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June 30, 2014
Court of Appeals
Division III
State of Washington
NO. 31736-6-III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE /

STATE OF WASHINGTON,

Appellant,

v.

I.B.,

Respondent,

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR FRANKLIN COUNTY, JUVENILE
DIVISION

The Honorable Bruce Spanner, Judge

BRIEF OF RESPONDENT

JARED B. STEED
Attorney for Respondent

NIELSEN, BROMAN & KOCH, PLLC
1908 E Madison Street
Seattle, WA 98122
(206) 623-2373

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A. INTRODUCTION

Respondent, I.B., was arrested for residential burglary. After being read his Miranda¹ rights, I.B. was asked if he wanted to speak with police. In response, I.B. looked away and shook his head from side to side. Police understood the head shaking to mean “no.” About five minutes later, police reinitiated the interrogation with I.B., questioning him about a different residential burglary. Police did not re-read the Miranda rights and did not ask I.B. whether he was willing to talk about the other case. In response to the continued police interrogation, I.B. gave incriminating statements. The trial court properly found I.B.’s head shaking was an unequivocal invocation of his right to remain silent and therefore suppressed his statements to police.

B. COUNTERSTATEMENT OF THE ISSUES

1. Did the trial court properly suppress I.B.’s statements to police where unequivocal non-verbal communication is sufficient to invoke the right to remain silent, police understood the meaning of I.B.’s head shake, and other courts have found a negative head shake is an unequivocal invocation of that right?

2. Did the trial court properly suppress I.B.’s statements when, instead of waiting a significant period time before reissuing a fresh set of

¹ Miranda v. Arizona, 384 U.S. 436, 469-73, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966).

Miranda warnings, police immediately reinitiated interrogation of I.B. thereby failing to “scrupulously honor” his unequivocal invocation of the right to remain silent?

3. In a case of first impression, did the trial court properly cite to other jurisdictions in support of its finding that I.B. unequivocally invoked his right to remain silent by shaking his head “no” when asked if he wanted to speak with police?

C. COUNTERSTATEMENT OF THE CASE

On November 27, 2012, police arrested 15-year-old I.B. for residential burglary. RP 5-6, 17. Officer Ryan Flanagan handcuffed I.B. and drove him to the police station. RP 6, 18. At the station, officers Flanagan and Raymond Aparicio took I.B. to an interview room. RP 6, 18-19, 24.

Aparicio read I.B. his Miranda rights, including “special warnings for juveniles.”² RP 7, 10, 19, 23. Aparicio explained I.B. did not seem confused by the warnings and asked no questions. RP 7, 19. I.B. shook his head “yes” to indicate he understood his Miranda rights. RP 10, 24. I.B. did not ask to speak with an attorney. RP 22.

² The exact language of the Miranda and juvenile warnings given to I.B. were not made part of the record.

After the warnings, Aparicio asked I.B. if he went to high school. I.B. responded “yes.” RP 7-8. Aparicio then asked I.B. if he was willing to talk with police about “some things, why we were there.” RP 19. I.B. said nothing, but looked away and shook his head from side to side. RP 8, 11, 19-20. Both officers understood the head shaking to mean “no.” RP 12, 19-20, 24.

Flanagan and Aparicio left the interview room to discuss whether the interrogation could continue. Both officers agreed I.B.’s head shaking was not enough to stop the interrogation. RP 8, 11-12, 20, 25. With Aparicio present, Flanagan then began questioning I.B. about a different burglary. RP 9, 13, 20-21, 25. Eventually, the officers also began re-questioning I.B. about the residential burglary Aparicio was investigating. RP 14. I.B. continued to avoid eye contact during the questioning. RP 25-26. In response to the questioning, I.B. made statements regarding the burglaries.³ RP 22.

About five minutes passed between when I.B. shook his head and Flanagan began questioning I.B. about another burglary case. RP 15, 25. Flanagan did not re-read I.B. his Miranda rights and did not ask I.B. whether he was willing to talk about the other case. RP 15, 25.

³ The substance of I.B.’s statements are not part of the record.

In February 2013, the Franklin County prosecutor charged I.B. with one count of residential burglary. CP 13-14. During a pre-trial CrR 3.5 hearing, the State sought to introduce I.B.'s statements to Flanagan and Aparicio. CP 9-12. In argument, the prosecutor acknowledged shaking of the head generally means "no," and "silence can be an invocation of the right [to remain silent][.]" RP 29-30. The prosecutor nonetheless asked the court to find I.B.'s head shaking was equivocal and contended the five-minute break between questioning was not long enough to require a re-advising of Miranda rights. RP 29, 34; CP 9-12. Defense counsel argued that I.B.'s statements should be suppressed because he invoked his right to silence and that invocation was not scrupulously honored. RP 31-32, 35.

