IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

THE STATE OF OHIO,	)	**CASE NO. CR 16 605330**
	)	
Plaintiff,	)	**JUDGE JOHN P. O'DONNELL**
	)	
-vs-	)	**JUDGMENT ENTRY DENYING**
	)	**THE DEFENDANT'S**
JAMES SPARKS-HENDERSON,	)	**MOTION TO SUPPRESS HIS**
	)	**APRIL 20, 2015, STATEMENTS**
Defendant.	)	**TO POLICE**

The indictment

Defendant James Sparks-Henderson is charged with the November 21, 2014, aggravated murders of Lemon S. Bryant, Sherita L. Johnson, Ja'Rio Taylor, Shaylona Williams and Sherita Johnson's unborn child, named in count five of the indictment as Baby Boy John Doe/Juwan Johnson. All of those charges include capital specifications. The defendant is also accused of the attempted aggravated murders of nine-year-old Janiyah Johnson and two-year-old Jamarian Johnson.

The indictment includes 39 other counts in connection with the killings.

The motion to suppress

Sparks-Henderson made statements to Cleveland police detectives on April 20, 2015. This entry concerns itself only with the admissibility of the April 20 statements.

Sparks-Henderson also gave statements to the police on May 6 and 7, 2015. On April 27, 2016, he filed a motion to suppress the May statements. An evidentiary hearing on that motion was held on June 23, 2016. The April statements were not at issue under the previous motion to suppress and its related briefing. Since then, however, the parties have stipulated that the

evidence received at the June 23 hearing may be considered when deciding whether to suppress the April 20 statements, and additional evidence was presented at a hearing on August 8, 2016. Otherwise, the parties declined the opportunity to present additional evidence related to the April 20 statements only.

Briefing on the suppression of the April 20 statements includes: the defendant's June 22, 2016 motion to incorporate the interrogation of April 20, 2015 into his April 27, 2016 motion to suppress; the defendant's August 15, 2016 supplement to the June 22 motion; and the state's August 21, 2016 supplemental brief in opposition.

This entry follows.

The parties' claims

The defendant asserts that he was taken by police officers to the headquarters of the City of Cleveland's division of police on April 20, 2015, and "kept hostage at the homicide unit for approximately two and one half hours" during which he was interrogated but "never received his *Miranda* rights which are guaranteed rights afforded all those subject to custodial interrogation." Because the questioning was undertaken while he was in police custody and he was not given the *Miranda* warnings, Sparks-Henderson argues that all of his statements from April 20, 2015 should be excluded from evidence.

The state concedes that the *Miranda* warnings were not given, but opposes the motion on the basis that the April 20 questioning was not done while the defendant was in custody. As a result, the statements that day were not taken in violation of his constitution rights and *Miranda*'s exclusionary rule does not apply.

The law

The Fifth Amendment to the United States Constitution provides that no person shall be

compelled in any criminal case to be a witness against himself.[1] In 1966, The United States Supreme Court, in *Miranda v. Arizona*, 384 U.S. 436, held that a criminal suspect in custody must be told that he has a right to remain silent, that anything said can and will be used against him in court, that he has a right to consult with an attorney and that if he is indigent a lawyer will be appointed to represent him.

The purpose of requiring the warnings is to guard against statements compelled in violation of the Fifth Amendment. As the court put it:

> We have concluded that without proper safeguards the process of in-custody interrogation of persons suspected or accused of crime contains inherently compelling pressures which work to undermine the individual's will to resist and to compel him to speak where he would not otherwise do so freely. *Id.*, 467.

In short, the purpose of requiring the warnings is to mitigate the compulsion inherent in a custodial interrogation, i.e. questioning undertaken of a person who is not free to leave. Because that pressure is not assumed to exist where the person being questioned is free to walk away at any time the police are required to give *Miranda* warnings only where there has been such a restriction on a person's freedom as to render him 'in custody.' *Oregon v. Mathiason*, 429 U.S. 492, 495 (1977). In deciding whether a person is in custody, the ultimate inquiry is simply whether there is a "formal arrest or restraint on freedom of movement" of the degree associated with a formal arrest. *California v. Beheler*, 463 U.S. 1121, 1125 (1983).

Since the parties here agree that Sparks-Henderson was not formally arrested on April 20, 2015, the *Beheler* test of whether Sparks-Henderson's movement was restrained in the same way as if he were arrested must be satisfied to find that the police were required to Mirandize him. The United States Supreme Court has acknowledged that this test will mean that the police and

[1] This same right is also provided by Article 1, §10 of the Ohio Constitution.

lower courts will continue occasionally to have difficulty deciding exactly when a suspect has been taken into custody. *Berkemer v. McCarty*, 468 U.S. 420, 441 (1984). The decision requires a consideration of the totality of the circumstances, but the test for whether a person is in custody is an objective one: whether a reasonable person in the defendant's position would have understood himself to be subjected to the restraints comparable to those associated with a formal arrest. *United States v. Ali*, 68 F.3d 1468, 1472 (2d Cir. 1995).

