

IN THE COURT OF APPEALS OF OHIO
FOURTH APPELLATE DISTRICT
WASHINGTON COUNTY

STATE OF OHIO,	:	
	:	Case No. 24CA21
Plaintiff-Appellee,	:	
	:	
v.	:	<u>DECISION AND JUDGMENT</u>
	:	<u>ENTRY</u>
RODNEY D. JAMES,	:	
	:	
Defendant-Appellant.	:	RELEASED: 05/05/2026

APPEARANCES:

George J. Cosenza, Parkersburg, West Virginia, for appellant.

Nicole Tipton Coil, Washington County Prosecuting Attorney, Marietta, Ohio, for appellee.

Wilkin, J.

{¶1} This is an appeal of a Washington County Court of Common Pleas judgment entry in which the court found Rodney D. James (“James”) guilty of sexual battery and having a weapon under a disability. On appeal, James asserts that the trial court erred in denying his motion to suppress the evidence. Therefore, James seeks a reversal of his conviction.

{¶2} Having reviewed the parties’ arguments, the law, and the facts, we conclude that the trial court did not err in denying James’ motion to suppress statements that he made during a custodial interrogation. Therefore, we affirm the trial court’s judgment of conviction.

BACKGROUND

{¶3} On March 27, 2024, a Washington County Grand Jury indicted James on 14 criminal counts, including four counts of rape in violation of R.C. 2907.02(A)(1)(c) and (B), and (A)(1)(b), first-degree felonies; four counts of sexual battery in violation of R.C. 2907.03(A)(5) and (B), third-degree felonies; four counts of gross-sexual imposition in violation of R.C. 2907.05(A)(5) and (C), fourth degree felonies; one count of having a weapon while under a disability in violation of R.C. 2923.13(A)(4) and (B), a third-degree felony; and one count of intimidation of an attorney, victim, or witness in violation of R.C. 2921.04(A) and (D), a first-degree misdemeanor. James pleaded not guilty to all the charged offenses.

{¶4} On July 10, 2024, James filed a motion to suppress statements that he made to law enforcement officers. James asserted that after he was arrested and read his *Miranda* rights, he repeatedly informed the arresting officer that he did not wish to answer any questions. Despite this, the officer proceeded to question him, resulting in some incriminating responses. James moved to have his responses suppressed.

{¶5} On July 25, 2024, the State filed a motion in opposition. The State claimed that James never unambiguously invoked his right to remain silent.

{¶6} On August 9, 2024, the court held a suppression hearing. The prosecutor called Sergeant Robert McKee (“McKee”) from the Washington County Sheriff’s Office as the sole witness. McKee testified that he investigated James for sex offenses and spoke with him on two different occasions. The first

interview addressed the sex offense charges. The second occurred after James returned to the Sheriff's Office to retrieve his cell phone. The audio of this encounter was captured on a recording device and was played for the court:

SERGEANT MCKEE: "Today's date is February 7, 2024. The current time is 2:34 in the afternoon."

[Sergeant McKee and Detective Schwendeman thanked Rodney James for meeting with them at Fourth Street.]

MR. JAMES: "Can I go, please? I don't want to talk. I just want to get my things and go home, please."

SERGEANT MCKEE: "Okay. You are under arrest, okay?"

MR. JAMES: "Okay."

SERGEANT MCKEE: "Do you have anything on you, in your pockets, anything that's going to poke us or get stabbed—anything illegal, anything like that?"

MR. JAMES: "No."

SERGEANT MCKEE: "All right. So Mr. James, you have the right to remain silent, anything you say can and will be used against you in Court. You do have the right to an attorney, and to have him appointed if you cannot afford one. If you decide to answer questions, you can stop answering at any time. Do you understand those rights?"

MR. JAMES: "I do."

SERGEANT MCKEE: "So what has happened is—"

MR. JAMES: "I'm listening."

SERGEANT MCKEE: "I don't know if you realize but, what happened, stuff gets saved in a cloud. Even if you delete it. At times. So the images of the penis that you sent to your daughter—we have it."