In its oral findings, the trial court explained "...there could not be any more unequivocal expression, other than a shaking of head 'no.' No means no." RP 36. The court further noted a defendant did not need to verbally articulate in order to unequivocally invoke his rights. RP 36. Noting other jurisdictions⁴ had found head-nodding to be an unequivocal assertion, the trial court found I.B.'s shaking of his head an unequivocal invocation of his right to remain silent. RP 36-37. The trial court suppressed I.B.'s statements to officers. RP 37. The trial court later entered written

⁴ The trial court did not identify which cases it examined.

findings of fact and conclusions of law. Supp. CP ____ (Findings of Facts and Conclusions of Law, dated 10/18/13);

Following suppression of I.B.'s statements, the prosecutor requested the case be dismissed because the State could not longer prove its case beyond a reasonable doubt. RP 39. The Court granted the motion to dismiss. CP 5-6. This appeal follows. CP 3-4.

D. ARGUMENT

THE TRIAL COURT CORRECTLY FOUND I.B. UNEQUIVOCALLY INVOKED HIS RIGHT TO REMAIN SILENT

The Fifth Amendment provides that no person, "shall be compelled in any criminal case to be a witness against himself." U.S. Const. amend. V. The amendment reflects society's recognition that a criminal justice system, "which comes to depend on the 'confession' will, in the long run, be less reliable and more subject to abuses than a system relying on independent investigation." Withrow v. Williams, 507 U.S. 680, 692, 113 S. Ct. 1745, 123 L. Ed. 2d 407 (1993).

Custodial statements made by an accused are inadmissible unless preceded by a full advisement of rights, and voluntary, intelligent and knowing waiver of rights. Const. Amend. V; Miranda v. Arizona, 384 U.S. 436, 469-73, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966). An accused may invoke his "right to cut off questioning" at any time. Miranda, 384 U.S. at

474. The right to terminate questioning must be “scrupulously honored.” Michigan v. Mosley, 423 U.S. 96, 101, 104, 96 S. Ct. 321, 46 L. Ed. 2d 313 (1975); State v. Grieb, 52 Wn. App. 573, 575, 761 P.2d 970 (1988). Where officers continue interrogation after a clear invocation of the right to silence, the resulting statements must be suppressed. Mosley, 423 U.S. at 104. The State bears the burden of proving voluntariness by a preponderance of the evidence. State v. Braun, 82 Wn.2d 157, 162, 509 P.2d 742 (1973).

The trial court’s findings will be upheld if supported by substantial evidence. State v. Radcliffe, 139 Wn. App 214, 219, 159 P.3d 486 (2007), affirmed, 164 Wn.2d 900, (citing State v. Broadaway, 133 Wn.2d 118, 131, 942 P.2d 363 (1997)). Here, the State has not assigned error to any of the trial court’s written findings of fact and conclusions of law. The unchallenged findings and conclusions are therefore verities on appeal. Radcliffe, 139 Wn. App. at 219. This Court reviews de novo whether the trial court derived proper conclusions of law from its findings. In re Personal Restraint of Cross, ___ Wn.2d ___, ___ P.3d ___, Slip op. *9 (No. 79761-7, 6/26/14)

1. I.B. Unequivocally Invoked His Right to Remain Silent by Shaking His Head “No.”

An accused must invoke his right to remain silent unambiguously. Berghuis v. Thompkins, 560 U.S. 370, 381-82, 130 S. Ct. 2250, 176 L.

Ed. 2d 1098 (2010). The invocation need not be verbalized so long as it is clear and unequivocal. State v. Hodges, 118 Wn. App. 668, 673, 77 P.3d 375 (2003), rev. denied, 151 Wn.2d 1031 (2004). An unequivocal invocation of the right requires the expression of an objective intent to cease communication with interrogating officers. State v. Piatnitsky, ___ Wn.2d ___, 325 P.3d 167, 170 (2014). An invocation is sufficiently clear if a “reasonable police officer in the circumstances would understand it be an assertion of the suspect’s rights.” Cross, ___ Wn.2d ___, ___ P.3d ___, Slip op. *10 (No. 79761-7, 6/26/14); Piatnitsky, 325 P.3d at 171; see also People v. Martinez, 106 Cal. App. 3d 524, 534, 165 Cal. Rptr. 160 (Cal. Ct. App. 1980) (right to remain silent invoked by any conduct which “reasonably appears inconsistent with a present willingness on the part of the suspect to discuss his case freely and completely with police at that time.”).

