12-18-2017

State v. Vaughn Appellant's Brief Dckt. 45104

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	**NO. 45104**
Plaintiff-Respondent,	)	
	)	**ADA COUNTY NO. CR-FE-2016-9419**
v.	)	
	)	
RONALD EUGENE VAUGHN,	)	**APPELLANT'S BRIEF**
	)	
Defendant-Appellant.	)	
	)	

BRIEF OF APPELLANT

APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

HONORABLE SAMUEL A. HOAGLAND
District Judge

ERIC D. FREDERICKSEN
State Appellate Public Defender
I.S.B. #6555

BRIAN R. DICKSON
Deputy State Appellate Public Defender
I.S.B. #8701
322 E. Front Street, Suite 570
Boise, Idaho 83702
Phone: (208) 334-2712
Fax: (208) 334-2985
E-mail: documents@sapd.state.id.us

ATTORNEYS FOR
DEFENDANT-APPELLANT

KENNETH K. JORGENSEN
Deputy Attorney General
Criminal Law Division
P.O. Box 83720
Boise, Idaho 83720-0010
(208) 334-4534

ATTORNEY FOR
PLAINTIFF-RESPONDENT

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STATEMENT OF THE CASE

Nature of the Case

Ronald Vaughn contends the district court erred when it decided his statements made prior to receiving *Miranda*[1] warnings were admissible during his jury trial. A reasonable person in Mr. Vaughn's situation would not have felt free to leave the extended traffic stop on the side of a freeway with one of the three uniformed officers standing over him while the other two searched his car with a drug dog. Therefore, Mr. Vaughn's freedom was curtailed to the degree associated with a formal arrest, and thus, he was "in custody" for *Miranda* purposes. As such, this Court should reverse the decision to admit those unwarned statements, vacate the judgment of conviction, and remand this case for further proceedings.

Statement of the Facts and Course of Proceedings

As part of an ongoing drug investigation, officers saw Mr. Vaughn travel to Salt Lake City.[2] (Tr., p.48, L.6 - p.49, L.6.) They suspected he had gone there to purchase drugs. (Tr., p.47, L.11 - p.48, L.5.) As a result, they planned to stop and arrest him as he returned to Boise. (Tr., p.49, L.24 - p.50, L.13, p.53, Ls.21-25.) To effectuate that, they conducted what the prosecutor described as a pretext stop on his car. (Tr., p.62, Ls.7-10; *see also* Tr., p.51, Ls.4-11 (the officer describing the nature of that stop).) The traffic stop occurred on I-84 on the outskirts

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

[2] The officers had attached a GPS device to Mr. Vaughn's car pursuant to a federal search warrant. (*See* Grand Jury Tr., p.19, Ls.15 - p.20, L.7.) The district court took judicial notice of the transcript from the grand jury proceedings, as well as the application and order for that warrant (*see* Sealed Exhibit ("Vaughn 45104 sealed.pdf")), during the hearing on Mr. Vaughn's motion to suppress the evidence due to the officers abandoning the purpose of the stop. (Tr., p.24, Ls.15-17.)

of Boise in the late afternoon or early evening hours. (*See* Tr., p.49, Ls.11-22; Grand Jury Tr., p.24, Ls.18-19.)

Three uniformed officers responded to the immediate traffic stop in three different marked vehicles. (*See* Grand Jury Tr., p.25, Ls.4-13; Tr., p.51, Ls.4-11.) One of those officers had a police dog with him. (Grand Jury Tr., p.25, Ls.10-13.) Another plain-clothes officer and a federal agent oversaw the traffic stop from a short distance away. (Grand Jury Tr., p.24, L.18 - p.25, L.3; *see* Grand Jury Tr., p.22, Ls.3-5; Tr., p.51, Ls.22-23.) There were other undercover officers in unmarked police cars who had been part of the surveillance team which had followed Mr. Vaughn from Jerome, at least one of whom was also in the area of the traffic stop. (*See* Tr., p.52, Ls.2-16.)

During the traffic stop, officers had Mr. Vaughn get out of his car and sit on the guardrail on the side of the freeway. (Grand Jury Tr., p.25, Ls.7-9.) One of the officers stood by him the entire time. (Tr., p.10, Ls.1-3.) The other two officers and the dog proceeded to search his car. (Grand Jury Tr., p.27, L.18 - p.28, L.13.) During that time, Mr. Vaughn responded to officers' questions, making several incriminating statements, which included admitting to using methamphetamine earlier that day. (*See, e.g.*, Tr., p.88, Ls.2-18 (the prosecutor describing those comments while arguing her notice of intent to present evidence under I.R.E. 404(b).) The prosecutor admitted Mr. Vaughn had not been informed of his rights at any point during the roadside questioning. (Tr., p.95, Ls.23-25.) Based on the evidence the officers found in searching Mr. Vaughn's car, the State charged Mr. Vaughn with trafficking heroin, possessing methamphetamine, and possessing drug paraphernalia. (R., pp.9-11, 18-19.)

