

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NUMBER: 2020-CF-002603-A-O

DIVISION 20

STATE OF FLORIDA

Plaintiff,

vs.

SARAH BOONE

Defendant.

ORDER ON DEFENDANT’S MOTION TO SUPPRESS DEFENDANT’S STATEMENTS
AT OCSO, ON DEFENDANT’S AMENDED MOTION TO SUPPRESS DEFENDANT’S
STATEMENTS AT OCSO, AND ON DEFENDANT’S SECOND AMENDED MOTION
TO SUPPRESS DEFENDANT’S STATEMENTS AT OCSO

THIS CAUSE came before the Court on October 2, 2024, on the *Defendant’s Motion To Suppress Defendant’s Statements* E-Filed 09/24/2024 (the “Motion”), on the *State’s Motion To Strike Defendant’s Motion To Suppress Statements At OCSO and State’s Response To Defendant’s Motion To Suppress Statements* E-Filed 09/27/2024 (the “Response”), on the *Defendant’s Amended Motion To Suppress Defendant’s Statements At OCSO* E-Filed 09/30/2024 (the “Amended Motion”), and on *Defendant’s Second Amended Motion To Suppress Defendant’s Statements At OCSO* E-Filed 10/02/2024 (the “Second Amended Motion”). The Court having reviewed the Motion, having reviewed the Response, having reviewed the Amended Motion, having reviewed the Second Amended Motion, having reviewed the court file, having considered the testimony and evidence offered by the Parties, having considered the arguments offered by counsel for State, and having considered the arguments offered by counsel for Defendant, finds as follows:

- A. Defendant, Sarah Boone, is charged by way of an Information filed 03/23/2020 with a single count of second-degree murder.
- B. On February 24, 2020, Defendant called 911 after finding her boyfriend, Jorge Torres, deceased.

- C. Deputy Kayla Rodriguez arrived on February 24, 2020 and spoke to Defendant. See also State's Exhibit 1.
- D. Detective Koepsell, a homicide detective with the Orange County Sheriff's Office ("OCSO"), with 6 years' experience as a homicide detective and a law enforcement officer since 2013, was the lead investigator of Jorge Torres' death on February 24, 2020. Detective Koepsell arrived at the scene, within 30 minutes to 1 hour of OCSO deputies arriving, was briefed, and performed a walk through of the apartment. Thereafter, a search warrant was drafted.
- E. Detective Koepsell then made contact with Defendant, outside of apartment, for a few minutes and explained procedures of the search warrant. The search warrant was executed with CSI. Defendant's cellphone was collected after CSI documented the scene. Detective Koepsell wanted to go through Defendant's cellphone to corroborate Defendant's story. Defendant signed a consent prior to the February 24, 2020 interviews addressed below. See also Defendant's Exhibit 1. Detective Koepsell did not look at Defendant's cellphone, including any videos, prior to the interviews addressed below, as digital forensics did not arrive until approximately 700PM. Detective Koepsell then made contact with Defendant's ex-husband, Bryan Boone. Thereafter, Detectives Koepsell and Lowen had an interview with Defendant in Detective Koepsell's unmarked Nissan Pathfinder at approximately 500 PM. See also State's Exhibit 1. Detective Koepsell explained that she wanted to have conversation with Defendant after walking the apartment. Detective Koepsell testified that she would not have interviewed Defendant outside of the unmarked vehicle, had no memory of using the words "routine," and that everything was explained on the recording. The word "routine" is not used by Detective Koepsell in any recording. See State's Exhibit 1.
- F. Detective Koepsell explained the purpose of this interview, including Defendant's prior conversations with Deputy Kayla Rodriguez and Detective Koepsell, and Detective Koepsell's desire to get a "further understanding of what happened last night and ask [Defendant] more detailed questions." See State's Exhibit 1. Thereafter, Detective Koepsell began reading *Miranda*¹ as follows:

Detective Koepsell:

I am going to read you your rights but it's just because that's how we do things ok. So, you do have the right to remain silent, ok, do you understand that?

¹ All 8 questions on Detective Koepsell's Miranda card were read as Detective Koepsell's Miranda card did not have question #9.

Defendant:

Yes

Detective Koepsell:

Anything you say may be used against you in court. You have the right to talk to a lawyer before and during questioning without charge. If you cannot afford a lawyer and want one, one can be provided for you before question without charge. Has anyone threatened you or promised you anything to get you to talk to me?

Defendant:

No

Detective Koepsell:

Do you understand what I just read to you.

