he was read his *Miranda* rights, defendant was asked whether the victim's death was intentional or accidental. Defendant stated everything that happened was not intentional. Defendant stated he should have called an ambulance earlier than he did, and claimed that Amanda pushed the victim into the wall. Defendant stated that he argued with Amanda because she did not discipline her children.

Defendant also asserted the victim had fallen and hit his head four separate times on the day of the incident. The interview concluded after 25 minutes.

¶ 12 After the fifth interview concluded, Detective Ryan visited defendant's jail cell and informed defendant that he was going to be placed in a suicide prevention suit. Jeff Whitbeck, the jail administrator, later testified at the suppression hearing that the use of a suicide prevention suit is not meant to harass or embarrass an individual. Rather, Whitbeck stated it is common procedure to use a suicide prevention suit in situations where individuals have substantial charges against them. Whitbeck further testified that defendant was not placed in the suicide prevention suit to influence any interviews.

¶ 13 The sixth interview began at approximately 10 a.m. the next day on April 23, 2012. Defendant was again read his *Miranda* rights and agreed to speak. Defendant wore a jail outfit and was in shackles during the interview. Defendant was not seen wearing the suicide prevention suit. Throughout the interview, defendant did not complain that he was tired or complain of the suicide prevention suit. About 10 minutes into the interview, Sheriff Robert Burns stated that defendant had mentioned the victim's injured wrist on the 911 call. Sheriff Burns then told defendant that his stories were inconsistent and defendant needed to explain what really transpired that day. Thereafter, defendant asked for a cigarette so he could calm down. Defendant then started to cry and stated that he dropped the victim in the bathroom. Defendant later stated that the victim landed on the side of his head. Detective Ryan told defendant that this story did not explain the victim's broken wrist. Defendant was shown pictures of the victim's injuries, which defendant could not explain. Defendant still denied pushing the victim into a wall. Sheriff Burns

told defendant that the victim's injuries were not accidental. The interview concluded after approximately 50 minutes.

¶ 14 The seventh and final interview began at approximately 3:25 p.m. later that day on April 23, 2012, and lasted approximately 25 minutes. Defendant wore a jail outfit and was in shackles during the interview. Defendant was not wearing a suicide prevention suit and did not mention a suicide prevention suit throughout the interview. Defendant was again read his *Miranda* rights, and defendant acknowledged that he understood his rights. At the beginning of the interview, defendant was concerned about the property at his house. Defendant indicated that he wanted his television and stated he was not going anywhere for a while. Defendant stated that he knew he was not going to see daylight for 5 to 10 years. Defendant recanted what he said in previous interviews about what transpired the day of the incident. In this interview, defendant stated that he picked the victim up off the couch by the victim's wrist after the victim vomited on himself. Defendant stated that the victim then screamed and began to move about, causing defendant to loosen his grip on the victim's wrist and fling the victim into a lamp and wall. The victim's impact caused a dent in the wall. Defendant stated that either the victim's shoulder or the side of the victim's head hit the wall. According to defendant, the victim was holding his wrist in pain. Thereafter, defendant stated that he put the victim in the bathtub and walked out of the bathroom. Defendant stated that he walked back into the bathroom after he heard a thud and saw the victim lying over the edge of the bathtub. Defendant then picked the victim up and dropped him. Thereafter, defendant walked the victim by the victim's wrist into the living room. At some point, defendant pushed the

victim away from him and into a table in the living room. The victim was coughing and wheezing during this time, and the victim defecated on himself. Defendant noted that the victim's eyes were dilated and the victim's lips were turning blue. Defendant stated that the victim's pupils were different sizes. Defendant further stated that he attempted to administer CPR to the victim. Because the victim was sweating, defendant placed him over a vent to cool off. Defendant called the victim's mother, Amanda, before eventually calling 911. Defendant did not call an ambulance immediately because he thought the victim only suffered a sprain. Defendant did not think the victim's injuries were serious. Defendant started to cry when discussing how the victim slipped out of his grip and into the wall. At one point in the interview, defendant becomes emotional and stated, "How could I let this happen?" Defendant stated that he did not tell the truth in the previous interviews because he was scared. Defendant stated that he lied about Amanda throwing the victim into the wall. He stated was angry at the victim because the victim would not go to the bathroom like he asked him to do. He stated that two hours passed between the time the victim hit the wall and the time he called an ambulance.