Here, I.B. avoided eye contact and shook his head from side to side when asked whether he wanted to talk to police. RP 8, 11, 19-20. The State surmises I.B.’s head shaking “could have” communicated disbelief or discomfort rather than an intent to invoke his right to remain silent. Brief of Appellant (BOA) at 8. Significantly however, both officers understood I.B.’s head shaking to mean only one thing: “no.” RP 12, 19-20, 24; Supp. CP ___ (Findings of Facts and Conclusions of Law, dated

10/18/13, finding of fact 3). Whatever else I.B. may have hoped to convey by his head shaking is of no moment where police clearly understood I.B.'s expressed intent not talk with them.

The State further suggests that because Flanagan and Aparicio conferred before they resumed the interrogation, this demonstrates I.B.'s head shaking was equivocal. BOA at 9, 17-18. But the officers conferred not because they did not understand what I.B.'s head shaking meant, but rather, because they wanted to discuss whether I.B.'s non-verbal unequivocal invocation required them to end questioning. As Aparicio explained, "I didn't think that it [questioning] had to cease at that point because the head was shaking back and forth. We discussed it, and we both agreed that that wasn't enough to stop the investigation[.]" RP 8.

The State also asserts the trial court's suppression ruling violates "bright-line rules" because non-verbal communication places an added burden of interpretation on law enforcement. BOA at 7-10. It is well established, however, that non-verbal conduct can be unequivocal and specific. See e.g. United States v. Gordon, 173 F.3d 761, 766 (10th Cir. 1999), cert. denied, 528 U.S. 886 ("non-verbal conduct, considered with other factors can constitute voluntary consent to search."); United States v. Tutino, 883 F.2d 1125, 1138 (2nd Cir. 1989), cert. denied, 493 U.S. 1081 (1990) (recognizing an affirmative nod of the head is evidence of an

unequivocal expression of understanding); State v. Shoop, 441 N.W.2d 475, 482 (Minn. 1989) (nod of the head immediately after co-defendant's testimony sufficient to constitute an adoptive admission).

Indeed, non-verbal conduct is sufficient to invoke the right to remain silent. See e.g., Hodges, 118 Wn. App. at 672 (recognizing the right to remain silent can be invoked by remaining silent); U.S. v. Wallace, 848 F.2d 1464, 1475 (9th Cir. 1988) (finding no waiver of Miranda rights where Wallace maintained silence for several minutes despite repeated questioning).

Whether a negative head shake is an unequivocal invocation of the right to remain silent appears to be a question of first impression in Washington. Courts in other jurisdictions have however, directly addressed this question.

Commonwealth v. Clarke, 461 Mass. 336, 960 N.E.2d 306 (2012) is instructive. After arresting Clarke, police advised him of his Miranda rights. In response to Clarke's questions, officer Christopher Ahlborg explained Clarke was not required to speak with them and "nothing" would happen if he chose not to speak. Clarke then said, "I just want to go home." Ahlborg responded, "[Y]ou just want to go home? So you don't want to speak?" Clarke then shook his head back and forth "in a negative

fashion.” Ahlborg testified he interpreted Clarke’s head motion to mean he did not want to speak. Clarke, 960 N.E.2d at 311-12.

A different officer then clarified that “nothing” meant even if Clarke did not speak with them him he would still be charged and detained. As the interrogation continued, Clarke at different times stated, “I don’t know what’s going on. I’m really lost about what’s going on”; “I just wanna know what’s going on”; and “I’m just really scared.” After further discussions, Clarke agreed to talk with police. Clark then signed and dated a Miranda waiver form. Clarke later made incriminating statements. Clarke, 960 N.E.2d at 312.

Based on Clarke’s head shaking, over-all reluctance to speak with police, and young age, the trial court concluded Clarke unambiguously invoked his right to remain silent. The trial court excluded Clarke’s incriminating statements to police. Clarke, 960 N.E.2d at 312-13.

