



IN THE COURT OF APPEALS OF IOWA

STATE OF IOWA,

Filed August 25, 1981

Plaintiff-Appellee,

1-105
64611

vs.

WILLIAM GERALD MARTIN,

Defendant-Appellant

Appeal from Clinton District Court. L. D. Carstensen, Judge.

The defendant appeals his conviction of introducing a controlled substance into the premises of a county jail in violation of §719.8, The Code. **AFFIRMED.**

Paul E. Pfeffer, Clinton, Ia., for defendant-appellant.

Thomas J. Miller, Attorney General of Iowa and Shirley Steffe, Assistant Attorney General, for plaintiff-appellee.

Heard by Oxberger, C.J., and Donaldson, Spell, Carter and Johnson, JJ.

PER CURIAM

The defendant appeals his conviction of introducing a controlled substance into the premises of a county jail in violation of §719.8, The Code.

He asserts his admission of guilt was improperly admitted for impeachment purposes because no showing of voluntariness was made, no foundation was laid, and the introduction violated his constitutional rights. He also asserts that he should have been granted a judgment of acquittal because the State failed to prove that the county jail visiting room is a detention facility within the meaning of the statute. We affirm.

The sheriff's office received information that defendant was coming to visit Dennis Abbott at the jail and that he would be bringing in drugs. The visitor's room of the jail was searched prior to defendant's visit. Nothing was found. Immediately after defendant's visit, the visitor's room was searched again, and the officers found marijuana behind a ceiling tile. The defendant was arrested. While he was in jail awaiting trial, he was asked by his jailer if he had brought the marijuana into the visiting room, and he said he had. At trial, the defendant denied his conversation, and the jailer testified as a rebuttal witness.

L Confession

The trial court allowed in the testimony solely for impeachment to show that the defendant had made a prior inconsistent statement. Since the defendant was asked a question by his jailer while he was in custody, and was not told of his constitutional rights, his admission of guilt could not be used in the state's case in chief. However, a prior inconsistent statement, even though it could not be used in the State's case in chief, may be used for impeachment purposes. Harris v. New York, 401 U.S. 222 (1971); State v. Washington, 257 N.W.2d 890 (Iowa 1977), cert. denied 435 U.S. 1008 (1978). Since the defendant specifically denied making his prior admission of guilt on direct examination at trial, the State could impeach this assertion with evidence that could not be used in its case in chief. State v. Campbell, 294 N.W.2d 803 (Iowa 1980).

The defendant also objected to the admissibility of the statement on the ground that it was not voluntary, and that the trial court erred by not ruling on the voluntariness issue. An involuntary statement may not be used for any purpose, including impeachment. State v. Washington, 257 N.W.2d 890 (Iowa 1977). All of the defendant's objections to the admissibility of the statement were made together. The

Court, after an in camera hearing on the admissibility question, specifically overruled all of the defendant's objections except the one regarding the voluntariness issue. The Court then allowed in the testimony solely for impeachment. Therefore, the Court in effect concluded that the statement was made voluntarily, although it did not specifically say so. Although it would have been clearer had the trial court specifically stated it was overruling the voluntariness objection, it was not reversible error to fail to do so. Not all errors at trial, even those of a constitutional nature, require reversal. State v. King, 256 N.W.2d 1 (Iowa 1977). A defendant is entitled to a fair trial, not a perfect one. Id. The ruling was sufficient so long as it appears from the record with unmistakable clarity that the trial court concluded the confession was voluntary. Sims v. Georgia, 385 U.S. 538 (1967).

The trial court did not err in determining that the confession was voluntarily made. In determining whether a statement is voluntary, the Court considers the totality of the surrounding circumstances, including the accused's characteristics and the details of the interrogation. State v. Jump, 269 N.W.2d 417 (Iowa 1978). The question is whether the confession is "the product of an essentially free and unconstrained choice by its maker". Id. at 426. In this case the defendant admitted his guilt in the course of a conversation with the jailer while the jailer was making his rounds. The surrounding circumstances in this case indicate the defendant knew what he was saying, and made the statement voluntarily. There was no prolonged interrogation, or threats, or any sort of abuse. There was merely a voluntary conversation between the defendant and his jailer. When the defendant denied he had had this conversation, the trial court did not err in allowing the jailer's testimony in for impeachment purposes.

II. Motion for Acquittal

The defendant also alleges that the trial court erred in failing to grant a motion for acquittal because the State failed to prove that the visiting room of Clinton County jail is a detention facility within the meaning of section 719.8, The Code.

In State v. Smith, 300 N.W.2d 90 (Iowa 1981), the Iowa Supreme Court held that a county jail is a detention facility within the meaning of Iowa Code §719.4(1). The term "detention facility" is used in the same manner in section 719.8. Therefore, we hold that a county jail is a detention facility within the meaning of section 719.8.

The defendant also alleges that the visiting room of a jail is not a detention facility

within the meaning of the statute. The defendant was charged with introducing marijuana into "the premises of any such institution." §719.8, The Code. "Premises" is not a technical term. Its ordinary meaning is "a piece of real estate; house or building and its land." Webster's New World Dictionary, 2d College Ed., 1976. The visitor's room was within the building of the county jail. Thus we conclude it was on the premises of the jail. The State proved that the defendant placed marijuana in the visitor's room of the county jail. He thus introduced a controlled substance into the premises of a detention facility within the meaning of section 719.8. The trial court was correct in denying the defendant's motion for acquittal.

Finding no error, we affirm the conviction.

AFFIRMED.