¶ 15 The matter was subsequently set for trial. On December 22, 2014, prior to trial, defendant filed a second motion to suppress his statements and confession. The motion asserted that defendant's will was overcome at the time he made statements during the sixth and seventh interviews and, as such, the statements were not made voluntarily and must be suppressed. Specifically, defendant asserted that his will was overcome as a result of the repeated interviews in a short span of time; the lack of ability for defendant to get sleep; the humiliation of the suicide prevention suit; certain threats made by the

officers that defendant would be forced to continue to wear the suicide prevention suit if defendant did not cooperate; and the mental anguish and emotional distress of defendant recognized by the sheriff's department.

¶ 16 The court held an evidentiary hearing on defendant's motion to suppress on February 6, 2015, which the court denied after taking the matter under advisement. In reaching its decision, the court observed that the State has the burden of establishing the voluntariness of a confession or statement by a preponderance of the evidence. After considering the totality of the circumstances (including the DVDs of the recorded interviews, a jail surveillance tape, and the executed *Miranda* forms, as well as the testimony of Michael Stratton, a supervisor and corporal of the Jackson County Sheriff's Department, Jeff Whitbeck, a captain of the Jackson County Sheriff's Department and the Jackson County jail administrator, Detective Michael Ryan, a detective for the Jackson County Sheriff's Department, and defendant), the court found the State proved by a preponderance of the evidence that defendant's statements were voluntarily given. In support of its determination, the court noted that defendant was allowed to leave and return to the sheriff's department during the initial phases of the investigation. On at least one occasion, defendant was transported back to his residence when he indicated that he was tired. The court further noted that defendant "took it upon himself" to contact the authorities to be transported back to the sheriff's department for further questioning. The court found that defendant appeared to be intelligent and knowledgeable throughout questioning and during the evidentiary hearing on the motion to suppress. The court noted that defendant acknowledged an understanding of his rights on at least six separate

occasions. The court acknowledged that defendant was placed in a suicide prevention suit subsequent to his arrest; however, the court noted that upon further questioning, defendant signed a written understanding of his rights. Moreover, defendant did not mention the suicide prevention suit or any concern regarding it during questioning. Based on the foregoing, the court denied defendant's motion to suppress his statements and confession as being involuntary.

¶ 17 Following a jury trial, defendant was found guilty of first degree murder (720 ILCS 5/9-1(a)(2) (West 2012)) and was sentenced to 80 years in the Illinois Department of Corrections to be followed by 3 years of mandatory supervised release. The timely posttrial motions filed by defendant were denied.

¶ 18 This appeal followed.

¶ 19 ANALYSIS

¶ 20 As previously noted, the single issue we are asked to address on appeal is whether the trial court erred in denying defendant's motion to suppress his statements and confession. Review of a trial court's ruling on a motion to suppress presents both questions of law and fact. *People v. Richardson*, 234 Ill. 2d 233, 251 (2009). The trial court's factual findings and credibility determinations are afforded great deference and will be reversed only if they are against the manifest weight of the evidence. *Id.* The trial court is afforded deference because it sits in a better position to determine and weigh the credibility of the witnesses, observe the witnesses' demeanor, and resolve conflicts in their testimony. *Id.* However, the ultimate legal question of whether the suppression was

warranted is reviewed *de novo*. *Id.* As a reviewing court, we may consider the evidence adduced at the suppression hearing as well as the evidence adduced at trial. *Id.*