MR. JAMES: "Uh-huh."

SERGEANT MCKEE: "All right. And you had told me that you did not send those—nude images of yourself."

MR. JAMES: "Okay."

SERGEANT MCKEE: "All right."

SERGEANT MCKEE: "So that's what I want to talk to you about. I mean, you told me you didn't want to talk?"

MR. JAMES: "Yes, sir. Right now, I've got people that are depending on me, and I already spoke to my wife about this, we've already spoke about this stuff. And we were dealing with this. I asked her if I was going to be arrested when I come up here and she told me no."

SERGEANT MCKEE: "Well, we didn't tell her that you were going to be, okay?"

MR. JAMES: "Okay."

SERGEANT MCKEE: "Yeah, we're not—so I wanted to talk with her."

MR. JAMES: "Okay. We already spoke about this. We—"

SERGEANT MCKEE: "You want to explain it?"

MR. JAMES: "—we are moving forward."

SERGEANT MCKEE: "Do you want to explain why you did that?"

MR. JAMES: "No. No, sir, I don't. 'Cause I'm working with a counselor right now, sir. And I'm having issues."

SERGEANT MCKEE: "And that's what I'm trying to understand it."

MR. JAMES: "Okay. I've got major issues, sir. I've got a lot of problems. I've had a lot of problems, went through a lot of trauma."

SERGEANT MCKEE: "How long has that been going on?"

MR. JAMES: "Sir, what—"

SERGEANT MCKEE: "You sent the images to her."

MR. JAMES: "No, that only happened one time, sir."

SERGEANT MCKEE: "Well, actually I've got two of them. So that's a lie?"

MR. JAMES: "One period of time, sir. One period of time. There was one period of time, and there was—there's a part of my life that I'm no longer..."

SERGEANT MCKEE: "So the (inaudible)?"

MR. JAMES: "Sir, I don't want to talk about it no more, okay?"

SERGEANT MCKEE: "Well, you understand why we're having this—"

MR. JAMES: "Yes, sir, absolutely."

SERGEANT MCKEE: "—okay."

MR. JAMES: "But I'm..."

SERGEANT MCKEE: "So where did it begin to go to sex?"

MR. JAMES: "Sir, I'm done speaking about it, okay? Just..."

SERGEANT MCKEE: "But you—how come you didn't get her the help she needs, but you won't even take a—"

MR. JAMES: "She, she—she crawled into the bed. She crawled—she climbed up on top of me."

SERGEANT MCKEE: "Okay. Okay."

MR. JAMES: "—she climbed up on top of me."

MR. JAMES: "I woke up with her on top of me."

SERGEANT MCKEE: "Okay. Were you inside of her?"

MR. JAMES: "Huh?"

SERGEANT MCKEE: "Were you inside of her?"

MR. JAMES: "No—yes, sir, I was literally asleep."

SERGEANT MCKEE: "And your penis was inside of her?"

MR. JAMES: "Yes, sir."

SERGEANT MCKEE: "Okay."

MR. JAMES: "And I have—I don't—I just can't get an erection when I want one. (inaudible)"

SERGEANT MCKEE: "I understand. (inaudible) A woman at times—"

MR. JAMES: "And my wife was at the beach. My wife left for the beach. She come into the room. I was asleep. She climbed up on

top of me, and from then on, we didn't know what to do, and... Sir, I'm sick to my stomach."

SERGEANT MCKEE: "Did it happen more than once, or one time?"

MR. JAMES: "Sir, it happened that one time for sure."

SERGEANT MCKEE: "Okay. All right."

MR. JAMES: "And then after that, she [the victim] kept trying to test me and stuff, and I kept telling her, [the victim], this is wrong, we've got to stop. We can't do this stuff, and she kept bringing up Joshua (phonetic)..."

SERGEANT MCKEE: "So—"

MR. JAMES: "And it was just..."

SERGEANT MCKEE: "Did you get off in her or on...?"

MR. JAMES: "Sir, I don't know. I don't know, sir."

