

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

STATE OF FLORIDA,

CRIMINAL DIVISION "W"
CASE NO. 502010CF005829AXXXMB

vs.

JOHN B. GOODMAN,

Defendant.
_____ /

FILED
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SHARON R. BOCK, CLERK
PALM BEACH COUNTY, FL
CIRCUIT CRIMINAL

**ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS ALL STATEMENTS
MADE DURING THE COURSE OF THE ACCIDENT INVESTIGATION AND/OR
FAILURE TO GIVE PROPER MIRANDA WARNINGS**

THIS CAUSE came before the Court on Defendant's Motion to Suppress All Statements Made During the Course of the Accident Investigation and/or Failure to Give Proper Miranda Warnings ("Motion to Suppress") filed on January 29, 2014. After a review of the Motion to Suppress, the testimony at the hearing held on March 24, 2014, and relevant case law, the Court makes the following findings of fact and conclusions of law:

A. Defendant's Claims

Defendant argues that any statements made to D/S Ricardo Safford or D/S Mitch Rieger of Palm Beach County Sheriff's Office ("PBSO") about the crash on February 12, 2010 should be considered privileged statements pursuant to the accident report privilege established by section 316.066(4), Florida Statutes. Alternatively, Defendant asserts that if the accident report privilege does not apply to the facts of his case due to his leaving the scene of the crash, he should have been given a *Miranda* warning prior to being asked any questions by the deputies.

B. The State of Florida's Position

According to the State, Defendant's failure to remain at the scene of the crash and his actions upon finally obtaining access to a phone preclude the application of the accident report

privilege. As to Defendant's assertion he should have been given a *Miranda* warning, the State posits the questions asked by D/S Safford were basic questions which fell into the public safety exception and were directed at establishing that Defendant was a party to the crash. The State also claimed that the totality of the circumstances surrounding whether Defendant was in custody shows this position to be untenable.

C. Findings of Fact

The State called D/S Ricardo Safford and D/S Mitch Rieger to testify in defense of Defendant's allegation in his Motion to Suppress. D/S Safford, who could not recall the exact time, stated he was dispatched to the scene of the crash to assist investigators already working there. Upon his arrival, Defendant was not present at the scene. D/S Safford explained he attempted to determine who the owner of the Bentley was by running the Texas license plate in the system which returned Defendant's name but an address in Texas. D/S Safford then searched the Bentley to see if he could find a Florida address associated with Defendant. At approximately, 2:09 a.m., D/S Safford was dispatched to go pick up Defendant who had called 911 to indicate he was a driver involved in the crash.

D/S Safford located Defendant in a driveway off of 120 Avenue South. D/S Safford unlocked the back door of his marked patrol car (while remaining in the driver seat) so Defendant could enter the backseat. Defendant did not receive a pat down or any other kind of search before being permitted to enter the car. Once Defendant was in the car, D/S Safford asked Defendant some questions to ascertain he was in fact the person who had called 911 and also asked if Defendant was injured or if he knew of anyone else who was injured. Defendant confirmed it was he who called 911 and that his wrist hurt. Once back at the scene after the short two-minute drive, D/S Safford opened the rear passenger door to permit Defendant to leave the car. Defendant was not frisked, handcuffed, or told he was under arrest. During his first trial,

Defendant also testified he did not think he was under arrest at this time.

D/S Rieger was dispatched to the scene of the crash around 1:06 a.m. and arrived at approximately 1:12 a.m. and he was responsible for writing the crash report. At approximately 2:03 a.m., Defendant called 911 and reported he was involved in the crash. D/S Rieger was present when D/S Safford returned with Defendant to the scene. D/S Rieger also confirmed that Defendant was not handcuffed, nor searched or frisked at the scene. Defendant was also never told he was not free to leave. D/S Rieger accompanied D/S Safford as he escorted Defendant to the emergency medical services team present at the scene. D/S Rieger asked one question of Defendant once he was in the ambulance receiving treatment at that was something to the effect of “what happened?”

D. Legal Analysis

1. Accident Report Privilege

Section 316.066, Florida Statutes mandates that a Florida Traffic Crash Report, Long Form be completed and submitted within ten days after an investigation of a motor vehicle crash which results in the death of a party to the crash. *See* § 316.066(1)(a)1, Fla. Stat. (2010). The purpose of the accident report privilege found in subsection (4) “is to clothe with statutory immunity ... such statements and communications as the driver, owner, or occupant of a vehicle is compelled to make in order to comply with his or her statutory duty under [F.S.] 316.066(1) and (2).” *Brackin v. Boles*, 452 So. 2d 540, 544 (Fla. 1984). Subsection (4) provides

Except as specified in this subsection, each crash report made by a person involved in a crash and any statement made by such person to a law enforcement officer for the purpose of completing a crash report required by this section shall be without prejudice to the individual so reporting. Such report or statement may not be used as evidence in any trial, civil or criminal.