¶ 21 It is well settled that a conviction based on an involuntary confession, in whole or in part and regardless of its truth or falsity, violates a defendant's constitutional rights. *People v. Hughes*, 2015 IL 117242, ¶ 31. Because the admission of an involuntary confession violates due process, a finding that a defendant's confession was involuntary requires reversal regardless of the possibility that there might be other evidence sufficient to support the conviction. *People v. Stone*, 61 Ill. App. 3d 654, 663 (1978). The test of voluntariness is whether the defendant made his or her confession freely and voluntarily, without compulsion or inducement of any kind, or whether the defendant's will was overborne at the time of the confession. *Hughes*, 2015 IL 117242, ¶ 31. If a defendant's will was overborne, his or her confession cannot be considered the product of rational intellect and free will. *People v. Sandifer*, 2017 IL App (1st) 142740, ¶ 64.

¶ 22 The court must consider the totality of the circumstances in determining whether the defendant's confession was voluntary, including the defendant's age, intelligence, education, experience, and physical condition at the time of the detention and interrogation; the duration of the interrogation; the presence of *Miranda* warnings; the presence of any physical or mental abuse; and the legality and duration of the detention. *People v. Willis*, 215 Ill. 2d 517, 536 (2005). No single factor is dispositive. *Hughes*, 2015 IL 117242, ¶ 31. The State bears the burden of establishing the voluntariness of the defendant's confession by a preponderance of the evidence. *Id.*

¶ 23 Here, the trial court denied defendant's motion to suppress his confession after finding defendant's statements were made voluntarily. As set forth above, defendant stated during the sixth recorded interview that he dropped the victim. During the seventh recorded interview, defendant confessed that he picked the victim up by the wrist and flung the victim into a lamp and wall. Also during the seventh interview, defendant confessed that he dropped the victim in the bathroom.

¶ 24 In support of his contention that the trial court should have suppressed his statements, defendant argues he was subjected to more than eight hours of interrogation "between the wee hours" of April 21 and April 23, 2012. Although defendant was transported home after interrogations on April 21, he alleges that he was unable to eat or sleep because officers remained at his home conducting the investigation. Defendant further asserts that the pressure on him "increased exponentially" on the evening of April 22, 2012, when he was arrested, taken to jail, and brought to an interview in shackles where he was informed the victim would die. From this point forward, defendant argues the investigators exercised increasing control over every aspect of his life. Defendant cites to *People v. Easley*, 148 Ill. 2d 281, 315 (1992), where our supreme court recognized that confinement in a prison increases a suspect's anxiety. As our supreme court observed, "[b]ecause the State has virtually complete control over the suspect's environment, the State is in a unique position to 'exploit this vulnerability.'" *Id.* (quoting *Illinois v. Perkins*, 496 U.S. 292, 303 (1990) (Brennan, J., concurring)). Defendant also complains of the suicide prevention suit he was placed in after he was arrested, claiming the suit "increased the physical and mental discomfort of his situation—it required him to

be alone in a cell with no blanket, no bed, and no clothing besides the bulky, Velcro vest." Based on these factors, defendant alleges his confession was a product of exhaustion and a will overcome by emotional strain.

¶ 25 This court has reviewed the record, including the video recordings of defendant's statements and confession made during the sixth and seventh interviews. After careful consideration, we find that the totality of the circumstances in this case shows defendant's confession was voluntary and a product of rational intellect and free will. See *People v. Foster*, 168 Ill. 2d 465, 475-76 (1995) ("A defendant's confession will be considered involuntary only when the defendant's will was overborne at the time of his confession, such that the confession 'cannot be deemed the product of a rational intellect and a free will.' " (quoting *People v. Kincaid*, 87 Ill. 2d 107, 117 (1981))).