The Massachusetts Supreme Court agreed the statements were properly excluded. Clarke, 960 N.E.2d at 322. The Court found Clarke’s headshake expressed “affirmative conduct indicating his desire to end police questioning.” Clarke, 960 N.E.2d at 315. The Court noted it was “sensible” that an accused might communicate through conduct other than speech. Clarke, 960 N.E.2d at 315. The Court concluded Clarke’s explicit headshake in response to a direct question was sufficiently

communicative under Thompkins to invoke his right to remain silent. Clarke, 960 N.E.2d at 315.

Like Clarke, here I.B. shook his head “no” in direct response to Aparicio’s question about whether he wanted to speak with police. RP 8, 11, 19-20. I.B.’s head shake was sufficiently communicative to inform officers he was invoking his right to remain silent. Indeed, the officers acknowledged they understood the head shaking to mean I.B. did not want to speak with them. RP 12, 19-20, 24; Supp. CP ____ (Findings of Facts and Conclusions of Law, dated 10/18/13, finding of fact 3).

Courts in several other cases have also concluded a defendant’s head shaking demonstrated an unequivocal invocation of their right to remain silent. See e.g. Chamberlin v. State, 989 So.2d 320 (Miss. 2008), cert. denied, 555 U.S. 1106 (2009) (finding Chamberlin unambiguously invoked her right to silence by shaking her head “no” when asked if she was willing to answer questions); State v. Nash, 279 Ga. 646, 648, 619 S.E.2d 684 (Ga. 2005) (upholding trial court’s finding that Nash invoked his right to remain silent when he shook his head in the negative when asked if he wanted to talk about the complaining witnesses death); United States v. Miller, 116 F.3d 641, 680 (2nd Cir. 1997), cert. denied, 524 U.S. 905 (1998) (finding that appellant invoked his Miranda rights by shaking his head to indicate he did not wish to answer questions.)

I.B.'s unequivocal negative headshake in response to a direct question about whether he wanted to talk to police distinguishes this case from others where a headshake was found to be equivocal. See e.g. Commonwealth v. Raymond, 424 Mass. 382, 394, 676 N.E.2d 824 (1997) (defendant's shaking head in response to police allegations of defendant's involvement in murder was not sufficient to invoke right to remain silent where head-shaking implied only that defendant wanted to deny officers' allegations); United States v. Maisonneuve, 950 F. Supp. 1280, 1285 (D. Vt. 1996) (defendant's shaking head when confronted with list of prior criminal convictions not unequivocal assertion of his right to remain silent); State v. Rhoades, 121 Idaho 63, 822 P.2d 950 (1991), cert. denied, 506 U.S. 1047 (1993) (negative head shake not unambiguous indication of desire to remain silent where no evidence of what head shake was in response to); United States v. Gordon, 895 F.2d 932 (4th Cir. 1990), cert. denied, 498 U.S. 846 (1990) (defendant's negative head shake in response to question about whether he used cocaine implied only that he did not know or did not intend to answer that question; not that he was refusing to answer other questions in light of fact he previously answered other questions and asked police what they wanted to know).

I.B. shook his head "no" in direct response to a question about whether he wanted to talk with police. The police understood the head

shake to mean “no.” The trial court properly found I.B.’s head shake was an unequivocal assertion of his right to remain silent.

2. Police Failed to ‘Scrupulously Honor’ I.B.’s Unequivocal Invocation of His Right to Remain Silent.

An unequivocal invocation of the right to remain silent requires the police to immediately stop questioning. Questioning may not resume until the accused himself reinitiates further communication with police or a “significant period” of time has passed and officers reissue a fresh set of Miranda warnings and obtain a valid waiver. Cross, ___ Wn.2d ___, ___ P.3d ___, Slip op. *10 (No. 79761-7, 6/26/14); Grieb, 52 Wn. App. at 575 (1988) (citing Edwards v. Arizona, 451 U.S. 477, 484-85, 101 S. Ct. 1880, 68 L. Ed. 2d 378 (1981)); see also Piatnitsky, 325 P.3d at 171 (concluding there are “no distinctions between the invocations of different Miranda rights[.]”)

Whether a defendant validly waives his previously asserted right to remain silent depends on: (1) whether the police “scrupulously honored” the defendant’s right to cut off questioning, (2) whether the police continued interrogating the defendant before obtaining a waiver, (3) whether the police coerced the defendant to change his mind, and (4) whether the subsequent waiver was knowing and voluntary. State v. Brown, 158 Wn. App. 49, 58, 240 P.3d 1175 (2010), rev. denied, 171

Wn.2d 1006 (2011) (citing State v. Wheeler, 108 Wn.2d 230, 238, 737 P.2d 1005 (1987)). In determining the voluntariness of a juvenile's confession, the court must also consider the totality of the circumstances, including the juvenile's age, experience, and capacity to understand the warnings given him. State v. Furman, 122 Wn.2d 440, 450, 858 P.2d 1092 (1993).