Defendant:

Yes

See *Id.*

- G. Thereafter, Detective Koepsell interviewed Defendant again after the initial digital recorder's memory was full. See *Id.* A second separate recording was initiated². See *Id.* Detective Koepsell confirmed with Defendant that no additional communications occurred prior to the second separate recording and Detective Koepsell inquired of Defendant, prior to asking any other questions, "you do understand that you don't have to speak with me if you don't want to, correct" to which Defendant responded "Yes." See *Id.*
- H. After concluding the interviews, but before leaving, Detective Koepsell had conversations with Defendant had about coming to OCSO the next day to address the pending autopsy and that Detective Koepsell would have more questions. Detective Koepsell did not recall speaking about Defendant's cellphone but had Defendant asked about getting the cellphone back Detective Koepsell would not have given a specific timeframe for returning Defendant's cellphone. Detective Koepsell had no memory of receiving a call from Defendant on the evening of February 24, 2020.
- I. Defendant's testimony largely agreed with Detective Koepsell's testimony; including the timeline of calling 911, speaking with Deputy Kayla Rodriguez, and speaking with Detective Koepsell. As to the February 24, 2020 interviews, Defendant confirmed that

² During this second separate recording, Defendant used higher tier words, including "compos mentis."

Detective Koepsell explained that general questions would be asked. Defendant confirmed that she stayed on the scene 10+ hours while the investigation was performed. Defendant's own testimony was that she was under the influence of alcohol from the night before at approximately 100PM the next day. However, there was nothing evidencing Defendant being intoxicated or under influence of alcohol when clearly speaking and interacting with Deputy Kayla Rodriguez. See State's Exhibit 1.

- J. Defendant's statement of making a call to Detective Koepsell between 930PM and 1000PM on February 24, 2020 from her ex-husband's home does not line up with Defendant's own timeline of staying at the scene 10+ hours, which began at approximately 100PM. The Court finds this statement lacks credibility.
- K. Defendant claimed that before they left the scene, Detectives Koepsell or Lowen would return Defendant's cellphone to the apartment. On February 25, 2024, Defendant claims that Defendant and Detective Koepsell had a discussion regarding the picking up of the Defendant's cellphone, specifically that due to Detective Koepsell's pregnancy Defendant needed to come down to OCSO to pick up the cellphone. Defendant's sole reason for traveling to OCSO was to pick up the cellphone³. The Court finds Defendant's statement regarding picking up the cellphone also lacks credibility.
- L. On February 25, 2020, after Detective Koepsell reviewed some of the extraction of Defendant's cellphone by digital forensics and attended the autopsy, Detective Koepsell requested Defendant to come to OSCO's office. Detective Koepsell did not want to approach Defendant in front of her child at her ex-husband's home. Defendant's worry and concern about her son was addressed with Deputy Kayla Rodriguez. See also State's Exhibit 1.
- M. The State and the Defense agree that the February 25, 2020 interview was custodial.
- N. The pith of Defendant's argument is contained in this exchange during the beginning of the February 25, 2020 interview:

Detective Koepsell:

Just let us know if at any time you need water, okay. I'm going to have you sit in the green chair

Detective Koepsell:

Appreciate you coming in.

³ Approximately 1 hour and 27 minutes into the February 25, 2020 interview, Defendant returns to her list of pre-prepared, written questions and specifically asks "am I getting my phone back." See State's Exhibit 1. This pre-prepared, written question would not be asked if one was told to come pick up a cellphone.

Defendant:

Yes ma'am. I want to ask about these when we have a moment (referring to her pre-prepared, written questions)

Detective Koepsell:

Sure. So obviously he received his autopsy. So I'm going to read you your rights again because we have to talk about that and since I'm talking about the incident, we just have to do it⁴. Just like we did yesterday.

Defendant:

Normal protocol.

Detective Koepsell:

Just like we did yesterday. Remember I read you the rights?

Defendant:

Yeah.

Detective Koepsell:

Yeah, it's the exact same thing but since I'm asking you follow-up questions, I need to read them to you, ok?

Defendant:

Sure.

Detective Koepsell:

Alright, so, you have the right to remain silent. Anything you say may be used against you in court. You have a right to talk to a lawyer before and during questioning without charge. If you cannot afford a lawyer and want one, one can be provided for you before questioning without charge. Has anyone threatened you or promised you anything to get you to talk to me?

Defendant:

No.

⁴ The Court notes that this statement is an accurate statement of the law. See *Wright v. State*, 161 So. 3d 442, 449 (Fla. 5th DCA 2014) ("While Detective Stroup said, 'This is something I have to do' when giving the Miranda warnings, this is an accurate statement of the law, as law enforcement officers are required to administer Miranda warnings prior to custodial interrogations.").

