

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA	: NO. 00-11,913
	:
	:
vs.	: CRIMINAL DIVISION
	: Motion to Suppress
WALTER L. WILLIAMS, SR.,	:
Defendant	:

OPINION AND ORDER

Before the Court is Defendant's Motion to Suppress statements made by him during an initial investigation of matters which led to Defendant being charged with aggravated assault, simple assault, recklessly endangering and endangering the welfare of a child. Hearing on the motion was held July 2, 2001.

It appears that on November 2, 2000, Defendant brought a twenty (20) month old child to the Williamsport Hospital Emergency Room. The child had severe burns to both ankles and his buttocks. Both Children and Youth and the Williamsport police were called to the hospital and after learning from the physician that the burns were suspicious, Officer William Weber asked Defendant to answer some questions in a conference room at the hospital. Defendant indicated that he had been responsible for the child's care at the time and gave several inconsistent statements regarding how the child came to be burned. The Officer asked Defendant if he would mind having the police come to his home and make a videotape while he showed them what had transpired. Defendant agreed and the officers met Defendant at his home where they had him sign a consent to search form for the video. They read the form to him and he signed it. The officers and Defendant then went through the home videotaping the "tour", Defendant explaining to the officers his version of what occurred. After Officer Weber pointed out to Defendant inconsistencies in his version of events, and asked Defendant if he would come down to City Hall to give a statement, Defendant indicated that he would do so and

that he would “tell the truth.” At City Hall, Defendant was informed that he was not under arrest and that he was free to go. Defendant then gave a statement which was audio taped.

Defendant contends that any statements given at the hospital emergency room, during the videotaped home tour and during the audio taped interview at City Hall must be suppressed as he was not provided with Miranda warnings. Defendant claims that Miranda warnings needed to be given as he was subjected to “custodial interrogation.”

Miranda warnings need to be given only when one is subjected to custodial interrogation. Miranda v Arizona, 384 U.S. 436 (1966); Berkemer v McCarty, 468 U.S. 420 (1984). The test for determining whether a person is being subjected to custodial interrogation so as to necessitate Miranda warnings is whether he is physically deprived of his freedom in any significant way or is placed in a situation in which he reasonably believes that his freedom of action or movement is restricted by such interrogation. Commonwealth v Meyer, 412 A.2d 517 (Pa. 1980); Commonwealth v Brown, 375 A.2d 1260 (Pa. 1977).

The Court cannot find that Defendant was the subject of custodial interrogation. The first interview took place in a conference room at the hospital and there was no evidence that Defendant was not free to leave or felt he was not free to leave. He thereafter agreed to have the officers tour his home and during that tour, no questions were asked; Defendant simply explained his version of what happened. Finally, when he was asked to come to City Hall to give a statement, he was specifically told that he was not under arrest and that he was free to go. Under these circumstances, the Court finds that Defendant was not physically deprived of his freedom in any significant way and was not placed in a situation in which he reasonably believed that his freedom of movement was restricted by the interrogation.

Defendant nevertheless urges that because he was the focus of the investigation, i.e. a “suspect”, the Court must find that he was indeed subject to custodial interrogation. While the fact that a defendant is the focus of an investigation is a relevant factor in determining whether he was in custody, such factor does not automatically require Miranda warnings. Commonwealth v Perry, 710 A.2d 1183 (Pa. Super. 1998). Thus, even assuming Defendant was indeed a suspect, that factor does not in and of itself require a Miranda warning and under the totality of all of the circumstances,

the Court finds that no Miranda warnings were required.

ORDER

AND NOW, this day of July, 2001, for the foregoing reasons, Defendant's Motion to Suppress is hereby denied.

By the Court,

Dudley N. Anderson, Judge

cc: DA
 Anthony Miele, Esq.
 Gary Weber, Esq.
 Hon. Dudley N. Anderson