I.B. made an unequivocal invocation of his right to remain silent. From that moment forward, police were required to "scrupulously honor" his request to cease questioning. Instead, after a five-minute break, police resumed interrogation of I.B. RP 15, 25. This is not the "significant period of time" demanded by Mosley's "scrupulously honor" requirement.

Brown is instructive by way of contrast. Brown was arrested for possessing firearms and read his Miranda rights. Brown, 158 Wn. App. at 53-54. Brown said he understood his rights but did not want to talk about the firearms. Brown, 158 Wn. App. at 54. Two hours later, Brown was re-read his Miranda rights by a different police officer who was investigating a car prowl. Brown again said he understood his rights and agreed to talk about the vehicle prowl. Brown then signed a waiver of his right to remain silent and gave a statement admitting he stole firearms from a truck. Brown, 158 Wn. App. at 54.

On appeal, Brown argued his Miranda waiver was not voluntary because police did not “scrupulously honor” his right to cut off questioning. Brown, 158 Wn. App. at 58-59. This Court found two hours was a sufficient period of time to “scrupulously honor” Brown’s invocation of his right to remain silent and the re-questioning by a different officer. Brown, 158 Wn. App. at 59-60. Citing Brown’s prior experience with the criminal justice system, his express written waiver of the right to right to remain silent, and the fact that he was re-read his Miranda rights before being questioned again, this Court concluded Brown voluntarily waived his right to remain silent. Brown, 158 Wn. App. at 60-61.

None of the factors supporting a finding that Brown waived his right to remain silent are present in this case. As the State acknowledges, at the time of his interrogation, I.B. was an adolescent with no prior criminal history and was likely in police custody for the first time. BOA at 6, 8. Unlike Brown, I.B. gave no express written waiver of his right to remain silent and was not re-read his Miranda rights before the interrogation continued with Flanagan. RP 25. See State v. Boggs, 16 Wn. App. 682, 687, 559 P.2d 11, rev. denied, 88 Wn.2d 1017 (1977) (noting that whether different police officers question accused about separate offense after an invocation of the right to remain silent is not

determinative). Moreover, unlike the two hours that passed in Brown, here only five minutes elapsed between I.B.'s interrogations with Aparicio and Flanagan. RP 15, 25.

I.B. also never initiated further discussions with Aparicio and Flanagan after he unequivocally shook his head "no" when asked if he wanted to talk to them. Rather, police reapproached I.B. The fact that I.B. then responded to their questions does not constitute a waiver of the right to remain silent. Cross, ___ Wn.2d ___, ___ P.3d ___, Slip op. (No. 79761-7, 6/26/14) is instructive.

Cross was arrested and advised of his Miranda rights on the way to the police station for interrogation. At the station, Cross was re-advised of his constitutional rights by officer Greg Silcox. After acknowledging that he understood his rights, Cross stated, "I don't want to talk about it." Cross was then moved to a holding cell. Cross, ___ Wn.2d ___, ___ P.3d ___, Slip op. *5-6 (No. 79761-7, 6/26/14).

Officer Bonnie Soule was present when Cross said he did not want to talk about it. Soule approached Cross in the holding cell and asked him, "[D]o you want to talk about it?" Cross responded with an incriminating statement. Cross, ___ Wn.2d ___, ___ P.3d ___, Slip op. *6 (No. 79761-7, 6/26/14).

The Supreme Court concluded Cross did not waive his prior unequivocal invocation of the right to remain silent by responding to Soule's question because Soule improperly reapproached Cross after he stated he did not want to talk about it. The Court noted Soule heard Cross invoke his right to remain silent. Instead of waiting an appropriate amount of time and then reissuing a fresh set of Miranda warnings, Soule approached Cross and asked if he wanted to talk. In so doing, Soule did not "scrupulously honor" Cross' right to remain silent. Cross, ___ Wn.2d ___, ___ P.3d ___, Slip op. *15-16 (No. 79761-7, 6/26/14).

