3-07-0438

Order Filed April 7, 2011

IN THE APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

A.D., 2010

THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the Circuit Court
	)	For the 10th Judicial Circuit
	)	Peoria County, Illinois
Plaintiff-Appellee,	)	
	)	No. 01-CF-900
v.	)	
	)	Honorable Michael Brandt,
GERMILL D. MURDOCK,	)	Honorable Glenn H. Collier,
	)	Judges, Presiding
Defendant-Appellant.	)	

JUSTICE O'BRIEN delivered the judgment of the court.
Justice Lytton concurred in the judgment.
Justice McDade dissented.

ORDER

Held: The trial court did not err in denying the defendant's motion to suppress his confession where the trial court found the interrogation of the defendant was not oppressive and the police did not abuse his rights.

Following his conviction and sentencing for first degree murder and aggravated battery with a firearm, defendant Germill Murdock filed a postconviction petition, alleging, among other allegations, that his trial counsel was ineffective for failing to move to suppress Murdock's

statements to the police. Following an evidentiary hearing, the trial court denied Murdock's petition and he appealed to this court. Upon review, this court concluded the trial court erred in denying Murdock's postconviction petition and remanded the cause to the trial court for a suppression hearing. We retained jurisdiction to review the trial court's ruling. Following the suppression hearing, the trial court denied Murdock's motion to suppress, the parties were given an opportunity to brief the issue and we undertook this review in which we affirm the trial court's ruling.

FACTS

Following a jury trial, defendant Germill Murdock was convicted of first degree murder and aggravated battery with a firearm. 720 ILCS 5/9-1 (West 2000); 720 ILCS 5/12-4.2(a)(1) (West 2000). Murdock was sentenced to consecutive terms of 24 years for the murder conviction and eight years for the aggravated battery conviction. In a postconviction petition, Murdock alleged, among other allegations, that his trial counsel was ineffective for failing to move to suppress his statements to the police. Following an evidentiary hearing, the trial court denied Murdock's postconviction petition. We reversed the trial court's ruling and remanded the cause for a suppression hearing. *People v. Murdock*, No. 3-07-0438 (2009) (unpublished order under Supreme Court Rule 23). At the ensuing suppression hearing, the following evidence was adduced.

Michael Mushinsky of the Peoria police department testified. Mushinsky stated he was a trained juvenile officer and that at the time he interviewed Murdock, he was working violent crimes and juvenile cases. Mushinsky had probable cause to believe Murdock, who was 16 years old at the time, had been involved in a homicide that took place at Logan Park in Peoria. Mushinsky had interviewed witnesses who implicated Murdock. Mushinsky first came into contact with Murdock on the juvenile side of the police department around 5:30 p.m. on September 19, 2001. Mushinsky

had no idea how long Murdock had been at the station before their encounter. Murdock had been placed in an interview room that he was not free to leave. The interview room was 12 feet by 12 feet, with a table and a few chairs in it. During their initial encounter, Mushinsky told Murdock he had ordered him some food, although Murdock told Mushinsky he did not want anything to eat or to drink. Murdock eventually ate the meal Mushinsky had ordered. He was also allowed to use the bathroom. Mushinsky stated he was aware that Murdock's grandfather, Milas Murdock, was at the police station. Milas did not request to speak with Murdock and Murdock did not request to speak with Milas or his grandmother. Murdock did not appear distressed.

Mushinsky did not begin to interview Murdock until around 6:45 p.m. Detective Craig Willis was in the interview room with Mushinsky and Murdock. Mushinsky read Murdock his *Miranda* rights. Murdock indicated he understood his rights and agreed to speak with Mushinsky. Mushinsky could not produce a written rights waiver at the hearing. Mushinsky stated Murdock did not at any time request an attorney or indicate he did want to speak with Mushinsky. Mushinsky testified he did not threaten, coerce or promise anything to Murdock in order to obtain his statement. Mushinsky denied promising Murdock that if he "[gave] up the trigger man," Murdock would not be charged with a crime. Mushinsky stated that at the time he interviewed Murdock, he already knew who the "triggermen" were.