The evidence

The evidentiary record from the August 8 hearing includes the courtroom testimony of Cleveland police detectives Raymond Diaz and Katherine Cruz and a digital video disc and written transcript of Sparks-Henderson's April 20, 2015 statement, both of which were provided by the state to the court *in camera*.[2]

Diaz and Cruz had first spoken to Sparks-Henderson in front of his house on December 8, 2014, after they learned he was a friend of victim Ja'Rio Taylor. That interview was not recorded and lasted for about half an hour. After that, the detectives called the defendant for additional information on a few occasions; sometimes he would answer his phone, other times he wouldn't. The detectives scheduled a meeting with Sparks-Henderson two or three times before they ultimately met on April 20, but those meetings were canceled by the defendant and the detectives never threatened him with a warrant to get him to appear.

On April 20, Sparks-Henderson was not considered a suspect. The detectives arranged to pick up Sparks-Henderson at his house. From there they drove him to the homicide unit at police headquarters in downtown Cleveland. None of the formalities of an arrest were observed: Sparks-Henderson was not searched, he was not handcuffed, he was not fingerprinted and he was not booked. The homicide unit itself was locked from the outside and not accessible to the

[2] The defendant's attorneys have received these items in discovery.

public, but the interview room where the statement was taken was not locked.

Diaz testified that the defendant's demeanor during the interview was "very laid back," an observation borne out by a review of the digital video disc, which shows that he was unflappable even as the detectives made it clear they felt the digital forensic evidence contradicted his version of events.

Diaz asserts that Sparks-Henderson was free to leave at any time yet concedes that he did not begin the interview by making that fact clear. But later in the interview, Diaz did say "you're not being held here against your will right now."[3] Moreover, at one point the defendant asked Diaz what time it was, saying he needed to arrange a ride, making it clear that he knew he could leave the homicide unit that day. The detectives never told Sparks-Henderson he could not leave and they never threatened him with arrest or prosecution, although they did suggest to him late in the interview that lying about his whereabouts on the date of the murders might get him into trouble.

During the interview the defendant voluntarily submitted to a swab of the inside of his cheek to get a standard for his DNA, but he also refused to consent to a search of the information on his cell phone, demonstrating that he would not be bullied.

Conclusion

Police are not required to administer *Miranda* warnings to everyone whom they question. *State v. Biros*, 78 Ohio St. 3d 426, 440 (1997). Nor is the requirement of warnings to be imposed simply because the questioning takes place in the station house. *Id.* Only custodial interrogation triggers the need for Miranda warnings. *Id.* It is the defendant's burden to prove that he was subjected to a custodial interrogation. *U.S. v. Newton*, 284 F.Supp. 2d 868, 874.

The evidence shows, first, that Sparks-Henderson was not subjected to a formal arrest,

[3] Transcript of Sparks-Henderson's 4/20/2015 statement, page 128, lines 9-10.

second, that his freedom was not restrained to the degree associated with an explicit arrest, third, that he knew he was free to leave and, fourth, that a reasonable person in his position would have known that he was free to leave. As a result, the defendant's motion to exclude from evidence his April 20, 2015, statement to the police on the grounds that it was obtained in violation of *Miranda* is denied.[4]

IT IS SO ORDERED:

Judge John P. O'Donnell

11/21/2016

[4] As an aside, I note that the record also includes this paragraph from page two of Sparks-Henderson's April 27, 2016 motion to suppress his May 2015 statements: On . . . April 20, 2015 James Sparks-Henderson was considered a person of interest and the police conducted a personal interview of him. Mr. Henderson voluntarily gave a buccal swab but he was not taken into custody.

SERVICE

A copy of this journal entry was sent by email, this 21st day of November 2016, to the following:

Timothy J. McGinty, Esq.
tmcginty@prosecutor.cuyahogacounty.us
Cuyahoga County Prosecuting Attorney

Anna M. Faraglia
afaraglia@prosecutor.cuyahogacounty.us
Christopher D. Schroeder, Esq.
cschroeder@prosecutor.cuyahogacounty.us
Blaise Thomas, Esq.
bthomas@prosecutor.cuyahogacounty.us
Assistant prosecuting attorneys for the State of Ohio

Rufus Sims, Esq.
roughworker@aol.com
Fernando Mack, Esq.
losmacks@msn.com
Attorneys for defendant James Sparks-Henderson

Judge John P. O'Donnell
11/21/2016