

[Cite as *State v. Thompson*, 2019-Ohio-403.]

**IN THE COURT OF APPEALS OF OHIO  
SECOND APPELLATE DISTRICT  
CHAMPAIGN COUNTY**

STATE OF OHIO

Plaintiff-Appellee

**V.**

KRISTINA NICOLE THOMPSON

## Defendant-Appellant

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Appellate Case No. 2018-CA-4

Trial Court Case No. 2017-CR-212

(Criminal Appeal from  
Common Pleas Court)

## OPINION

Rendered on the 8th day of February, 2019.

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HALL, J.

{¶ 1} Kristina Nicole Thompson appeals from her conviction following a no-contest plea to one count of selling or distributing a dangerous drug in violation of R.C. 4729.51(E)(1)(a), a fourth-degree felony.

{¶ 2} In her sole assignment of error, Thompson challenges the trial court's denial of a suppression motion she filed prior to her no-contest plea. In particular, she disputes whether she knowingly and intelligently waived her *Miranda* rights while experiencing post-traumatic stress disorder (PTSD).

{¶ 3} The record reflects that Thompson was charged with violating R.C. 4729.51(E)(1)(a) for sharing a prescription drug with another person while residing at Project Woman, a shelter for victims of sexual assault and domestic violence. The charge arose out of an incident at the shelter on September 20, 2017. On that day, a shelter resident was found unconscious in a bathroom due to a prescription drug overdose. Police and paramedics responded and transported the victim to the hospital. While police were at the scene, Thompson made comments about not liking the police and about having been "abused" by a police officer. The record reflects that Thompson had been sexually assaulted by a police officer from another jurisdiction months earlier and, as a result of that incident, had been diagnosed with PTSD by clinical counselor Barb Dotson.

{¶ 4} As part of their investigation into the overdose at the Project Woman shelter, police spoke to the victim at the hospital and interviewed several residents at the shelter, including Thompson. They also spoke to Olivia Newland, the shelter's administrator. The victim told investigators that Thompson had given her the prescription drug Klonopin and that another resident had given her the prescription drugs Robaxin and Gabapentin.

Thompson denied giving the victim Klonopin but admitted to Urbana police officers David Reese and Michael Cooper that she had given the victim Robaxin, a muscle relaxer. Following this admission, Cooper transported Thompson to the Urbana police station, where she was advised of her *Miranda* rights, indicated her understanding of those rights, and waived them. Thompson then again admitted giving the victim Robaxin. She subsequently was transported to jail along with two co-defendants. During the ride to jail, police officer Todd Pratt allowed the co-defendants to use a cell phone they had in their possession. Pratt overheard Thompson say during a phone call that she had given the victim “a pill.” At the jail, Thompson asked about the charges against her. After being told by Pratt that one of the charges was trafficking in drugs, Thompson stated that she did not traffic drugs and that all she did was “trade pills back and forth.” Moments later, Thomson stated, “I’m never going to let anybody have my prescription pills again.”

{¶ 5} In October 2017, a grand jury indicted Thompson on the charge set forth above. (Doc. # 4.) She subsequently filed a suppression motion challenging the voluntariness of her statements to police. (Doc. # 19.) The State opposed the motion. (Doc. # 26.) The trial court held a two-day suppression hearing in November and December 2017. The parties followed up with post-hearing briefs. (Doc. # 34-35.) In her post-hearing brief, Thompson sought to suppress her statements on two grounds: (1) the statements were involuntary and (2) she did not “knowingly and voluntarily” waive her *Miranda* rights. (Doc. # 35.) The primary basis for these arguments was that PTSD rendered Thompson unable to knowingly and voluntarily waive her *Miranda* rights or to give a voluntary confession to police.