Detective Koepsell:

And do you understand what I just read to you?

Defendant:

Yes.

See State's Exhibit 1.

I. WHETHER THE MIRANDA WARNING SUFFICIENT.

- O. "The Fifth Amendment of the United States Constitution and Article I, Section 9, of the Florida Constitution both provide for a right against self-incrimination." *Rigterink v. State*, 66 So. 3d 866, 887 (Fla. 2011). "[T]he Self-Incrimination Clause of Article I, Section 9, Florida Constitution, requires that prior to custodial interrogation in Florida suspects must be told that they have a right to remain silent, that anything they say will be used against them in court, that they have a right to a lawyer's help, and that if they cannot pay for a lawyer one will be appointed to help them." *Traylor v. State*, 596 So. 2d 957, 966 (Fla. 1992).
- P. Both the Florida Supreme Court and the United States Supreme court have "[s]tressed that there is not talismanic incantation required to ensure [that Miranda] warnings are sufficiently conveyed." *Miller v. State*, 42 So. 3d 204, 221 (Fla. 2010). A court does not examine a Miranda warning "as if 'construing a will' or 'defining the terms of an easement.'" *Id.* at 222 (quoting *Duckworth v. Eagan*, 492 U.S. 195, 203 (1989)). Rather, "[t]he inquiry is simply whether the warnings reasonably 'conve[y] to [a suspect] his rights as required by Miranda.'" *Id.* (alterations in original) (quoting *California v. Prysock*, 453 U.S. 355, 361 (1981)). The "crucial test" for determining whether police gave a proper warning " 'is whether the words in the context used, considering the age, background and intelligence of the individual being interrogated, impart a clear, understandable warning of all of his rights.'" *Id.* (quoting *Coyote v. United States*, 380 F.2d 305, 308 (10th Cir.1967)).
- Q. The Miranda warning provided by law enforcement to Defendant at the beginning of the February 25, 2020 interview is sufficient under both Federal law (see *Florida v. Powell*, 559 U.S. 50, 59–60 (2010) quoting *Miranda v. Arizona*, 384 U.S. 436, 479 (1966)⁵) and Florida law (see *Thomas v. State*, 351 So. 3d 197, 201-202 and 204 (Fla. 1st DCA 2022) and *State v. Owens*, 41 So. 3d 352 (Fla. 5th DCA 2010)).

⁵ "In 1966, the United States Supreme Court issued its opinion in [Miranda] and established four warnings that are required prior to questioning when a person has been "taken into custody or otherwise deprived of his freedom of action in any significant way." Specifically, "[A suspect] must be warned prior to any questioning [1] that he has the right to remain silent, [2] that anything he says can be used against him in a court of law, [3] that he has the right to the presence of an attorney, and [4] that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires."

R. The Miranda warning given to Defendant in the instant case is identical to the “exemplary” Miranda warning identified in *Owens*, supra.

S. As such, the Miranda warning given to Defendant in the instant case was sufficient.

II. WHETHER THE DEFENDANT’S STATEMENTS ON FEBRUARY 25, 2020 WERE COERCED.

T. “To establish that a statement is involuntary, there must be a finding of coercive police conduct.” *Baker v. State*, 71 So. 3d 802, 814 (Fla. 2011) (quoting *Schoenwetter v. State*, 931 So. 2d 857, 867 (Fla. 2006)). Generally, to determine whether a confession is involuntary and coerced, a court must examine the totality of the circumstances surrounding it. *Martin v. State*, 107 So. 3d 281, 298 (Fla. 2012). When the voluntariness of a confession is in dispute, it is the State’s burden to prove voluntariness by a preponderance of the evidence. *Herard v. State*, 390 So. 3d 610 (Fla. 2024).

U. There were no misrepresentations of the law regarding any defense (see *Johnson v. State*, 268 So. 3d 806, 808 (Fla. 4th DCA 2019)), no quid pro quo (see *Id.*), no directly or specifically made promises (see *Id.*), no overt act or threat of force against Defendant was proved or claimed (see *Wyche v. State*, 987 So. 2d 23, 26 (Fla. 2008)), no fear of material or physical harm (see *Grant v. State*, 171 So.2d 361, 363 n. 1 (Fla. 1965) (quoting *Denmark v. State*, 116 So. 757, 759 (1928))), no hope of material reward (see *Id.*), no indication that Defendant was a newcomer to the law based on the two times Miranda warnings were provided between February 24, 2020 and February 25, 2020 (see *United States v. Watson*, 423 U.S. 411 (1976)), no indication that Defendant is mentally deficient, especially considering the verbiage she used (see *Id.*), no threats, delusions, deceptions, or promises (see *Martin v. State*, 107 So. 3d 281, 298 (Fla. 2012)), and Defendant was offered water and breaks (see *Chavez v. State*, 832 So. 2d 730, 749 (Fla. 2002)).

