

2012 IL App (2d) 100658U  
No. 2-10-0658  
Order filed January 9, 2012

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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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THE PEOPLE OF THE STATE	)	Appeal from the Circuit Court
OF ILLINOIS,	)	of Kane County.
	)	
Plaintiff-Appellee,	)	
	)	
v.	)	No. 09-CF-2906
	)	
RODNEY MOORE,	)	Honorable
	)	Allen M. Anderson,
Defendant-Appellant.	)	Judge, Presiding.

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JUSTICE BIRKETT delivered the judgment of the court.  
Justices McLaren and Burke concurred in the judgment.

**ORDER**

*Held:* Any error in the admission of defendant's statements, that a drinking straw was for snorting cocaine and that he had snorted cocaine earlier in the day, was harmless: as defendant was convicted only of driving with a revoked license and possessing cocaine that was found inside a dollar bill that he was carrying, the statements did not contribute to his convictions.

¶ 1 Following a traffic stop, defendant, Rodney Moore, was charged with various offenses. He moved to suppress statements he made to a police officer, contending that they were the product of a custodial interrogation without the required *Miranda* warnings. The trial court denied the motion and, following a bench trial, found him guilty of possession of a controlled substance (720 ILCS

570/402(c) (West 2008)) and driving with a revoked license (625 ILCS 5/6-303(a) (West 2008)). Defendant appeals, contending that the trial court erred by denying his motion to suppress. Because any error was undoubtedly harmless, we affirm.

¶ 2 At the suppression hearing, Officer Joseph Norris testified that he stopped defendant for speeding. As he approached defendant's pickup truck, defendant lowered the window and said, "Just take me to jail." When queried, defendant explained that he was not supposed to be driving the truck because it belonged to his boss. Through a computer check, Norris learned that defendant's driver's license had been revoked.

¶ 3 Norris detected a strong odor of alcohol from defendant, who was slurring his speech. He asked defendant to step out of the car, handcuffed him, and searched him for weapons. The search revealed a piece of a drinking straw, a folding knife, and a folded one-dollar bill. The bill contained a white powdery substance that later proved to be cocaine.

¶ 4 Norris asked defendant what the straw was for. Defendant responded that the officer knew what it was for. Norris said that he did, but wanted defendant to tell him. Defendant replied that he used it to snort cocaine. In response to another question from Norris, defendant admitted using cocaine earlier in the day. Norris placed defendant in his squad car and inventoried the truck. Norris took defendant to the police station, where he administered field sobriety tests and a Breathalyzer test.

¶ 5 Defendant moved to suppress his statements about the use of the drinking straw and his previous use of cocaine. He argued that Norris's questions were a custodial interrogation, but that he did not receive *Miranda* warnings before being questioned. The trial court denied the motion, holding that the questions were part of an ongoing investigation.

¶ 6 The matter then proceeded to a bench trial at which the evidence was largely the same as at the suppression hearing. The most significant addition was that a State police chemist testified that the substance found on the folded dollar bill was indeed cocaine. The trial court found defendant guilty of possession of a controlled substance and driving with a revoked license. It acquitted him of driving under the influence of alcohol (625 ILCS 5/11-501(b) (West 2008)). The court imposed concurrent sentences of 32 months' and 24 months' imprisonment. Defendant timely appeals.

¶ 7 Defendant again contends that his statements to Norris should have been suppressed because he was in custody but did not receive *Miranda* warnings. The State concedes that defendant was in custody but contends that Norris's questions were part of an ongoing investigation, not interrogation. Alternatively, the State contends that any error in admitting the statements was harmless.

¶ 8 Statements obtained from a defendant pursuant to a custodial interrogation are admissible at trial only if, prior to the interrogation, the person is warned that (1) he has the right to remain silent, (2) any statement he makes may be used against him, (3) he has the right to have an attorney present, and (4) if he cannot afford an attorney, one will be appointed for him. *Miranda v. Arizona*, 384 U.S. 436, 479 (1966); *People v. Peo*, 391 Ill. App. 3d 815, 818 (2009). An "interrogation" occurs through express police questions or "any words or actions on the part of the police \*\*\* that the police should know are reasonably likely to elicit an incriminating response." *Rhode Island v. Innis*, 446 U.S. 291, 301 (1980). The definition of "interrogation" focuses primarily on the perception of the defendant, rather than that of the officer. *People v. Barnett*, 393 Ill. App. 3d 556, 558 (2009).

¶ 9 Here, the questions posed to defendant while he was handcuffed at the scene appear designed to evoke an incriminating response. Arguably, the second question, about when defendant last used cocaine, was justified so that Norris knew exactly what he was dealing with—whether defendant was

merely drunk or under the influence of some other drug—and whether defendant possibly needed medical attention. *Cf.* 2 LaFave, Israel, King & Kerr, *Criminal Procedure* § 6.7(b), at 778 n.92 (3d ed. 2007) (criticizing this approach). However, it is hard to imagine any purpose for the question about the straw other than to get defendant to incriminate himself, given that Norris told defendant that he already knew what the straw was for but wanted defendant to say it. See *Barnett*, 393 Ill. App. 3d at 558-59 (computer check had already answered officer’s questions about ownership of vehicle the defendant was driving; thus, only purpose of questions was to elicit incriminating response).

¶ 10 In any event, any error in admitting the statements was harmless beyond a reasonable doubt. See *Arizona v. Fulminante*, 499 U.S. 279, 308-09 (1991) (admission of involuntary confession subject to harmless-error analysis). Defendant was not charged with any crime based on his possession of the drinking straw or his use of cocaine earlier that day. Other than the license offense, which defendant does not contest, he was charged only with possession of the cocaine found folded inside the dollar bill. Defendant does not challenge the search that revealed the bill and does not seriously dispute that he was aware of the presence of cocaine inside it. The bill was found inside a pocket, and the cocaine was folded up inside it. In announcing its findings, the trial court did not mention defendant’s statements, referring explicitly only to the chemist’s testimony that the substance was indeed cocaine. Thus, the admission of defendant’s statements did not contribute to his convictions.

¶ 11 The judgment of the circuit court of Kane County is affirmed.

¶ 12 Affirmed.