{¶ 6} On December 21, 2017, the trial court filed a lengthy ruling with detailed

findings of fact and conclusions of law denying Thompson's suppression motion. (Doc. # 36.) With regard to the events of September 20, 2017, the trial court found that the police officers' audio-recorded interview with Thompson at the Project Woman shelter was not a custodial interrogation for purposes of *Miranda*. (Doc. # 36 at 10-11.) It also found that Thompson's statements during the interview were voluntary under the Fifth Amendment. (*Id.* at 11.) As for her subsequent statements during a video-recorded interview at the police station, the trial court again found the statements voluntary under the Fifth Amendment. (*Id.*) The trial court further held that Thomson's waiver of her *Miranda* rights at the police station was valid notwithstanding her arguments about PTSD. (*Id.* at 12-14.) Although the trial court did not question whether she suffered from PTSD, it found insufficient evidence that PTSD had interfered with her ability make a knowing, intelligent, and voluntary waiver of her *Miranda* rights or to make voluntary statements. (*Id.*) Following the denial of her suppression motion, Thompson pled no contest to the charge against her. The trial court accepted the plea, made a finding of guilt, and imposed community control sanctions. (Doc. # 44.)

{¶ 7} On appeal, Thompson concedes that her statements at the Project Woman shelter and at the police station were voluntary under the Fifth Amendment. (Appellant's brief at 11.) She also does not dispute voluntarily waiving her *Miranda* rights at the police station.<sup>1</sup> (*Id.* at 12.) Her only argument is that she did not "knowingly and intelligently" waive her *Miranda* rights because she was suffering from PTSD and that the trial court did not adequately address that issue. (*Id.* at 13-16.) Her entire substantive argument is

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<sup>1</sup> Thompson's appeal also does not challenge her statements on the cell phone in the police cruiser or her statements at jail while questioning the nature of the charge against her. Therefore, we need not address these issues.

as follows:

The issue of whether a waiver of *Miranda* rights is knowing and intelligent requires an evaluation of “the capacity” of the suspect to understand the warnings, the nature of the rights, and the consequences of waiver. This part of the inquiry was not explicitly addressed by the trial court in its decision.

The trial court does indicate in its conclusions of law that it is “reasonable to conclude” that Appellant, “as a result of the traumatic sexual assault by the [police officer] as alleged by her, may in fact suffer from PTSD.” The trial court further stated that the issue for determination is “whether the PTSD diagnosis somehow interfered with the [Appellant]’s ability to knowingly, intelligently, and voluntarily waive her *Miranda* rights.”

The trial court made a bare conclusion that “there is nothing in the two recordings or subsequent interaction with Pratt that leads the Court to believe that the [Appellant]’s mistrust or fear was interfering in her interactions with Reese and Cooper on September 20, 2017.” As part of the subheadings under this conclusion, the court noted that Appellant did not display voice inflection, body movement or high intensity emotional response, that she testified she understood the *Miranda* rights explained to her, and there was nothing irrational about her waiving those rights.

However, the trial court does not apply the totality-of-the-circumstances test to determine if the Appellant knowingly and intelligently waived her *Miranda* rights. Admittedly, the Appellant did answer “yeah” to

the trial court's question "Well, the number of times you have had *Miranda* said to you have you understood what that meant?" The question was in reference to all instances where Appellant has had *Miranda* rights stated to her, not specifically to the interrogation at issue here. Appellant at no time indicated in her testimony that during the interview at the police station on September 20, 2017, she understood the warnings, understood the nature of the rights contained in the warnings, and appreciated the consequences of her waiver of those rights. Moreover, the trial court does not make any detailed findings of fact or conclusions of law touching on these specific aspects of the inquiry, excepting a legal conclusion that it found no evidence that Appellant "did not understand the *Miranda* rights afforded to her."

Appellant herself, testified that she felt "nervous" and "scared" when she was in the interrogation room at the station.

Further, Barb Dotson, Appellant's clinical counselor, testified what occurs when persons who suffer from PTSD are triggered: "the thinking part of your cortex shuts down and you are in the fear center so you are not thinking rationally." She also testified that the behavior is different for each person: "Somebody could freeze. Not say a word. Or freeze can just be about not thinking rationally."

