

70965-8

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NO. 70965-8-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

RAYMOND EDWARDS,

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR WHATCOM COUNTY

The Honorable Ira J. Uhrig, Judge

REPLY BRIEF OF APPELLANT

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DIVISION ONE
SEATTLE, WA

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A. SUPPLEMENTAL ASSIGNMENTS OF ERROR

At the time Edwards filed his opening brief, the trial court had failed to enter written findings of fact or conclusions of law as CrR 3.5(c) requires. Based on the trial court's entry of written findings and conclusions on April 17, 2014, CP 55-61, Edwards hereby supplements his assignments of error as follows:

1. The trial court erred in entering finding of fact 14 insofar as that finding indicates Edwards was coherent and could understand his Miranda¹ rights and officers' questions. CP 59.

2. The trial court erred in entering conclusion as to disputed facts 1, in which the trial court concluded that the record does not support a finding that Edwards was insufficiently coherent to understand or to knowingly, voluntarily, and intelligently waive his Miranda rights. CP 60.

3. The trial court erred in entering conclusion of law 4 that Edwards understood his Miranda rights. CP 60.

4. The trial court erred in entering conclusion of law 5 that Edwards made a knowing, voluntary, and intelligent waiver of his Miranda rights. CP 60.

5. The trial court erred in entering conclusion of law 6 that the evidence supported a finding that Edwards validly waived his Miranda rights

¹ Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

or that Edwards was capable of making a voluntary, knowing, and intelligent waiver of his Miranda rights. CP 60-61.

6. The trial court erred in entering conclusion of law 7 that Edwards's statements were made voluntarily and that Edwards's statements were not the product of coercion or undue influence. CP 61.

Issues Pertaining to Supplemental Assignments of Error

1. Did the State fail to satisfy its heavy burden to prove a knowing, voluntary, and intelligent waiver of Miranda rights where substantial evidence demonstrated that Edwards was mentally impaired and intoxicated when he waived his rights and made incriminating statements?

2. Did the trial court err in entering written findings and conclusions that Edwards was sufficiently coherent to understand and waive his Miranda rights where substantial evidence demonstrated that Edwards was mentally impaired and intoxicated when he waived his rights and made incriminating statements?

B. ARGUMENT IN REPLY

THE TRIAL COURT COMMITTED REVERSIBLE ERROR
WHEN IT DECLINED TO SUPPRESS EDWARDS'S
STATEMENTS

The State bears the heavy burden “to demonstrate that the defendant knowingly and intelligently waived his [or her] privilege against self-incrimination and his [or her] right to retained or appointed counsel.” Miranda v. Arizona, 384 U.S. 436, 475, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966). There must be substantial evidence in the record to support a trial court’s conclusion that a confession was voluntary by a preponderance of the evidence. State v. Aten, 130 Wn.2d 640, 664, 927 P.2d 210 (1996). Substantial evidence means evidence that is sufficient to persuade a fair-minded rational person of the truth of the finding. State v. Levy, 156 Wn.2d 709, 733 P.3d 1076 (2006).

The trial court’s written findings and conclusions are not supported by substantial evidence because no fair-minded person could conclude that an intoxicated and mentally impaired person in Edwards’s condition was capable of understanding his Miranda rights, let alone waiving them. Contrary to the trial court’s finding, Edwards was not coherent, appeared confused and under the influence of a controlled substance, and was acting irrationally. See Br. of Appellant at 9-10. Given all the signs that Edwards did not and could not understand important constitutional protections,

including slurred speech, fidgety movements, and appearing in an altered state, there was no basis for the trial court's conclusions that Edwards understood or made a knowing, voluntary, and intelligent waiver of his Miranda rights. See Br. of Appellant at 9-11. Furthermore, the fact that officers did not feel that Edwards was fit for jail and instead had him transported to the hospital severely undermines the trial court's conclusions that Edwards lawfully waived any rights. See Br. of Appellant at 11. The evidence entered at the CrR 3.5 hearing contradicts the trial court's conclusions that Edwards understood and lawfully waived his Fifth Amendment right against self-incrimination. This court must reverse.

C. CONCLUSION

Given the trial court's error in admitting Edwards's statements at trial, this court must reverse Edwards's conviction.

DATED this 9th day of July, 2014.

Respectfully submitted,

NIELSEN, BROMAN & KOCH, PLLC

A handwritten signature in black ink, appearing to read 'Kevin A. March', written over a horizontal line.

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COA NO. 70965-8-1

DECLARATION OF SERVICE

I, PATRICK MAYOVSKY, DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOLLOWING IS TRUE AND CORRECT:

THAT ON THE 9TH DAY OF JULY 2014, I CAUSED A TRUE AND CORRECT COPY OF THE **REPLY BRIEF OF APPELLANT** TO BE SERVED ON THE PARTY / PARTIES DESIGNATED BELOW BY EMAIL AND/OR DEPOSITING SAID DOCUMENT IN THE UNITED STATES MAIL.

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SIGNED IN SEATTLE WASHINGTON, THIS 9TH DAY OF JULY 2014.

x *Patrick Mayovsky*

2014 JUL -9 PM 4:12
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