SERGEANT MCKEE: "All right. Okay. Well, okay, you are being arrested, and you are a (inaudible)."

MR. JAMES: "Yes, sir."

SERGEANT MCKEE: "Okay. So we're going to walk out of here."
(inaudible)

{¶7} After the audio was finished playing, the prosecutor asked McKee if he would describe what occurred during this conversation.

Yes. As we went into the room, Mr. James walked into the room first. He turned and looked at me and began to speak with me saying that he wanted to go home, but I told him he was on - under arrest. While I was placing him in the cuffs, he would turn

and look at me. He kept turning to address me, kept looking at me in the eye, and then once the handcuffs were on, and I read him his rights, he turned to look at me, and that's when we began our conversation.

{¶8} After both the prosecutor and James' counsel questioned McKee, each offered a closing argument. The prosecutor argued that James never unequivocally or unambiguously invoked his right to remain silent, which permitted questioning by the officers. In contrast, defense counsel asserted that James clearly invoked his right to remain silent. The court took the motion under advisement.

{¶9} On August 16, 2024, the court issued an entry denying James' motion to suppress the statements that he made during McKee's questioning.

{¶10} On October 16, 2024, the court held a change-of-plea hearing. James changed his plea from not guilty to no contest on two of the criminal counts named in the indictment, sexual battery and having a weapon under a disability. After the court reviewed the predicate requirements for accepting a plea (e.g., the constitutional rights the defendant is giving up by agreeing to a plea, the maximum penalty that could be imposed, etc.), the prosecutor read the facts of the case. The court then accepted James' no contest plea and based on the facts found him guilty of both counts. The court proceeded to sentencing and imposed an aggregate eight-year prison term. It is the trial court's October 21, 2024, judgment entry of conviction that James appeals to this court.

ASSIGNMENT OF ERROR

THE COMMON PLEAS COURT OF WASHINGTON COUNTY, OHIO ERRED WHEN IT DENIED THE APPELLANT'S MOTION TO SUPPRESS THE

STATEMENT HE PROVIDED TO THE WASHINGTON COUNTY SHERIFF'S DEPARTMENT.

{¶11} James maintains that the trial court erred when it failed to grant his motion to suppress statements that he made to McKee and the Sheriff's Office on February 7, 2024. James asserts that he unequivocally invoked his right to remain silent to McKee after being arrested on February 7, 2024, but McKee continued to ask him questions. James claims he invoked his right to remain silent several times during the interview, in particular when he stated: (1) "I don't want to talk. I just want to get my things, and go home please[,]"; (2) "Yes, sir" in response to McKee's statement: "So, that's what I want to talk to you about, I mean, you told me you didn't want to talk[,]"; (3) "Sir, I don't want to talk about it no more, okay[,]"; and (4) "Sir, I'm done speaking about it, okay." However, McKee continued to question him and some of James' responses contained incriminating information. James claims that this questioning violated his constitutional right to remain silent. Therefore, James seeks reversal of his conviction for sexual battery.

{¶12} In response, the State maintains that James' initial statement about wanting to retrieve his property and go home was made before he received his *Miranda* rights. Additionally, according to *State v. Murphy*, 2001-Ohio-112, 91 Ohio St. 3d 516 (2001), the State argues that this statement did not constitute an unambiguous invocation of his right to remain silent due to the context and the lack of clarity regarding whether he did not want to talk at all, or simply wanted to leave.

{¶13} After McKee arrested James and read him his *Miranda* rights, James confirmed his understanding of those rights, and the State maintained that James wanted to talk. McKee then stated: “you told me that you didn’t want to talk,” and James said “Yes sir,” and then, according to the State, James started talking without being asked any questions; James’ “voluntary statements were made in an effort to affirm his innocence or prevent his arrest.” Thus, this was not an unambiguous invoking of his right to remain silent.

{¶14} The State claims that after James had shown a “desire to want to talk to the detectives by sharing information,” McKee asked James if he wanted to explain his behavior and James stated: “ ‘No, sir I don’t.’ ” The State contends that James again volunteered to explain why he did not want to answer any more questions. The State asserts that a person indicating that he or she does not want to “explain something” is not an invocation of the person's right to remain silent.