Mushinsky told Murdock he had interviewed several people regarding the homicide, including Shariff Fleming, a co-defendant in this case. Murdock gave Mushinsky an oral and a written statement. Mushinsky then requested Murdock agree to provide a videotaped statement and he did. The videotape was played for the court. Mushinsky asserted the videotape was an accurate depiction of Murdock's demeanor throughout the interview process. The last interview took place

at 10:00 p.m. The State also introduced into evidence a letter written by Murdock to the trial judge who presided over the preliminary hearing following Murdock's arrest. The letter was presented as evidence at Murdock's trial. In the letter, Murdock admitted driving two others to Logan Park, the scene of the homicide. Murdock denied, however, that he had any knowledge of what the two other males planned to do and stated the ride had started off as a "joy *** ride."

Germill Murdock also testified at the hearing. Murdock testified that on September 19, 2001, the police picked him up sometime before 2:25 p.m when "regular" school students are let out. Murdock stated he attended an alternative school where students were released at 12:00 p.m. He was picked up on a traffic stop by Mushinsky and "his partner." Murdock stated Mushinsky placed him in handcuffs and transported him to the police department, where he arrived at approximately 3:15 p.m. He was placed in a different room than the one where he was videotaped. Murdock testified he requested to see his grandmother or a guardian at least twice, however, his request was not honored. Murdock did not recall Mushinsky reading him his Miranda rights when they met at 6:45 p.m. He did recall that Mushinsky told him that if he helped "get the trigger man," he would be allowed to go home. The videotape recording was made late in the day and Murdock was "tired and scared." He had not had any rest and he had not had anything to eat. Murdock stated he was not offered any food. He also stated Mushinsky brought him food, however, he did not eat it. He did not use the bathroom. He pleaded with Mushinsky to let him go home. Murdock stated he did not understand that if he did not want to speak to them, he was not required to speak to the police. Murdock did not recall making any statements at trial indicating he had been given his Miranda rights before he made his first statement to the police.

Following closing arguments, the trial court took the matter under advisement to review the

evidentiary materials and to again view the videotaped statement of Murdock. When the trial court issued its order, it placed emphasis on the videotaped statement as reflective of Murdock's demeanor. The trial court made the following findings of fact and statements. The trial court found Murdock, although a juvenile, was "mature and on the older end of minority," three-and-a-half months shy of being 17 years old. The written and videotaped statements reflected Murdock capable of composing intelligent, grammatically-correct sentences. His memory of the events was clear and he showed a clear understanding of what was asked, producing a narrative that was logical and chronological. The trial court found Murdock's statements were made after he was given the *Miranda* warnings by a trained juvenile officer and that the warnings were related in a natural language which a person of Murdock's age and intelligence could understand. The trial court found that the duration of the interrogation was not so oppressive as to overcome Murdock's will. He had an opportunity to reflect and gather his thoughts. The trial court found Murdock was offered food and drink and given an opportunity to use the bathroom. The police did not engage in abusive or suggestive behavior. Murdock was allowed to make his statements in his own words without prompting or leading questions. The trial court did not observe any fearfulness or fatigue in Murdock's demeanor during the videotaping of his statement.

The trial court noted three areas of concern. The trial court expressed concern that the juvenile officer was "wearing two hats." The trial court found, nevertheless, that even if a separate juvenile officer had been present, the interrogation would not have been conducted differently. There would have been no reason for a juvenile officer to intervene on Murdock's behalf. The trial court also stated it did not understand how Murdock's grandfather had come to be at the police station, although it also found that there was no evidence to indicate that if the grandfather had requested to

see his grandson, he would have been denied the opportunity. Finally, the trial court stated it found no nexus between any promise that may have been made to Murdock and the voluntariness of his statement. The trial court also questioned Murdock's credibility. In conclusion, the trial court found Murdock's statements to the police were given voluntarily and it denied the motion to suppress. Because we retained jurisdiction in the matter, we are now called upon to review the trial court's order.

ANALYSIS

We review a trial court's motion to suppress ruling under a two-part test. *People v. Luedemann*, 222 Ill. 2d 530, 542 (2006). Under this standard, a trial court's findings of historical fact are reviewed only for clear error and a court of review gives due weight to any inferences drawn from those facts by the fact finder. *Luedemann*, 222 Ill. 2d at 542. We will reverse the trial court's factual findings only if they are against the manifest weight of the evidence. *Luedemann*, 222 Ill. 2d at 542. We are free, however, to undertake our own assessment of the facts in relation to the issues and we may draw our own conclusions when deciding what relief should be granted. *Luedemann*, 222 Ill. 2d at 542. For this reason, we review *de novo* the trial court's ultimate legal ruling as to whether suppression is warranted. *Luedemann*, 222 Ill. 2d at 542-43.