Mr. Vaughn moved to suppress the evidence found during the searches of his car based on the fact that officers had immediately abandoned the initial purpose of the stop to conduct the

initial search of his car. (R., pp.47-52 (asserting, for example, that none of the officers were preparing traffic citation during the dog sniff).) After a hearing on that motion, the district court denied that motion, finding the officers had reasonable suspicion to extend the scope of the traffic stop based on the information they had gathered during the drug investigation. (Tr., p.66, Ls.1-23.)

The State also filed a notice of intent to use evidence under I.R.E. 404(b), specifically, the information about the drug investigation and Mr. Vaughn's admissions during a subsequent interrogation at the police station.[3] (R., pp.83-86.) Mr. Vaughn objected to that notice, moving to suppress all that evidence as unduly prejudicial or cumulative instead. (R., pp.93-96) The district court did not take up that issue until the day of trial. (*See generally* Tr., p.75, L.15 - p.105, L.3.)

While arguing that issue, the prosecutor asserted that Mr. Vaughn's statements made on the side of the freeway should also be considered admissible as evidence of his knowledge and intent. (Tr., p.87, L.15 - p.89, L.20.) Defense counsel responded that Mr. Vaughn had just told him that he had not been informed of his rights before making the roadside statements. (Tr., p.90, Ls.17-20.) Defense counsel conceded that he had been provided recordings of the traffic stop some months prior. (*See* Tr., p.97, L.24.) Nevertheless, defense counsel argued that the roadside statements should not be admitted because Mr. Vaughn was in custody at the time he made those unwarned statements and introducing them would be unduly prejudicial. (Tr., p.90, L.25 - p.21, L.9.) Although the State argued Mr. Vaughn's arguments in that respect should be procedurally barred under I.C.R. 12 (Tr., p.97, Ls.7-14), the district court ruled on the

[3] Mr. Vaughn was read his *Miranda* rights prior to that subsequent interrogation at the police station. (Grand Jury Tr., p.34, L.17 - p.35, L.10.)

merits of Mr. Vaughn's motion, concluding there was no *Miranda* violation because Mr. Vaughn was not in custody when he made those statements. (Tr., p.98, Ls.6-11.)

The prosecutor ultimately presented the roadside statements during Mr. Vaughn's trial. (*See, e.g.*, State's Exhibit 27.) During her closing arguments to the jury, she argued that those statements helped show Mr. Vaughn's guilt. (Tr., p.525, Ls.14-24, p.529, Ls.16-19.) The jury convicted Mr. Vaughn on all counts. (R., p.165.)

The district court imposed an aggregate twenty-year sentence on Mr. Vaughn, consisting of a twenty-year sentence, with ten years fixed, for the trafficking charge, a concurrent seven-year sentence, with three years fixed, on the possession charge, and a concurrent one-hundred-eighty-day sentence on the paraphernalia charge. (R., pp.167-68.) Mr. Vaughn filed a notice of appeal timely from the judgment of conviction. (R., pp.177-79.)

ISSUE

Whether the district court erred when it concluded Mr. Vaughn was not in custody for *Miranda* purposes during the pretext traffic stop.

ARGUMENT

The District Court Erred When It Concluded Mr. Vaughn Was Not In Custody For *Miranda* Purposes During The Pretext Traffic Stop

A. Standard Of Review

The standard of review in regard to a defendant's motion to suppress evidence is bifurcated. *See, e.g.*, *State v. Smith*, 159 Idaho 15, 18-19, 23-24 (Ct. App. 2015). The appellate court defers to the district court's findings of fact which are supported by substantial evidence, but reviews the district court's conclusions of law *de novo*. *Id.*

B. A Reasonable Person In Mr. Vaughn's Situation Would Not Have Felt Free To Leave During The Extended Detention On The Side Of A Freeway, Which Means He Was "In Custody" For *Miranda* Purposes

Although this issue came to light through the State's notice of intent to present evidence under I.R.E. 404(b), and not Mr. Vaughn's initial, timely motion to suppress, Mr. Vaughn did move to suppress the roadside statements as part of his response to State's notice. (*See* R., pp.93-96; Tr., p.90, L.25 - p.21, L.19.) Additionally, the district court ruled on the merits of Mr. Vaughn's motion in that regard. (Tr., p.98, Ls.6-11.) In so doing, it implicitly rejected the State's challenge to that argument under I.C.R. 12. *Cf. State v. Middleton*, 114 Idaho 377, 380 (Ct. App. 1988) (looking to the implicit findings of the district court in a situation where neither party requested findings of fact under I.C.R. 12(d)). Therefore, this Court has authority to review the propriety of the district court's ruling on the merits of Mr. Vaughn's motion. *See, e.g.*, *State v. Beck*, 157 Idaho 402, 405 (Ct. App. 2014) (considering the propriety of implicit findings on a motion to suppress); *see also State v. DuValt*, 131 Idaho 550, 553 (1998) (holding the appellate courts have authority to rule on issues directly addressed by the district court).