§ 316.066(4), Fla. Stat. (2010). One important exception to the privilege is that a law

enforcement officer at a criminal trial may testify as to any statement made to the officer by the person involved in the crash if that person's privilege against self-incrimination is not violated. Florida courts have also established that the privilege does not apply where an individual leaves the scene of a crash and is later apprehended. See *Cummings v. State*, 780 So. 2d 149, 149 (Fla. 2d DCA 2000) (holding defendant who was a "suspected hit-and-run driver was not entitled to the confidentiality privilege of section 316.066(4)" as to any statements he made to officer investigating the accident) (citing *State v. Hepburn*, 460 So. 2d 422 (Fla. 5th DCA 1984)); *State v. Ferguson*, 405 So. 2d 294, 297 (Fla. 4th DCA 1981) (determining section 316.066(4) "does not operate to confer its privilege of confidentiality on those who have abandoned their duties after involvement in an accident, and who choose instead to leave the scene of an accident" and holding it was error for the trial court to suppress the defendant's statements).

For purposes of resolving the instant Motion to Suppress, the Court finds Defendant left the scene of the crash. Evidence from Defendant's first trial revealed that reporting the crash to the proper authorities was not the first or second call Defendant made upon obtaining access to a telephone. Instead, rather than complying with the statutory duty to report forthwith, Defendant made personal calls to other individuals as early as 12:58 a.m., more than one hour before he called 911. The Court finds that the accident report privilege was waived based on the conduct of Defendant after the crash occurred, like the defendants in *Cummings* and *Ferguson*. Therefore, in order to succeed on his quest to suppress any statements made to D/S Safford or D/S Rieger, Defendant would need to show he was in custody in order to prevent admission of his statements as violation of his *Miranda* rights.

2. Miranda Warning

Defendant's second basis for arguing his statements should be suppressed is that he should have been given a *Miranda* warning before he was questioned about the crash since he

was “in custody” at the time he was questioned. For *Miranda* purposes, custodial interrogation means “questioning 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.” *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). The determination of whether a person was in custody for purposes of *Miranda* depends on “how a reasonable person in the suspect's situation would perceive his circumstances.” *Yarborough v. Alvarado*, 541 U.S. 652, 662 (2004). The Florida Supreme Court has applied this principle to establish a reasonable-person framework to determine whether a suspect was in custody. *See Connor v. State*, 803 So. 2d 598, 605 (Fla. 2001). To analyze the case-specific facts that are relevant to determining this issue, a court considers the following four factors:

- (1) the manner in which police summon the suspect for questioning;
- (2) the purpose, place, and manner of the interrogation;
- (3) the extent to which the suspect is confronted with evidence of his or her guilt; [and]
- (4) whether the suspect is informed that he or she is free to leave the place of questioning.

Ramirez v. State, 739 So. 2d 568, 574 (Fla. 1999). Although a four-factor test, “the ultimate inquiry is twofold: (1) the ‘circumstances surrounding the interrogation; and (2) given those circumstances, would a reasonable person have felt he or she was not at liberty to terminate the interrogation and leave.’” *Ross v. State*, 45 So. 2d 403, 415 (Fla. 2010) (quoting *Yarborough*, 541 U.S. at 663).

Applying the framework outlined above, the Court finds Defendant was not in custody for purposes of *Miranda* when he made statements to D/S Safford and D/S Rieger. Defendant was picked up by D/S Safford at a location away from the crash scene more than one hour later. The nature of the questions posed by D/S Safford, and the one question posed by D/S Rieger, were more focused on confirming Defendant was in fact the person who called 911 to report his involvement in the crash and to ascertain whether he, or any other potential passengers, had

sustained any injuries as a result of the crash. Furthermore, Defendant was not searched for weapons, frisked or otherwise patted down before getting in the patrol car nor when he arrived at the scene. Defendant was also never handcuffed, told he was under arrest, or not free to leave. Given those circumstances, the Court finds that a reasonable person would perceive D/S Safford was merely completing a perfunctory task of moving Defendant from the location on 120 Ave South back to the scene of the crash and turning Defendant over to receive medical treatment.

Accordingly, is hereby **ORDERED** the Defendant's Motion to Suppress All Statements Made During the Course of the Accident Investigation and/or Failure to Give Proper Miranda Warnings is hereby **DENIED** in Chambers at West Palm Beach, Palm Beach County, Florida this 27 day of March, 2014.



JEFFREY COLBATH
CIRCUIT JUDGE

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