{¶15} The State claims that when confronted with the knowledge that McKee had incriminating photos, James began to “talk about a different period of time” and stated “Sir, I don’t want to talk about it no more, okay.” The State argues that McKee asked “a clarifying question of whether or not he understands why he is asking this question.” The State contends that James indicated that he did, and both he and McKee started talking over each other. James, then, stated “sir, I am done talking about it, okay, please.” The State maintains that James’ prior statements show that he “does have an interest in talking, but just not an interest in talking about ‘it.’ ” The State argues that “it is unclear what the ‘it’ is

that [James] is referring to as there are multiple topics being discussed.” The State asserts that “[t]he full context of the interview shows that each time [James] stated that he did not want to talk about ‘it,’ [James] continued talking about something else.” The State claimed that James “repeatedly evinced a willingness and a desire to talk further about the crime[.]”

{¶16} The State maintains that James never invoked his right to remain silent and did not wish to do so because he did not perceive his statements as incriminating. Rather, he thought that he was defending himself. The State argues that if James had unambiguously invoked his right to remain silent by explicitly stating that he did not want to talk at all and had refrained from doing so, then McKee’s “prompting” for James to talk would have been problematic. The State further asserts that the law allows a defendant to waive their right to remain silent by initiating a conversation with the police, even after initially invoking that right. Thus, in the event it is determined that James did invoke his right to remain silent, then the State argues that he “waived it quickly thereafter.”

Law

Standard of Review

{¶17} “Appellate review of a motion to suppress presents a mixed question of law and fact.” *State v. Myers*, 2025-Ohio-1169, ¶ 27 (4th Dist.), citing *State v. Williams*, 2024-Ohio-2146, ¶ 15 (4th Dist.), citing *State v. Burnside*, 2003-Ohio-5372, ¶ 8. “The trial court acts as the trier of fact at a suppression hearing and is in the best position to resolve factual questions and evaluate witness credibility.” *Id.*, citing *State v. Sheets*, 2023-Ohio-2591, ¶ 45 (4th Dist.),

citing *State v. Leonard*, 2017-Ohio-1541, ¶ 15 (4th Dist.), citing *Burnside* at ¶ 8. “As a result, appellate courts defer to the trial court's findings of fact if they are supported by competent, credible evidence.” *Id.*, citing *Sheets* at ¶ 45, citing *State v. Gurley*, 2015-Ohio-5361, ¶ 16 (4th Dist.).

{¶18} “Accepting the trial court's findings of fact as true, appellate courts then ‘independently determine whether the trial court reached the correct legal conclusion in analyzing the facts of the case.’ ” *Id.*, quoting *Sheets* at ¶ 45, citing *Gurley* at ¶ 16, citing *State v. Roberts*, 2006-Ohio-3665, ¶ 100. In this case, the issue is whether James unambiguously invoked his right to remain silent, which is a legal issue that we review de novo. *State v. Gray*, 2017-Ohio-563, ¶ 8 (2d Dist.), citing *State v. Strong*, 2011-Ohio-4947, ¶ 47 (1st Dist.); *United States v. McWhorter*, 515 Fed.Appx. 511, 517 (6th Cir.2013) (“Upon de novo review, we conclude that McWhorter's statement to Park was not an unambiguous assertion of his right to remain silent.”); *United States v. McCarthy*, 382 Fed.Appx. 789, 792 (10th Cir. 2010) (“We review legal questions, including the issue of whether a defendant unambiguously asserted his right to remain silent, de novo.”).

{¶19} 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.”

In order to safeguard a suspect's Fifth Amendment privilege against self-incrimination, law enforcement officers seeking to perform a custodial interrogation must warn the suspect “that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires.”