Under the Fifth Amendment, statements made during a custodial interrogation are not admissible unless the defendant has been properly informed of his rights prior to making the statements. *See Miranda*, 384 U.S. at 478. A defendant is "in custody" for *Miranda* purposes when his "freedom of action is curtailed to a degree associated with formal arrest." *State v. Hamlin*, 156 Idaho 307, 313 (Ct. App. 2014); *accord Berkemer v. McCarty*, 468 U.S. 420, 439-40 (1984). That determination is made by evaluating how a reasonable person in the suspect's position would have understood his or her situation. *Hamlin*, 156 Idaho at 313. Relevant factors include the location and time of the stop, the length of the interview, the nature and tone of the questioning, whether the defendant was there voluntarily, and the demeanor of the people involved. *Id*. As a result, "'if a motorist who has been detained pursuant to a traffic stop thereafter is subjected to treatment that renders him 'in custody' for practical purposes, he will be entitled to the full panoply of protections prescribed by *Miranda*.'" *State v. James*, 148 Idaho 574, 577 (2010) (quoting *Berkemer*, 468 U.S. at 421).

For example, in *State v. Myers*, unusual or extensive police efforts during a traffic stop indicated the defendant was "in custody" for *Miranda* purposes. *State v. Myers*, 118 Idaho 608, 610-11 (Ct. App. 1990). Specifically, in that case, several officers responded to the initial traffic stop, they all remained on the scene, and their questions went specifically to a drug investigation. *Id*. at 611-12; *compare Smith*, 159 Idaho at 18-19, 23-24 (concluding the defendant was not "in custody" for *Miranda* purposes when a lone officer asked the defendant about the drugs he had while frisking the defendant).

Like in *Myers*, there was unusual or excessive police force in and around the traffic stop of Mr. Vaughn. Three uniformed officers in three separate marked police cars responded to the immediate traffic stop and remained on scene. (Grand Jury Tr., p.25, Ls.4-13; Tr., p.51,

Ls.4-11.) Another plain-clothes officer and a federal agent oversaw the stop from a short distance away. (Grand Jury Tr., p.22, Ls.3-5; p.24, L.18 - p.25, L.3; Tr., p.51, Ls.22-23.) At least one other undercover officer who had been involved in the moving surveillance team that had been following Mr. Vaughn for several hours was also likely nearby. (*See* Tr., p.52, Ls.2-16.) As such, there were at least five, if not more, officers in and around the traffic stop in this case.

Furthermore, one of the uniformed officers stood next to Mr. Vaughn throughout the encounter. (Tr., p.10, Ls.1-3.) The officers also never returned his identification or registration information. (Tr., p.11, Ls.5-7.) In fact, the officers immediately abandoned the initial purpose for the stop, extending the detention to pursue the drug investigation instead. (*See* Grand Jury Tr., p.27, Ls.1-21.) As a result, the two other officers and a police dog were engaged in searching his car. (*See* Grand Jury Tr., p.28, Ls.7-13.) That search occurred on the side of a freeway on the outskirts of Boise, such that Mr. Vaughn could not have safely walked away from the stop. (*See* Tr., p.55, Ls.9-20 (one of the officers testifying these safety concerns led them to take Mr. Vaughn's car to another location before conducting a more thorough search of the car).)

Given the totality of the circumstances, Mr. Vaughn's freedom of movement was restricted in the way associated with a formal arrest, such that a reasonable person in that situation would not have felt free to leave. As such, Mr. Vaughn was "in custody" for purposes of *Miranda*. Since the prosecutor conceded that Mr. Vaughn had not been read his rights on the roadside (Tr., p.95, Ls.23-25), the district court erroneously held that those unwarned statements were admissible during his trial.

CONCLUSION

Mr. Vaughn respectfully requests this Court reverse the order admitting his un-*Mirandized* statements, vacate his conviction and remand this case for further proceedings.

DATED this 18th day of December, 2017.

_____/s/_____
BRIAN R. DICKSON
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 18th day of December, 2017, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

RONDALD EUGENE VAUGHN
INMATE #123365
C/O ADAMS COUNTY SHERIFF'S OFFICE
201 INDUSTRIAL AVENUE
COUNCIL ID 83612

SAMUEL A HOAGLAND
DISTRICT COURT JUDGE
E-MAILED BRIEF

DAVID A STEWART
ADA COUNTY PUBLIC DEFENDER
E-MAILED BRIEF

KENNETH K JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
E-MAILED BRIEF

_____/s/_____
EVAN A. SMITH
Administrative Assistant

BRD/eas