

Circuit Court for Cecil County
Case No. K-16-293

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2447

September Term, 2016

NICHOLE L. RODECKER

v.

STATE OF MARYLAND

Woodward, C.J.,
Beachley,
Moylan, Charles, E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 8, 2018

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Following a jury trial in the Circuit Court for Cecil County, Nichole Rodecker, appellant, was convicted of sexual abuse of a minor, second-degree rape, two counts of second-degree sexual offense, and two counts of third-degree sexual offense. Her sole claim on appeal is that the circuit court erred in denying her motion to suppress incriminating statements that she made to the police because, she claims, she did not knowingly and voluntarily waive her *Miranda* rights.

At the suppression hearing, Maryland State Police Sergeant Stephen Juergens testified that he began investigating Rodecker after speaking with the mother of the minor victim. On February 5, 2016, Sergeant Juergens and another officer went to Rodecker's home and "asked" if she would come to the police station to speak with them. Rodecker agreed and, although Sergeant Juergens gave her the option of driving, she opted to ride to the police station in the front seat of Sergeant Juergens's vehicle. Prior to leaving, Sergeant Juergens told Rodecker that he would drive her home after the interview.

Rodecker informed the officers that she was an employed high school graduate, that she was planning on going to nursing school, that she was not on any medication, and that she did not have any mental health issues. Sergeant Juergens then read Rodecker her *Miranda* rights directly from Maryland State Police Form 180. Specifically, he advised Rodecker:

- (1) You have the right to remain silent;
- (2) Anything you say or write may be used against you in a court of law;

- (3) You have the right to talk to a lawyer before answering any questions and to have a lawyer present at any time before or during questioning;
- (4) If you now want the assistance of a lawyer but cannot afford to hire one, you will not be asked any more questions at this time and you may request the court to appoint you a lawyer for you without charge; and
- (5) If you agree to answer questions, you may stop at any time and request the assistance of a lawyer, and no further questions will be asked of you.

After reading each right, Sergeant Juergens looked at Rodecker, who then nodded her head yes, indicating that she understood. After reading Rodecker her rights, Sergeant Juergens then read the acknowledgement section of the form which stated: “I have read or have had read to me this explanation of my rights.” After hearing the acknowledgment, Rodecker verbally stated “yes” and then signed the acknowledgment.

Next, Sergeant Juergens read aloud the paragraph on the form addressing the waiver of *Miranda* rights, which stated:

I fully understand each of these rights and I am willing to answer questions without consulting a lawyer or having a lawyer present at this time. My decision to answer questions is entirely free and voluntary and I have not been promised anything nor have I been threatened or intimidated in any manner.

He then passed the form to Rodecker and advised her: “If you want to speak with me and you wish to waive your rights, sign on this line and date it.” Rodecker responded: “I guess, I don’t know, I really wish this would stop[.]” Based on his conversation with Rodecker during the ride to the police station, Sergeant Juergens believed that Rodecker was indicating that she wanted the “problems she was having with the victim’s mother” to stop.

After holding the waiver form for about twenty seconds, Rodecker signed and dated the waiver form without further comment.

Sergeant Juergens then interviewed Rodecker for approximately one hour, during which time she admitted to engaging in sexual activities with the victim. Sergeant Juergens testified that Rodecker was not restrained at any time and that she had a clear path to the door of the interview room. And at no point did she request an attorney, assert her right to remain silent, request to leave, or ask any questions about her rights. After the interview concluded Sergeant Juergans drove Rodecker back home.

After hearing arguments from counsel the suppression court found that Sergeant Juergens was a credible witness and that Rodecker had knowingly and voluntarily waived her *Miranda* rights.

On appeal, Rodecker contends that the circuit court erred in denying her motion to suppress because the State failed to prove that she knowingly and voluntarily waived her *Miranda* rights. The State counters that Rodecker was not in custody, therefore negating the need for *Miranda* warnings, and that, in any event, she knowingly and voluntarily waived her *Miranda* rights.

