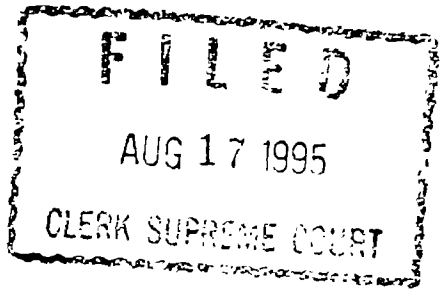
IN THE COURT OF APPEALS OF IOWA



No. 5-271 / 94-830

STATE OF IOWA,

Appellee,

vs.

GEORGE CLIFFORD EASON,

Appellant.

Appeal from the Iowa District Court for Hardin County, Carl E. Peterson, Judge.

Eason appeals judgment and sentence entered upon his conviction of first-degree murder. **AFFIRMED.**

Linda Del Gallo, State Appellate Defender, and Kevin Cmelik, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Bridget A. Chambers, Assistant Attorney General, and Richard Dunn, County Attorney, for appellee.

Heard by Donielson, C.J., and Sackett and Huitink, JJ.

HUITINK, J.

George Eason appeals the judgment entered following his conviction of first-degree murder. We affirm.

Eason was convicted of murdering Goldie Vallandingham. Her body was discovered in her apartment on November 7, 1993. An autopsy revealed Vallandingham died of asphyxia due to suffocation with multiple stab wounds being a contributing factor.

Investigators used a bloodhound to assist in their investigation of Vallandingham's death. The dog was given a pair of shoes upon which to scent. The dog eventually led officers to Eason's residence.

Eason was interviewed by DCI agents on two separate occasions. On November 8 Eason told investigators that Norman Lehman had informed him of Vallandingham's death on Sunday, November 7. Eason stated he knew she had been stabbed. Eason also told the officers he had been home with his brother on November 6 and had gone to bed at approximately 10:30 or 11 p.m. that night.

Eason eventually implicated Norman Lehman as the person who killed Vallandingham. He claimed Lehman admitted killing Vallandingham by stabbing her. Eason denied any participation in the killing but eventually stated he had been with Lehman after officers told him they had evidence placing him in the apartment. After

furnishing additional details regarding the murder, Eason led officers to the place where the murder weapon was thrown into the Iowa River.

Eason's second interview occurred on November 10, 1995, at the police station in Iowa Falls. He was accompanied by his mother, June Eason, when he arrived at the police station. Eason was read his *Miranda* rights, and the form for waiving those rights prior to the interview. Eason and his mother both signed the necessary waiver forms. Eason's mother asked him if he wanted her to remain with him during the interview. When Eason declined, she left the room and waited for him in a nearby reception room. During this exchange Eason told officers they did not need to read him his rights because he already knew what his rights were.

This interview began at 2:35 p.m. and continued for approximately one hour before the interrogating officer took a break. During this phase of the interview Eason denied he was involved in the murder but admitted he had lied about Norman Lehman's involvement. Eason was told he was free to leave anytime he wanted to, and when he asked to leave the officer pointed to the door and told Eason he could leave. Eason did not leave and made several incriminating statements during the first hour of this interview.

Following a short break, the officer returned to the interrogation room carrying a manilla folder bearing a written label stating "Final Autopsy Report of Goldie Vallandingham." Eason was told the officer believed Eason was involved in the murder. When Eason asked what was in the folder, he was told the folder contained

Vallandingham's autopsy results. Eason was told he could not see the report because it was confidential. There was, in fact, no report in the envelope because none had been completed. Police, however, had already learned the results of the autopsy.

Eason was also told by the same officer that evidence being analyzed by the crime lab could place Eason in Vallandingham's apartment. The officer testified he then told Eason he did not need his side of the story and that the only bad thing about it was they were not going to know if Goldie came at Eason or if he just went there and deliberately killed Goldie. After hearing these remarks, Eason stated, "Well, okay, I killed her."

Eason was charged with first-degree murder. Prior to trial Eason moved to suppress his November 10, 1993, statements alleging his mother's parental consent to the officer's interview was not knowingly given or was withdrawn. He also alleged that his waiver of his *Miranda* rights was not knowingly given or was also withdrawn.

The district court denied Eason's motion. The court determined there was substantial compliance with the statutory provisions governing parental consent for police interrogation of a minor. Eason's claim that his waiver of rights was defective was also rejected by the district court. Eason does not dispute the district court's decision regarding either of these issues on appeal.

In its ruling, the district court also addressed the voluntariness of Eason's November 10 statements to the authorities. After considering the totality of the

circumstances surrounding the interview, the district court found Eason's statement was voluntarily made.