V. There were no false statements made by law enforcement in order to coerce Defendant to go to OCSO’s office on February 25, 2020, based on the findings above.

W. Under the totality of the circumstances, Defendant’s statements on February 25, 2020 were not coerced.

III. WHETHER THE DEFENDANT’S STATEMENTS ON FEBRUARY 25, 2020 WERE VOLUNTARILY MADE.

X. A statement is not “compelled” within the meaning of state or federal law if an individual “voluntarily, knowingly and intelligently” waives his constitutional privilege. See

Miranda v. Arizona, 384 U.S. 436, 444 (1966). “The state must prove by a preponderance of the evidence that a defendant’s Miranda rights were waived.” *Barger v. State*, 923 So. 2d 597, 601 (Fla. 5th DCA 2006). “To constitute a voluntary waiver, the state must show: 1) that the waiver was the result of a free choice on the part of the defendant and not the product of intimidation, coercion, or deception; and 2) the waiver was made with a full awareness of the nature of the right being abandoned and the consequences of the abandonment.” See *Id.* “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 Miranda rights have been waived.” See *Id.*

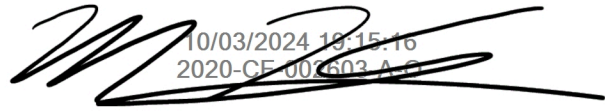
- Y. Factors relevant to consider include: (1) the manner in which the Miranda rights were administered, including any cajoling or trickery; see *Miranda*, 384 U.S. at 476; *Brewer v. State*, 386 So. 2d 232, 237 (Fla.1980); (2) the suspect’s age, experience, background and intelligence, see *State v. S.L.W.*, 465 So. 2d 1231, 1232 (Fla. 1985) (quoting *Fare v. Michael*, 442 U.S. 707, 724–25 (1979)); *Doerr v. State*, 383 So. 2d 905, 907 (Fla. 1980); (3) the fact that the questioning took place in the station house, see *Drake v. State*, 441 So. 2d 1079, 1081 (Fla. 1983); and (4) the fact that the interrogators did not secure a written waiver of the Miranda rights at the outset, see *Sliney v. State*, 699 So. 2d 662, 669 n. 10 (Fla. 1997); *Traylor v. State*, 596 So. 2d 957, 966 (Fla. 1992).
- Z. The Miranda rights were administered in a normal tone and cadence; there was no rushed or urgent speech. See *Chaffin v. State*, 121 So. 3d 608, 614 (Fla. 4th DCA 2013). There was no delay in the administration of Defendant’s Miranda rights. The recorded February 25, 2020 interview reflects that Defendant understood and acknowledged that she understood her rights. See State’s Exhibit 1. Defendant acknowledged that she understood her rights. See *Id.* See *Sliney v. State*, 699 So.2d 662, 668 (Fla.1997) (evidence supported conclusion that defendant voluntarily waived right to remain silent and obtain counsel when officer read defendant his rights and asked defendant whether he understood each of this rights to which defendant responded affirmatively).
- AA. The Court reincorporates its findings in ¶U and ¶V herein which further show no cajoling or trickery.
- BB. Defendant was 42 years old at the time she made the statements and appears to be of normal intelligence. See also Footnote 2 above.
- CC. The February 25, 2020 interview did take place at OCSO’s office and no written waiver was secured.
- DD. Under the totality of the circumstances, Defendant’s statements on February 25, 2020 were made with a voluntary, knowing, and intelligent waiver and this waiver was

the result of a free choice on the part of Defendant and was not the product of intimidation, coercion, or deception, and that the waiver was made with full awareness of the nature of the right being abandoned.

ORDERS AND ADJUDGES AS FOLLOWS:

1. The Motion, the Amened Motion, and the Second Amened Motion are hereby **DENIED**.

DONE AND ORDERED in Chambers, at Orlando, Orange County, Florida this 3rd day of October, 2024.



10/03/2024 19:15:16
2020-CF-002603-A-C

eSigned by Michael Kraynick 10/03/2024 19:15:16 qJoZjSMf

Michael S Kraynick
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was filed with the Clerk of the Court this 3rd day of October, 2024 by using the Florida Courts E-Filing Portal System. Accordingly, a copy of the foregoing is being served on this day to all attorney(s)/interested parties identified on the ePortal Electronic Service List, via transmission of Notices of Electronic Filing generated by the ePortal System.

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