In reviewing the grant or denial of a motion to suppress, this Court must view the evidence “in the light most favorable to the prevailing party, and the trial court’s fact findings are accepted unless clearly erroneous.” *Williamson v. State*, 413 Md. 521, 531 (2010). “The ultimate determination of whether there was a constitutional violation, however, is an independent determination that is made by the appellate court alone,

applying the law to the facts found in each particular case.” *Belote v. State*, 411 Md. 104, 120 (2009) (citations omitted).

A suspect may waive his or her *Miranda* rights “provided the waiver is made voluntarily, knowingly and intelligently.” *Id.* at 444. But the State bears the burden of establishing, by a preponderance of the evidence, that a suspect waived these rights. *Berghuis v. Thompkins*, 560 U.S. 370, 384 (2010). In assessing the validity of a waiver, the court must consider the totality of the circumstances, including the individual’s “age, experience, education, background, and intelligence, and . . . whether he has the capacity to understand the warnings given him, the nature of his Fifth Amendment rights, and the consequences of waiving those rights.” *Gonzalez v. State*, 429 Md. 632, 652 (2012) (citation omitted). This is a two-step inquiry:

First, the relinquishment of the right must have been voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception. Second, the waiver must have been made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it. Only if the totality of the circumstances surrounding the interrogation reveals both an uncoerced choice and the requisite level of comprehension may a court properly conclude that the *Miranda* rights have been waived.

Id. (internal quotations and citation omitted).

The circuit court did not err in denying Rodecker’s motion to suppress. Even assuming that Rodecker was in custody, the State demonstrated by a preponderance of the evidence that she knowingly and voluntarily waived her *Miranda* rights. First, nothing in the record indicates that Rodecker was intimidated, coerced, or deceived in any manner. In fact, the opposite is true. Viewed in a light most favorable to the State, the testimony at

the suppression hearing established that she accompanied Sergeant Juergens to the police station voluntarily, she was never handcuffed, no weapons were drawn, and no threats or promises were made. Moreover, she signed the waiver form, which indicated that her decision to answer questions was “entirely free and voluntary.”

In claiming that her waiver was involuntary, Rodecker asserts that her statement “I guess, I don’t know, I really wish this would stop,” could have “been [a reference] to the questioning, rather than her difficulties with the [victim’s] mother.” However, even assuming that her statement reflected an initial reluctance to answer questions, she ultimately signed the form twenty seconds after making that statement without any additional prompting by the officers. She then spoke with the officers for approximately one hour without asking to leave or terminate the interview. *See generally In re Darryl P.*, 211 Md. App. 112, 170 (2013) (“Once informed of and understanding his *Miranda* rights, a suspect who then voluntarily speaks to the police may be found to have implicitly waived those rights.”). Consequently, we are persuaded that Rodecker’s *Miranda* waiver was voluntary.

We are equally persuaded that Rodecker knowingly waived her rights. The evidence demonstrated that Rodecker spoke English; was a gainfully employed high school graduate, who was planning on attending nursing school; was not impaired by any controlled substances; and did not have any mental health issues. After Sergeant Juergan read Rodecker each of her rights, she nodded her head indicating that she understood. Thereafter, she acknowledged both verbally and in writing that Sergeant Juergens had read those rights to her and then signed the portion of the form indicating she “fully” understood

her rights and wanted to waive them. And, at no point before or during the interview, did Rodecker ask any questions about her rights or indicate that she was confused by what Sergeant Juergans had told her. Finally, Rodecker’s statement “I don’t know, I guess” was not made in response to any of Sergeant Juergan’s questions to her about whether she had heard or understood her rights. Therefore, we are not convinced that the statement “indicated that [Rodecker] did not fully understand what had just been read to her,” as she now claims.

**JUDGMENTS OF THE CIRCUIT
COURT FOR CECIL COUNTY
AFFIRMED. COSTS TO BE PAID
BY APPELLANT.**