¶ 26 Defendant accurately observes that the length of an interrogation is one factor for the court to consider when determining whether a defendant's statements are made voluntarily. However, our review of the record concludes that the duration of the interrogations did not coerce defendant into confessing. "There is no bright-line rule in Illinois regarding the allowable length of an interrogation. Interrogations lasting six or eight hours do not necessarily render a statement involuntary." *People v. Green*, 2014 IL App (3d) 120522, ¶ 61. In this case, the total aggregate time of the seven interviews was approximately eight hours split up over a three-day period. Only the first interview was conducted during the "wee hours," which took place shortly after officers and paramedics responded to the scene of the crime and defendant was taken in for questioning. All of the subsequent interviews were conducted during normal hours of the day and spread out

over the course of three days. In addition, as the trial court observed, defendant did not appear fatigued during interviews. On the one occasion where defendant indicated he was tired, he was promptly taken home.

¶ 27 We further note that the first five interviews were administered when defendant was not in custody, and the fourth interview was initiated by defendant himself. Although defendant was not in custody, he was still advised of his *Miranda* rights and/or agreed to speak. Defendant was in custody during the sixth and seventh interviews. The record shows that the sixth interview lasted less than one hour, and the seventh interview lasted approximately 25 minutes. The total time of the two interviews in which defendant made statements he now wishes to suppress was less than 90 minutes. Moreover, there was a break for several hours between the sixth and seventh interviews. We do not find that the duration of these interrogations was so severe as to render defendant incapable of making a voluntary confession.

¶ 28 As to defendant's claim that he was physically exhausted as a result of being unable to eat or sleep at his home following the precustodial interviews due to investigators working at his home, we find defendant's argument is without merit. Again, defendant only complained that he was fatigued during the interviews one time, after which defendant was promptly transported home. Further, as the trial court observed, defendant did not appear fatigued throughout the duration of the interviews. Regarding defendant's claim that officers exercised increasing control over defendant's life after they informed defendant that the victim would or had died from his injuries, we find this relay of information was a logical interrogation strategy. The fact that the victim would or had

died from his injuries was accurate information that the officers used in the interrogation, presumably to gauge defendant's reaction. The officers did not overstep their bounds and did not exploit any potential vulnerability.

¶ 29 We also reject defendant's argument as it pertains to the suicide prevention suit that defendant was placed in following the fifth interview. As stated above, defendant claims this suit increased his mental and physical discomfort and contributed to his will being overcome by emotional strain. Our review of the recorded interviews shows that defendant was not wearing the suicide prevention suit during the sixth and seventh interviews when he confessed to injuring the victim, and defendant signed a written understanding of his rights prior to each interview. Moreover, defendant did not mention or complain of the suicide prevention suit at any time during the interviews. Although it can be presumed that defendant wore the suit from approximately 10 p.m. on April 22, 2012, when he was placed in the suit following the fifth interview, until sometime before the sixth interview took place at approximately 10 a.m. the next morning, the jail administrator testified at the suppression hearing that it is common procedure to use a suicide prevention suit in situations where individuals have substantial charges against them. In this case, there were very serious charges against defendant when he was placed in the suicide prevention suit, as officers were aware that the victim had died from injuries suffered when the victim was in the exclusive care of defendant. The jail administrator further testified that defendant was not placed in the suicide prevention suit to influence any interviews. For these reasons, we reject defendant's argument.

¶ 30 There are other factors that weigh in favor of voluntariness. Defendant was 24 years old at the time of the offense, and as the trial court observed, defendant appeared to be intelligent and knowledgeable throughout the interrogations and during the evidentiary hearing on the motion to suppress. Defendant's condition appeared to be fine throughout the interviews, and our review of the interrogations shows that defendant was not physically or mentally abused. Finally, defendant was legally detained during the sixth and seventh interviews, which again are the interviews he contends should be suppressed. As previously stated, when defendant was arrested following the fifth interview, the officers had probable cause to believe that defendant killed the victim, as investigators were presented evidence that the victim had died from injuries suffered at a time when the victim was in the exclusive care of defendant. Based on our review of the circumstances, we find the evidence supports the court's determination that defendant's confession was voluntary.

¶ 31 CONCLUSION

¶ 32 In sum, we find that the totality of the circumstances in this case shows defendant's confession was voluntary and a product of rational intellect and free will. Accordingly, the judgment of the circuit court of Jackson County is affirmed.

¶ 33 Affirmed.