In our review of the trial court's denial of Murdock's postconviction petition, we discussed extensively the concerns peculiar to a review of whether a juvenile's confession is voluntary. See *Murdock*, No. 3-07-0438 (2009) (unpublished order under Supreme Court Rule 23). In doing so, we noted the following. The taking of a juvenile's confession is " 'a sensitive concern.' " *In re G.O.*, 191 Ill. 2d 37, 54 (2000), quoting *People v. Prude*, 66 Ill. 2d 470, 476 (1977). There must be assurances that a juvenile's confession has not been coerced or suggested and that " 'it [is] not the

product of ignorance of rights or of adolescent fantasy, fright or despair.' " *G.O.*, 191 Ill. 2d at 54. quoting *In re Gault*, 387 U.S. 1, 55, 561 S. Ct. 1428, 1458 (1967). In determining whether, under the totality of the circumstances, a juvenile's confession was voluntary, factors that the court weighs include, the defendant's age, intelligence, background, experience, mental capacity, education, and physical condition at the time of questioning; the legality and duration of the detention; the duration of the questioning; and any physical or mental abuse by police, including the existence of threats or promises. *G.O.*, 191 Ill. 2d at 54.

In *Murdock*, we also noted that although not dispositive in itself, the "concerned adult factor," whether the juvenile has an opportunity to speak with a parent or adult interested in his welfare before or during the interrogation, is an important element in determining the voluntariness of the juvenile's confession. *People v. Griffin*, 327 Ill. App. 3d 538, 545, 763 N.E.2d 880, 887 (2002). Courts have repeatedly held that police conduct which frustrates parents' attempts to confer with their child is particularly relevant and a significant factor in the totality of the circumstances analysis. *Griffin*, 327 Ill. App. 3d at 545, 763 N.E.2d at 887. "The relevant inquiry is whether the absence of a parent or other adult interested in the minor's welfare contributed to the coercive atmosphere of the interview." *Griffin*, 327 Ill. App. 3d at 546, 763 N.E.2d at 887-88.Furthermore, although there is no requirement that a youth officer be present when a minor is questioned, it is a significant factor in the totality of the circumstances analysis. *Griffin*, 327 Ill. App. 3d at 547, 763 N.E.2d at 888. A youth officer's presence does not *per se* make a juvenile's confession voluntary, however, at the very least, a youth officer can ensure that the minor was properly treated and not coerced in any way. *Griffin*, 327 Ill. App. 3d at 547, 763 N.E.2d at 888.

In remanding the cause for a suppression hearing, we stated in our postconviction order that

our concern was that although a reasonable probability existed that Murdock could succeed in a motion to suppress proceeding, no such proceeding had taken place. We considered that Murdock was 16 years old with no criminal history, that he was interviewed and gave statements to the police without the benefit of any "concerned adult," that no juvenile officer was present and that Murdock asserted he was promised he would be released if he gave up the "triggerman," an issue that turned on an assessment of credibility. *Murdock*, No. 3-07-0438 (2009) (unpublished order under Supreme Court Rule 23).

Following the suppression hearing in the instant case, the trial court made several findings that address our earlier concerns. The trial court did not view the process of Murdock's interrogation as coercive, albeit Murdock did not confide in his grandparents or have the benefit of a juvenile officer acting as his guardian. As noted above, neither of these factors present a *per se* reason to find a juvenile has given an involuntary confession. The trial court found there was no frustration of any attempt on the part of the grandparents to confer with Murdock and noted that had a juvenile officer been present, there would have been no cause for the juvenile officer to intervene. In the instant case, after hearing the testimony and reviewing the evidence, including the videotaped statement, the trial court found Murdock was a mature and intelligent almost 17 year old, who was capable of composing thoughtful responses and understanding what was asked of him. The trial court considered the duration of the interrogation was not oppressive and the police were not abusive in their approach. Specifically, the trial court found Murdock was offered food and drink, given an opportunity to use the bathroom and was not pressured into making suggested responses. The trial court did not observe any fearfulness or fatigue in Murdock's demeanor during the videotaping of his statement and found Murdock's suppression hearing statements in this regard incredible. Finally,

the trial court also found doubtful that Murdock had been promised freedom in exchange for his statement. Giving the trial court's findings their due deference, we consider the findings were not against the manifest weight of the evidence and conclude the trial court's denial of Murdock's motion to suppress was not made in error.