The absence here of any of the factors present in Brown, as well as the officer's failure to "scrupulously honor" I.B.'s right to remain silent, demonstrates that I.B. did not voluntarily waive his unequivocal invocation of his right to remain silent. The State's argument to the contrary necessarily fails.

3. The Trial Court's Findings and Conclusions are Well Reasoned and Supported by Case Law.

The State cites no authority for the proposition that a negative head shake in response to a direct question cannot be an unequivocal invocation of the right to remain silent. Indeed, the State appears to recognize this is a question of first impression in Washington. BOA at 1, 10, 17. The State argues, however, that the trial court improperly based its decision on cases

from other jurisdictions because “its own review of national case law,” does not support the trial court’s decision. BOA at 10. This argument lacks merit.

In reaching its conclusion, the trial court explained it looked at “20 cases” from other jurisdictions. RP 36-37. This is the proper approach when addressing questions of first impression in Washington. See Matter of Welfare of Colyer, 99 Wn.2d 114, 119, 660 P.2d 738 (1983), holding modified by Matter of Guardianship of Hamlin, 102 Wn.2d 810, 689 P.2d 1372 (1984) (“As this is a case of first impression in Washington, we look to other jurisdictions for information and guidance.”). Moreover, in its oral ruling, the trial court explained that cases from other jurisdictions supported its decision that I.B. unequivocally invoked his right to remain silent, not that its decision was based upon those cases. RP 36-37. As the court explained, “and so *under these circumstances*, there’s an unequivocal expression of his [I.B.] desire to invoke his rights. He need not articulate it. The police understood it that way.” (emphasis added). RP 36.

The State cites a host of cases in an effort to support its claim that I.B.’s nonverbal conduct was not an unequivocal invocation of his right to remain silent. BOA at 10-18. But those cases instead show nonverbal gestures – such as a head nod -- can constitute unequivocal

communication. See United States v. Basher, 629 F.3d 1161, 1168 (9th Cir. 2011) (recognizing head nods have been found to express unambiguous consent); State v. Ralios, 783 N.W.2d 647, 654-58 (S.D. 2010) (rejecting argument that Ralios' affirmative head nod in response to whether he understood his rights was equivocal); People v. Calhoun, 382 Ill. App. 3d 1140, 1148, 889 N.E.2d 795 (Ill. 2008) (reversing trial court finding that defendant did not waive his right to remain silent where recorded interview "clearly show[ed]" defendant nodded affirmatively throughout reading of his Miranda warnings, including affirmatively nodding in response to being asked if he understood each individual warning as it was read); People v. Crane, 145 Ill. 2d 520, 530, 585 N.E.2d 99 (1991), cert. denied, 504 U.S. 924 (1992) (holding defendant's affirmative nod, in response to being asked if he understood Miranda warnings and if he wished to talk, was evidence that he knowingly and voluntarily waived his right to remain silent before making statements to police detectives during jail interview); People v. Brown, 146 Ill. App. 3d 101, 104-05, 496 N.E.2d 1020 (1986) (defendant's nod after detective read him his Miranda rights constituted express relinquishment of his right to remain silent where defendant did not re-invoke his right to remain silent after prior invocation was scrupulously honored).

The trial court's findings and conclusions are well reasoned based on the particular facts of this case and other cases demonstrating non-verbal communication can demonstrate an unequivocal invocation of the right to remain silent. The cases cited by the State further support the trial court's conclusions. The trial court's findings and conclusions must be affirmed.

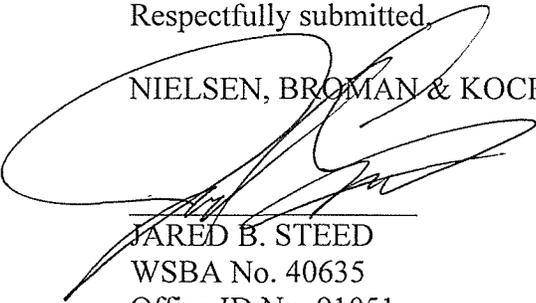
E. CONCLUSION

The trial court properly granted I.B.'s motion to suppress statements he made to police because he unequivocally invoked his right to remain silent and police did not "scrupulously honor" that invocation. The fact that I.B. later gave incriminating statements to police questions does not constitute a waiver of the right to remain silent. This Court should affirm dismissal of I.B.'s case.

DATED this 30th day of June, 2014.

Respectfully submitted,

NIELSEN, BROMAN & KOCH


JARED B. STEED

WSBA No. 40635

Office ID No. 91051

Attorney for Respondent