On appeal Eason contends the State has not met its burden to establish the voluntariness of his statement. He cites evidence of his age, low average IQ, and deceptive tactics used by his interrogators.

The State argues Eason has waived any error because he failed to preserve this issue for appeal. The State alternatively contends it has met its burden to show Eason's November 10 statement was voluntary

Since Eason raises a constitutional issue, our review is de novo. We make an independent evaluation of the totality of the circumstances as shown by the record. *State v. Reid*, 394 N.W.2d 399, 402 (Iowa 1986) (citations omitted).

We first consider the State's argument Eason failed to preserve his claim for appeal. It is well settled that matters not raised in the district court, including constitutional issues, cannot be effectively raised for the first time on appeal. *State v. Washington*, 257 N.W.2d 890, 895 (Iowa 1977) (citations omitted). This rule is, however, subject to exception if the record indicates the issue raised on appeal was tried by consent and both the court and counsel were alerted to the issue. *State v. Martin*, 385 N.W.2d 549, 551-52 (Iowa 1986).

Upon proper motion or objection the State is required to prove a defendant's incriminating statements were made after an effective *Miranda* waiver and were

voluntarily made. *State v. Davis*, 446 N.W.2d 785, 788 (Iowa 1989). These are distinct issues. Unless each ground is specifically raised, the defendant waives any error predicated on that issue. *Washington*, 257 N.W 2d at 895.

Although Eason's motion failed to allege his statement was not voluntary, the suppression record contains substantial testimony regarding circumstances relevant to the voluntariness of his statement. In fact, most of the evidence concerned events occurring after he waived his *Miranda* rights. The State had ample opportunity to cross-examine Eason's witnesses and offered its own evidence indicating Eason's statement was voluntary. We believe this issue was tried as if Eason's motion to suppress included this issue. Eason's claim that his confession was involuntarily obtained has been adequately preserved for our review.

When a defendant challenges a confession as involuntary, the State bears the burden to show voluntariness by a preponderance of the evidence. *State v. Cooper*, 217 N.W.2d 589, 595-96 (Iowa 1974). This is true even if a defendant has voluntarily waived his *Miranda* rights. *State v. Hilpipre*, 242 N.W.2d 306, 309 (Iowa 1976). Factors relevant to this determination include the defendant's age, experience, prior record, level of education and intelligence, the length of time the defendant is detained and interrogated, whether physical punishment was used including deprivation of food or sleep, the defendant's ability to understand the questions, the defendant's physical and emotional condition, and the defendant's reaction to interrogation. *Reid*, 394

N.W.2d at 402. The ultimate question is whether the defendant's statement was a product of his rational and free will. *Davis*, 446 N.W.2d at 789.

The record reveals Eason was a sixteen year old with low average intelligence at the time he made his incriminating statement. He was fully informed of his *Miranda* rights and does not seriously dispute they were voluntarily waived. His mother was present with him when he arrived for questioning, and he expressly declined her offer to remain with him during the interrogation.

Eason's bold assertion regarding his familiarity with his *Miranda* rights and the interrogation process clearly belies any claim he now makes regarding his failure to understand the consequences of his actions. Despite his mother's assertion to the contrary, there is no credible evidence she was denied access to Eason during his three-hour interview.

We are, however, troubled by the interrogating officer's use of deceptive tactics during Eason's interrogation. We generally disapprove of their use. *See Cooper*, 217 N.W.2d at 597. There is, however, no per se rule of exclusion of statements obtained by deceit. *Id.* It is one factor to be considered in our analysis of the totality of the circumstances surrounding the interrogation. *Id.*

Although we do not sanction the officer's conduct in this case, we do not believe the deception was as egregious as Eason claims. The State had already received a verbal autopsy report. Eason knew Vallandingham was dead, and his November 8

statement indicates he knew she was stabbed. The officer's statement regarding evidence that would place Eason at the scene is similarly innocuous because Eason had already admitted he was at the scene when Vallandingham was killed. We are hard pressed to find Eason was deceived by these statements. The only deceit of any arguable consequence was the officer's assertion that Eason's version of the events was unnecessary unless Eason claimed he acted in self-defense.

Although Eason confessed following the officer's statements, it is far from clear the officer's stated confidence in the State's case induced Eason's confession. Eason's prior statement regarding his presence at the scene of the murder and his admitted familiarity with the details of the murder are examples of other reasons why Eason may have decided to confess.

After considering the totality of the circumstances, we find Eason's November 10 confession was voluntarily made. The district court is accordingly affirmed.

AFFIRMED.