For the foregoing reasons we affirm the trial court.

Affirm.

3-07-0438, People v. Germill Murdock

JUSTICE McDADE, dissenting

It is the judgment of this court that the decision of the trial court following a suppression hearing, to deny the defendant's motion to suppress statements made to police during the investigation should be affirmed. Because I believe the trial court's decision was against the manifest weight of the evidence, I respectfully dissent from the judgment.

The defendant filed a postconviction petition in which he claimed that when he was tried in 2001 for first degree murder, his attorney failed to seek suppression of incriminatory statements and thereby rendered ineffective assistance. Following an evidentiary hearing, Judge Brandt found that (1) Murdock had been taken into custody as a minor and interviewed without compliance with section 405 of the Juvenile Court Act (705 ILCS 405/5-405 (West 2000)), (2) Murdock was not afforded an opportunity to consult with a "responsible guardian," and (3) the court could "hardly find *** trial strategy in the case." Despite these concerns, however, the court concluded that even if a motion to suppress had been filed, there were insufficient grounds to believe the statements would have been suppressed. We found that the court had erred in failing to hold a suppression hearing at

that time and directed that one be held.

On remand, Judge Collier presided over the suppression hearing and at its conclusion, he took the matter under advisement and thereafter he made the following findings that have also been recited in the majority decision. He relied significantly on the videotape for evaluation of the defendant's demeanor, finding that: the defendant was nearly 17 years old, could form intelligent and grammatical sentences, had a clear memory of events, understood what was asked, and had produced a logical and chronological narrative. He also found that the police did not engage in suggestive or abusive behavior and Murdock was allowed to make his statements in his own words without prompting or leading questions. The trial court also noted that he did not observe fearfulness or fatigue during the videotaping. On the basis of the videotape, he found the defendant was not credible when he said he was frightened and also found that his claim that he did not remember being given *Miranda* warnings had been impeached by his testimony in an earlier hearing. Although the court alluded to an issue of credibility with regard to the defendant's testimony that he had requested a guardian be present, he did not make a specific finding on that issue. He merely noted that "[defendant] was told that he had the right to have an attorney, and he didn't indicate that he ever requested an attorney. In fact, he said that he wanted to proceed after having been informed of that right." Those findings are not clearly inconsistent with the evidence and are entitled to deference.

The trial judge made no observations, however, concerning the three hours of interrogation leading up to the final written and videotaped statements because there is no videotape of what transpired during that time. There is no record of the entire period during which the minor was questioned by Detective Mushinsky without the support or advice of a functioning juvenile officer or a parent, guardian or other concerned adult.

Judge Collier did express some concerns – as had Judge Brandt before him – about the non-compliance with section 405 of the Juvenile Court Act because the juvenile officer was "wearing two hats." Judge Collier found, however, that the interrogation would not have been conducted differently even if a separate juvenile officer had been present – there would have been no reason for a juvenile officer to intervene on Murdock's behalf.

He also indicated his concern that there was no responsible parent or guardian present but observed that "that is not a per say (sic) basis for suppression of the statement." His third concern was the defendant's claim that there had been a promise made that he would be released if he told who the "triggerman was". After saying "[a]gain, I didn't see any indication" and noting that the officer had denied that any promise had been made, the Judge concluded:

> "I saw no nexus between the statement that was given by the defendant and the reason that he gave that statement as being because he thought he was going to be released. I don't think that even if I found that that promise had been made, that that was sufficient to overcome the voluntariness of his statements."

It does not appear to me that the court actually made a credibility finding on this issue, instead simply finding that even if the promise had been made, it was not sufficient to render the statements involuntary.

Even giving deference to those factual findings that were made by the trial court, I would find that the court's conclusion that the defendant's statements were voluntary and should not be suppressed is against the manifest weight of the evidence and should be reversed. *People v. Luedemann*, 222 Ill. 2d 530, 542 (2006).

