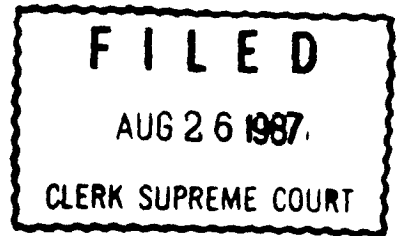


IN THE COURT OF APPEALS OF IOWA



STATE OF IOWA,)

Plaintiff-Appellee,)

vs.)

JAMES EARL EVANS,)

Defendant-Appellant.)

Filed August 26, 1987

7-196
86-495

319

Appeal from the Iowa District Court for Polk County (No. CR 30366) -
Dick Strickler, Judge.

The defendant appeals from his convictions of robbery in the first degree
and assault with intent to inflict serious injury. **AFFIRMED.**

Charles Harrington, Appellate Defender, and Raymond E. Rogers, Assistant
Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; Richard J. Bennett, Assistant Attorney
General; and Cathie Thune, Assistant County Attorney, for plaintiff-appellee.

Considered by Oxberger, C.J., and Schlegel, and Sackett, JJ.

PER CURIAM

In this case we address the issue of suppression of certain statements Defendant James Earl Evans claims were made in violation of his Sixth and Fourteenth Amendment rights. We affirm the trial court's refusal to suppress the statements.

Defendant was charged and convicted of robbery in the first degree and assault with intent to inflict serious injury. At trial the state claimed defendant flashed two knives at a group of students and demanded money. Defendant was given \$8.00 and fled. The students chased defendant and defendant stabbed one student. The defendant claims the students called him names and he got upset and pulled out his knife. He denied taking money, but admitted the stabbing.

After the incident the defendant was charged and arrested in Milwaukee, Wisconsin, where the challenged statements were made to an Officer Schroeder. Schroeder testified he advised the defendant of his Miranda rights from memory. Schroeder said after advising defendant of his rights, he asked the defendant if he understood and the defendant stated he did. On the top of the statement defendant read and signed Schroeder wrote "Advised of constitutional rights which he states he fully understands." Defendant admitted he had signed the statement.

Defendant testified he did not understand the meaning of the word "interrogated." He said he was brought to the police station by two officers with night sticks and was unsure about being advised of his right to remain silent. Defendant testified he was not made aware of the dangers of representing himself. Because we are presented with a constitutional question we examine the

totality of the circumstances as shown by the record and find the facts de novo.

See State v. Jackson, 380 N.W.2d 420, 421 (Iowa 1986).

The state agrees with defendant that his right to counsel had attached. See State v. Nelsen, 390 N.W.2d 589, 591-92 Iowa 1986). The issue is whether defendant waived the right. We determine he did.

AFFIRMED.