State v. Lawson, 2015-Ohio-4394, ¶ 16 (4th Dist.), quoting *Miranda v. Arizona*, 384 U.S. 436, 479 (1966). We note that in analyzing a defendant's right to remain silent, courts apply the same standards applicable in analyzing a defendant's right to counsel. See *State v. Adams*, 2015-Ohio-3945 ("As with the right to counsel, the right to remain silent must be expressly invoked."). Therefore, we cite several such cases in support of our analysis.

{¶20} A defendant's invocation of his or her right to remain silent can be express or implied. *State v. Adkins*, 2011-Ohio-5360, ¶ 15. "Where the prosecution shows that a *Miranda* warning was given and that it was understood by the accused, an accused's uncoerced statement establishes an implied waiver of the right to remain silent." *Id.*, citing *Berghuis v. Thompkins*, 560 U.S. 370, 384 (2010). However, an express "[i]nvo[ca]tion of the *Miranda* right to [remain silent] 'requires, at a minimum, some statement that can reasonably be construed to be an expression of a desire [to cease all questioning].'" (Brackets original) *State v. Woods*, 2018-Ohio-4588, ¶ 54 (4th Dist.), quoting *Davis v. United States*, 512 U.S. 452, 459 (1994), quoting *McNeil v. Wisconsin*, 501 U.S. 171, 178 (1991). " 'If an accused makes a statement concerning the right to [remain silent] 'that is ambiguous or equivocal' or makes no statement, the police are not required to end the interrogation, or ask questions to clarify whether the accused wanted to invoke his or her *Miranda* rights.' " *Lawson* at ¶19, quoting *Berghuis* at 381, citing *Davis* at 461-462.

{¶21} Statements like "I'm done talking" have been recognized as "a simple, unambiguous statement that the [defendant] did not want to talk to the

police.” *State v. Miller*, 2014-Ohio-2936, ¶ 61 (7th Dist.). However, in assessing whether a defendant has expressly invoked his or her right to remain silent, courts “must examine [an] appellant’s words not in isolation but in context.” *Murphy*, 2001-Ohio-112, 91 Ohio St. 3d at 520 (2001). For example, In *State v. White*, during an interrogation by law enforcement, “[appellant] expressed that he ‘really don’t right now even want to answer any questions,’ and he expressed that he thought the stop of his vehicle and his transportation to the police station were unlawful.” (Emphasis added.) 2018-Ohio-3076, ¶ 27 (2d Dist.). The issue before the court was whether the highlighted statement was an unambiguous invocation of his right to remain silent. The court found that:

[Appellant’s] comment about not wanting to answer questions was immediately followed by several statements complaining about how he was brought to the police station. Taken together, [Appellant] did not clearly or unambiguously state that he wanted the interview to cease; rather, he expressed to Detective Howard that he did not want to talk until he understood why he was there.

Id.

Thus, the court held that the detective properly continued questioning the appellant in *White*. *Id.*

{¶22} “ ‘If the suspect’s statement is not an unambiguous or unequivocal [invocation of the right to remain silent], the officers have no obligation to stop questioning him.’ ” *Woods* at ¶ 54, quoting *Davis* at 461. The Ohio Supreme Court has stated that the defendant must articulate the desire to cut off questioning sufficiently clearly so that a reasonable police officer under the

circumstances would understand the statement to be an invocation of the right to remain silent. *Murphy* at 520.

{¶23} In *Berghuis*, the court explained:

There is good reason to require an accused who wants to invoke his or her right to remain silent to do so unambiguously. A requirement of an unambiguous invocation of *Miranda* rights results in an objective inquiry that ‘avoid[s] difficulties of proof and . . . provide[s] guidance to officers’ on how to proceed in the face of ambiguity. If an ambiguous act, omission, or statement could require police to end the interrogation, police would be required to make difficult decisions about an accused’s unclear intent and face the consequence of suppression ‘if they guess wrong.’ Suppression of a voluntary confession in these circumstances would place a significant burden on society’s interest in prosecuting criminal activity. Treating an ambiguous or equivocal act, omission or statement as an invocation of *Miranda* rights ‘might add marginally to *Miranda*’s goal of dispelling the compulsion inherent in custodial interrogation.’ But ‘as *Miranda* holds, full comprehension of the rights to remain silent and request an attorney are sufficient to dispel whatever coercion is inherent in the interrogation process.’ ” (Citations omitted; ellipses and brackets original)

Berghuis, 560 U.S. at 381-382.