On September 19, 2001, when Germill Murdock made the statements that were admitted at his trial for first degree murder, he was 16 years old. As a 16-year-old, he was entitled to the protections established for minors in the Juvenile Court Act (705 ILCS 405/1-1, *et seq.* (West 2000) – protections that remained in place until he reached his 17th birthday. Section 5/405 of the Act provides in pertinent part:

> " * * *
>
> "(2) A law enforcement officer who arrests a minor without a warrant under Section 5-401 shall, if the minor is not released, immediately make a reasonable attempt to notify the parent or other person legally responsible for the minor's care or the person with whom the minor resides that the minor has been arrested and where the minor is being held; and the law enforcement officer shall without unnecessary delay take the minor to the nearest juvenile police officer designated for these purposes in the county of venue ***.
>
> "(3) The juvenile police officer may take one of the following actions:
>
> (a) station adjustment and release of the minor;
>
> (b) release the minor to his or her parents and refer the case to Juvenile Court;
>
> ©) if the juvenile police officer reasonably believes that there is an urgent and immediate

> necessity to keep the minor in custody, the juvenile police officer shall deliver the minor without unnecessary delay to the court or to the place designated by rule or order of court for the reception of minors;
>
> (d) any other appropriate action with consent of the minor or a parent.
>
> * * * ."

Subparagraph 4 of section 5-405 also sets out factors to be considered by the juvenile officer in determining whether to release or keep a minor in custody. Those factors "shall include," in relevant part, the nature of the allegations against the minor; the minor's history and present situation; the history of the minor's family and the family's present situation; the educational and employment status of the minor; and the present attitude of the minor and family.

The following facts, which I believe to be undisputed, taken in concert with the statute and with deference to the trial court's factual findings, compel a different result than that reached by the court. (1) The defendant was 16 years old at the time of the interrogation and had no criminal history. (2) The statute does not contain a sliding scale that decreases or eliminates its protections for minors who are "nearly" 17. (3) The defendant was picked up on a traffic stop before 2:25 p.m., arrived at the police station about 3:00 p.m., and remained continuously in custody thereafter. (4) Detective Mushinsky, the juvenile officer, stopped in at 5:30 p.m., offered him food and a drink and left the room. (5) Except for that brief courtesy stop, the minor sat alone in the station for almost four hours until Mushinsky, joined by Detective Willis, began the interrogation at 6:45 p.m. (6)

Most, if not all, of the questioning was done by the juvenile officer, Mushinsky. (7) The interrogation continued for a little over three hours until the defendant made his videotaped statement at 10:00 p.m. (8) That statement was the only portion of the defendant's seven hours in custody that was videotaped and capable of being observed. (9) Defendant also produced a written statement during the interrogation and prior to the making of the videotape. (10) Although representations were made by the officers and the defendant of other things that were said, those two items are the only tangible evidence of defendant's "confession" that day. (11) Detective Mushinsky, the juvenile officer, stated and reiterated that he gave the defendant his *Miranda* rights by reading from the department-issued card. He did not state or suggest that he explained to the minor any of the court-created intricacies involved in asserting those rights, particularly the right to counsel, or the ramifications of waiving his rights. (12) Detective Mushinsky, the juvenile officer, knew the defendant's grandfather, Milas Murdock, was present in the police station1, and, in fact, testified that he "needed to speak to him about an issue in this case" and "wanted to inform him that [his grandson] was there." (13) Detective Mushinsky, the juvenile officer, told Milas that Germill was there but did not tell him that he had a right to talk with or be with his grandson. 'Instead he took advantage of the fact that Milas may not have known of this right and did not expressly ask to see Germill.' (14) Detective Mushinsky, the juvenile officer, knew the defendant was a minor, but did not tell him that his grandfather was in the police station, that he had a right to have him with him, or that it might be wise for him to speak with or have him present before or during his interrogation. 'Instead he simply took advantage of the fact that Germill may not have known of his

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1The defendant's grandmother had testified at the earlier hearing before Judge Brandt that she, too, was at the police station that day, had asked to see her grandson and had been denied. She had also testified that she had stopped an earlier interrogation by refusing to allow Germill to be questioned without a lawyer. Judge Collier was not made aware of her presence on that day.

grandfather's presence and did not expressly ask to speak with him.' (15) At no time on September 19, 2001, did the defendant consult with his grandparents or receive advice from Detective Mushinsky, the juvenile officer, of his right to do so.