Given the testimony heard at the suppression hearing, the trial court should have conducted a more thorough analysis into whether the Appellant knowingly and intelligently waived her *Miranda* rights. Had it done so, the trial court would have been forced to conclude that the Appellant was unable

to make such a waiver due to her mental state at the time. Therefore, the denial of the motion to suppress was in error and should be reversed.

(Citations omitted) (Appellant's brief at 13-16.)

{¶ 8} "In ruling on a motion to suppress, the trial court 'assumes the role of the trier of fact, and, as such, is in the best position to resolve questions of fact and evaluate the credibility of the witnesses.' " *State v. Prater*, 2012-Ohio-5105, 984 N.E.2d 36, ¶ 7 (2d Dist.), quoting *State v. Retherford*, 93 Ohio App.3d 586, 592, 639 N.E.2d 498 (2d Dist.1994). "As a result, when we review suppression decisions, 'we are bound to accept the trial court's findings of fact if they are supported by competent, credible evidence. Accepting those facts as true, we must independently determine as a matter of law, without deference to the trial court's conclusion, whether they meet the applicable legal standard.' " *Id.*, quoting *Retherford*.

{¶ 9} Here, Thompson does not challenge the trial court's findings of fact. (Appellant's brief at 5.) Rather, she contests the trial court's "application of the legal standard to those facts" and its ultimate conclusion. (*Id.*) Therefore, based on the facts found by the trial court, we independently must determine whether it correctly found a knowing and intelligent waiver of Thompson's *Miranda* rights at the police station.

{¶ 10} In addressing the foregoing issue, we will accept that Thompson was "in custody" for *Miranda* purposes when she was questioned at the police station. Although the State contends she was not in custody, the trial court at least implicitly reached a contrary conclusion. The record would also support a finding that Thompson was in custody when police transported her from the Project Woman shelter and questioned her at the police station. Prior to that transport, the overdose victim had accused Thompson

of giving the victim a Klonopin pill, and Thompson herself had admitted giving the victim Robaxin. After Thompson admitted giving the victim Robaxin, the officers informed her that they “needed” her to go to the police station and that she “had” to go to discuss the incident further. (Hearing Tr. at 20, 46.) Thompson was agreeable, and the officers gave her a ride. (*Id.* at 33.) At that point, however, Thompson had no choice but to go, and she would have been arrested if she had refused. (*Id.*) One of the officers admitted that Thompson was “detained” once they told her she had to go to the police station. (*Id.* at 34.) Another officer testified that she was in “custody” when she was driven to the police station. (*Id.* at 39.) Therefore, the trial court proceeded to consider whether Thompson validly had waived her *Miranda* rights before answering questions at the police station, and we will engage in the same inquiry.

{¶ 11} In order for a *Miranda* waiver to be valid, the State must demonstrate a knowing, intelligent, and voluntary waiver based on the totality of the circumstances. *State v. Verdell*, 2d Dist. Montgomery No. 27786, 2018-Ohio-4766, ¶ 32. The “knowing” and “intelligent” aspects of the inquiry require consideration of whether the defendant was fully aware of the constitutional rights being abandoned and the consequences of abandoning them. *Id.* at ¶ 33. Here, Thompson was advised of her *Miranda* rights, she indicated that she understood those rights, and she waived them. (Doc. # 36 at 6.) In its ruling, the trial court found no evidence that Thompson “was of low intelligence, was developmentally disabled or did not understand the *Miranda* rights afforded to her.” (*Id.* at 12.)