Analysis

{¶24} James does not claim that the State failed to administer his *Miranda* rights, that he misunderstood them, or that his confession was coerced. Instead, the dispute is whether James unambiguously and unequivocally invoked his right to remain silent during McKee’s interrogation. James asserts that he unambiguously invoked his right to remain silent on four separate occasions during McKee’s interrogation.

{¶25} The first statement identified by James as invoking his right to remain silent was “I don’t want to talk. I just want to get my things, and go home,

please.” This statement was made before James was arrested. Consequently, at that time, he had no *Miranda* rights to waive. It was only after this statement that McKee arrested James, read him his *Miranda* rights, and began questioning him. Furthermore, in *State v. Murphy*, the Supreme Court considered whether the statement - “I’m ready to quit talking now and I’m ready to go home, too.” – was an invocation of the appellant’s right to remain silent. 2001-Ohio-112, 91 Ohio St.3d at 519-522. The court held:

The first part of his statement—“I’m ready to quit talking”—might well be read as an unambiguous invocation of the right to remain silent if examined in isolation. However, we must examine appellant’s words not in isolation but in context. His full statement was: “I’m ready to quit talking *and I’m ready to go home, too.*” (Emphasis added.)

This statement can be interpreted as meaning simply that appellant was ready to “go home.”

Id. at 520-521.

Similar to *Murphy* James’ statement can be interpreted as meaning he simply wanted to go home, and it was made prior to being read his *Miranda* rights.

Therefore, we find that James’ statement - “I don’t want to talk. I just want to get my things, and go home, please” - did not unambiguously and unequivocally invoke of his right to remain silent.

{¶26} The second statement that James asserts invoked his right to remain silent was when he said “Yes, sir” which was in response to McKee stating “So that’s what I want to talk to you about. I mean, you told me you didn’t want to talk?” In assessing whether James invoked his right to remain silent by this statement, we must not examine those words in isolation but rather in conjunction with what was said immediately prior to James making this second

statement and immediately after. Thus, once James was arrested and read his Miranda rights, the following questioning occurred:

SERGEANT MCKEE: "So what has happened is—"

MR. JAMES: "I'm listening."

SERGEANT MCKEE: "I don't know if you realize but, what happened, stuff gets saved in a cloud. Even if you delete it. At times. So the images of the penis that you sent to your daughter—we have it."

MR. JAMES: "Uh-huh."

SERGEANT MCKEE: "All right. And you had told me that you did not send those—nude images of yourself."

MR. JAMES: "Okay."

SERGEANT MCKEE: "All right."

SERGEANT MCKEE: "So that's what I want to talk to you about. *I mean, you told me you didn't want to talk?*" (Emphasis added.)

MR. JAMES: "Yes, sir. Right now, I've got people that are depending on me, and I already spoke to my wife about this, we've already spoke about this stuff. And we were dealing with this. I asked her if I was going to be arrested when I come up here and she told me no." (Emphasis added.).

And from there the interrogation proceeded.

{¶27} First, we note that James did not directly state that he did not want to talk. Rather, he responded affirmatively to McKee's statement – "I mean you told me that you did not want to talk?" In *State v. Williams*, the court of appeals found that a

detective's question to appellant regarding whether appellant wanted to stop the interrogation was a clarifying inquiry to appellant. Such an inquiry is proper and not an encroachment on the right to remain silent, “[a]s long as the clarification questions are not used as a means of coercing the accused into giving a statement.” *State v. Whitsett* (1990), 69 Ohio App.3d 512, 528. Rather than invoking his right to remain silent the appellant continued his conversation with the detectives. It is clear from the conversation between the appellant and the detectives that the appellant did not intend to invoke his right to remain silent.