Two conclusions can be readily drawn from these facts. First, while Judge Brandt and Judge Collier were both concerned that Detective Mushinsky was wearing two hats during the interrogation of the defendant, it seems clear that he may have *owned* two hats, but he was only wearing one that day and it was not that of the juvenile officer. Detective Mushinsky did not treat Germill Murdock differently than any adult suspect would have been treated. His processing at the police station was not handled expeditiously nor was he even told of the possibility of consulting with or being accompanied by a parent, guardian or other concerned adult. Indeed it appears that Mushinsky actually impeded the statutory protections by withholding information from the defendant and his grandfather. Second the juvenile officer in this case followed neither the letter nor the spirit of the statute and his failure to do so created a situation that was inherently coercive. I believe a contrary finding on this evidence would effectively repeal the statute by judicial interpretation.

A coercive environment, however, is not conclusive of the issue of the voluntariness of a minor defendant's statements. Other relevant factors are also to be considered as part of a "totality of the circumstances" review. These may include: the age, intelligence, background, experience, mental capacity, education, and current physical condition of the defendant; the legality and duration of the detention; the duration of the questioning; and the existence of threats or promises or any physical or mental abuse by the police. *In re G.O.*, 191 Ill. 2d 37, 54 (2000). The benign presence of a juvenile officer, the opportunity of the minor to have the support and advice of a parent, guardian or other concerned adult, and whether that opportunity has been thwarted by police conduct

are significant factors to be considered in making that determination.

Judge Collier knew that the defendant was 16 years old ("nearly 17"), that he was enrolled in an "alternative" high school. He inferred a level of intelligence based on the language in the written and videotaped statements. He made no findings on the defendant's background, experience, mental capacity, or physical condition at the time of questioning. He made no determination concerning the legality of the detention, and misapprehended the length of time the defendant had remained in the interview room alone. ("I think he had sat in there for an hour or so and, again, which gave the defendant an opportunity to reflect.") In fact the teen-age defendant sat in the room for nearly four hours with nothing to do, no one to talk with, and nothing to "reflect" on but what might happen to him when the police officers returned.

The trial judge also found that the three-hour interrogation was not oppressive and the police had not been abusive in questioning the defendant. Because he did not observe any fear or fatigue in defendant on the videotape, he inferred that he had not experienced any during the balance of the interrogation and found his assertions to the contrary to be not credible. As I pointed out earlier, the judge does not appear to have made a credibility finding with regard to the defendant's assertion that he had been promised if he "gave up" the" triggerman" he could go home, although, as the majority observes, he did find it doubtful that the promise had been made. I would conclude that, even giving deference to the factual findings that were made by the trial court, consideration of the totality of the circumstances present in this case compels a finding that its determination that the statements given by Germill Murdock were knowing and voluntary is against the manifest weight of the evidence. I would reverse that decision and remand for a new trial without the statements.

Finally, having completed my dissent in this matter, I would like to offer an additional

insight into a very real flaw in the situation presented here and recognition of the bases of my dissent. At the time of the events under consideration, Germill Murdock was 16 years old, he was charged with first degree murder, he was subjected to three hours of interrogation, at the end of which time, he gave a written and a videotaped statement introduced at his trial as "confessions." It was this very type of situation that so concerned the legislature that it amended the Juvenile Court Act to include section 5-401.5. Although the amendment took effect in August 2005, its application was expressly made prospective, available only when the statements at issue were made on or after its effective date.

It provided that a statement of a minor who was under the age of 17 at the time the offense was committed that was made as a result of a custodial interrogation at a police station or other place of detention on or after its effective date "shall be presumed to be inadmissible as evidence" against the minor in any criminal or juvenile proceeding for acts which, if committed by an adult, would be prosecuted under certain enumerated sections of the criminal code, (including Section 9-1 with which Germill Murdock was charged) *unless* an electronic recording is made of the [full] custodial interrogation; and the recording is substantially accurate and not intentionally altered. The amendment contains exceptions to the presumption of inadmissibility, any one of which can apply only if the State carries the burden of proving by a preponderance of the evidence that it is applicable.

The amendment recognizes and addresses several problems possibly present in the instant case, as, for example, mistaking a resurgence of spirit resulting from seeing the end of the interrogation process as proof of an absence of fear or fatigue throughout the custodial questioning, or interpreting prompt, monosyllabic responses as evidence of an understanding of *Miranda* rights

and the implications of waiving them.