{¶ 12} Thompson’s sole argument on appeal is that the trial court did not adequately consider her limited capacity, due to PTSD, to understand the *Miranda* warnings, the nature of the rights involved, and the consequences of waiver. But the trial



court addressed the PTSD issue and its potential impact on Thompson and the validity of her *Miranda* waiver in some detail, reasoning:

5. Regarding the Defendant's claims that she suffers from PTSD, the Court finds it reasonable to conclude that the Defendant, as a result of the traumatic sexual assault by the \* \* \* Police Officer as alleged by her, may in fact suffer from PTSD.

a. But the issue for the Court to determine is not whether the Defendant suffers from PTSD, but rather whether the PTSD diagnosis somehow interfered with the Defendant's ability to knowingly, intelligently and voluntarily waive her *Miranda* rights.

b. The Court finds that there is not sufficient evidence for the Court to conclude that the Defendant was suffering from PTSD symptoms at the time of the audio recorded interview or the video recorded interview.

c. The Court finds it understandable that given the Defendant's extensive criminal history, that she "does not like cops" and that she "does not trust cops."

d. The Court finds it understandable that given the Defendant's alleged sexual assault at the hands of a police officer, that she is generally fearful of being around police.

e. However, the Court finds that there is nothing in the two recordings or subsequent interaction with Pratt that leads the Court to believe that the Defendant's mistrust or fear was interfering in her

interactions with Reese and Cooper on September 20, 2017.

i. The defendant does not display any voice inflection, body movement or high intensity emotional response that would lead an observer to conclude that the Defendant was in an active state of having her PTSD interfere with her ability to waive her *Miranda* warnings.

ii. While the Court is not requiring the Defendant to “burst into tears” as testified to by Dotson and displayed by the Defendant in the courtroom during the hearing, there has got to be more evidence that the PTSD diagnosis somehow interfered with the Defendant’s ability to waive her *Miranda* warnings.

iii. The defendant testified that she understood the *Miranda* rights that were explained to her. Police are not required to encourage suspects to assert those rights.

iv. There was nothing irrational about the Defendant waiving her *Miranda* rights.

1. It is clear from the Defendant’s interaction with Cooper during the video recorded interview that she did anything wrong [sic], as the Defendant explained that she thought she was helping [the victim] deal with a back problem.

2. It is clear from the Defendant’s interaction with Pratt at the jail that the Defendant did not believe that she did anything wrong or illegal, as she was just “trading pills” with

other residents, not “trafficking” in drugs.

3. Thus, it is reasonable to infer that the Defendant was quite rational in speaking with the police, as the Defendant did not believe that her interview would inculcate her into becoming the recipient of criminal charges.

(*Id.* at 12-13.)

{¶ 13} In addition to the foregoing analysis, the trial court correctly noted that Thompson’s clinical counselor, Barb Dotson, “could not form or express an opinion as to whether the Defendant was experiencing PTSD symptoms during her initial encounter with Reese and Cooper at the residence, during the audio recorded encounter with Reese and Cooper at the residence, during the video recorded encounter with Cooper at the police station, or during the encounter with Pratt in the transport to the jail and the subsequent statements made at the jail.” (*Id.* at 9.)

{¶ 14} In short, the record establishes that Thompson had been diagnosed with PTSD, but it lacks any indication that the disorder impaired her reasoning ability when she waived her *Miranda* rights. To the contrary, the record reflects that Thompson functioned relatively normally and acted rationally during her interviews, including the one in which she waived her *Miranda* rights. Under similar circumstances, courts have recognized that a state of intoxication does not render a defendant’s *Miranda* waiver invalid where his reasoning ability does not appear to be significantly impaired. See, e.g., *Verdell*, 2d Dist. Montgomery No. 27786, 2018-Ohio-4766, at ¶ 34 (citing cases). We likewise conclude that Thompson’s PTSD did not render her *Miranda* waiver invalid, because nothing in the record establishes or even suggests that the disorder prevented

her from knowingly and intelligently waiving her *Miranda* rights. Having reviewed the record, we believe the trial court adequately considered and addressed that issue, and we agree with its conclusion. Thompson's assignment of error is overruled.

**{¶ 15}** The judgment of the Champaign County Common Pleas Court is affirmed.

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DONOVAN, J. and TUCKER, J., concur.

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