1996 WL 666725, *4 (2d Dist. November 12, 1996).

Similar to *Williams*, McKee asked a “clarification” question of James, and even after he responded affirmatively to McKee’s question about not wanting to talk, James continued to talk about the case. Therefore, we find that James’ response of “yes, sir” to McKee’s question did not unambiguously and unequivocally invoke his right to remain silent.

{¶128} The third statement that James asserts invoked his right to remain silent was “Sir, I don’t want to talk about it no more, okay?” Prior to this statement, the exchange occurred:

SERGEANT MCKEE: “You sent the [naked] images to her.”

MR. JAMES: “No, that only happened one time, sir.”

SERGEANT MCKEE: “Well, actually I’ve got two of them. So that’s a lie?”

MR. JAMES: “One period of time, sir. One period of time. There was one period of time, and there was—there’s a part of my life that I’m no longer...”

SERGEANT MCKEE: “So the (inaudible)?”

MR. JAMES: “*Sir, I don’t want to talk about it no more, okay?*” (Emphasis added.)

SERGEANT MCKEE: “Well, you understand why we were having this —“

MR. JAMES: “Yes, sir absolutely.” . . . and the interrogation proceeded from there.

In the context of this line of questioning, the “it” that James referred to seemed to be the images he sent to his daughter, rather than an intention to stop talking entirely. Moreover, James continued to discuss the case after indicating he did not want to talk. Therefore, we find that James’ statement - “Sir, I don’t want to talk about it no more, okay?” - did not unambiguously and unequivocally invoke his right to remain silent.

{¶29} The fourth and final statement that James asserts invoked his right to remain silent was “Sir, I’m done speaking about it, okay?” As with his prior statements, context is important to our analysis. Prior to this statement, the following exchange occurred:

SERGEANT MCKEE: “So where did it begin to go to sex?”

MR. JAMES: “Sir, I’m done speaking about it, okay? Just...”

SERGEANT MCKEE: “But you—how come you didn’t get her the help she needs, but you won’t even take a—”

MR. JAMES: “She, she—she crawled into the bed. She crawled—she climbed up on top of me.”

SERGEANT MCKEE: “Okay. Okay.”

MR. JAMES: “—she climbed up on top of me.”

MR. JAMES: “I woke up with her on top of me.”

SERGEANT MCKEE: “Okay. Were you inside of her?”

MR. JAMES: “Huh?”

SERGEANT MCKEE: “Were you inside of her?”

MR. JAMES: “No—yes, sir, I was literally asleep.”

SERGEANT MCKEE: “And your penis was inside of her?”

MR. JAMES: “Yes, sir.”

{¶30} James' indication that he wanted to stop talking about "it" appears to specifically refer to McKee's direct question about what led to sexual activity with his daughter, rather than a complete desire to end the conversation.

Furthermore, even after James stated he was “done speaking about it,” he continued briefly by saying “just . . .” before McKee interrupted him. McKee's interruption respected James' request and shifted the conversation to why James did not get his daughter the help she may have needed. James then voluntarily began making incriminating statements, attempting to minimize his actions and shifting blame to his daughter. Thus, we find that James did not unequivocally and unambiguously invoke his right to remain silent when he stated: “Sir, I'm done talking about it, okay?”

CONCLUSION

{¶31} Having found that none of the four statements that James identified were an unambiguous invocation of his right to remain silent, we find that the trial court did not err in denying his motion to suppress the statements he made during McKee's custodial interrogation. Therefore, we overrule James' sole assignment of error and affirm the trial court's judgment of conviction.

JUDGMENT AFFIRMED.

JUDGMENT ENTRY

It is ordered that the JUDGMENT is AFFIRMED and that appellant shall pay the costs.

The Court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this Court directing the Washington County Court of Common Pleas to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

Abele, J. and Hess, J.: Concur in Judgment and Opinion.

For the Court,

BY: _____
Kristy S. Wilkin, Judge

NOTICE TO COUNSEL

Pursuant to Local Rule No. 22, this document constitutes a final judgment entry and the time period for further appeal commences from the date of filing with the clerk.