[Cite as *State v. Lombeba*, 2026-Ohio-4473.]

STATE OF OHIO	)	IN THE COURT OF APPEALS
	)ss:	NINTH JUDICIAL DISTRICT
COUNTY OF SUMMIT	)	

STATE OF OHIO	C.A. No. 31774
Appellant	
v.	APPEAL FROM JUDGMENT ENTERED IN THE COURT OF COMMON PLEAS COUNTY OF SUMMIT, OHIO
WIBEA SIMON LOMBEBA	CASE No. CR-2025-04-1230
Appellee	

DECISION AND JOURNAL ENTRY

Dated: November 12, 2026

STEVENSON, Judge.

{¶1} Appellant, the State of Ohio, appeals the judgment of the Summit County Court of Common Pleas granting a motion to suppress filed by Appellee, Wibea Simon Lombeba. This Court reverses and remands.

I.

{¶2} Lombeba was charged with one count of rape in violation of R.C. 2907.02(A)(1)(b)/(B), a felony of the first degree. It is alleged that the victim was 12 years old at the time of the offense. Lombeba is from Tanzania and speaks Swahili. Lombeba pleaded not guilty at arraignment through an interpreter and the matter proceeded.

{¶3} Lombeba later moved to suppress a recorded interview that was conducted with members of the Akron Police Department. Lombeba argued that he "did not understand the process of being arrested and questioned" and that "there was not a knowing or intelligent waiver" of his rights pursuant to *Miranda v. Arizona,* 384 U.S. 436 (1966). The State argued that Lombeba

knowingly, intelligently, and voluntarily waived his *Miranda* rights after they were read and translated to him by a certified Swahili interpreter.

{¶4} The trial court held a hearing on Lombeba's motion to suppress. Akron Police Detective Brent Heller and Lombeba testified at the hearing. The entire recorded interview, including the recording of the *Miranda* rights being read and translated for Lombeba, was admitted into evidence at the hearing. The trial court took the matter under advisement at the conclusion of the suppression hearing.

{¶5} The trial court found that Lombeba did not knowingly, voluntarily, and intelligently waive his *Miranda* rights and it granted his motion to suppress. The State appeals the judgment of the trial court, asserting one assignment of error for this Court's review.

II.

ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED BY SUPPRESSING WIBEA LOMBEBA'S POLICE INTERVIEW BECAUSE THE EVIDENCE SHOWS THAT HE VALIDLY WAIVED HIS *MIRANDA* RIGHTS.

{¶6} The State argues in its sole assignment of error that the trial court erred in granting Lombeba's motion to suppress. We agree.

Standard of Review

{¶7} A motion to suppress evidence "presents a mixed question of law and fact." *State v. Burnside*, 2003-Ohio-5372, ¶ 8. "When considering a motion to suppress, the trial court assumes the role of trier of fact and is therefore in the best position to resolve factual questions and evaluate the credibility of witnesses." *Id.*, citing *State v. Mills*, 62 Ohio St.3d 357, 366 (1992). Thus, a reviewing court "must accept the trial court's findings of fact if they are supported by competent, credible evidence." *Burnside* at ¶ 8, citing *State v. Fanning*, 1 Ohio St.3d 19 (1982). "Accepting

these facts as true, the appellate court must then independently determine, without deference to the conclusion of the trial court, whether the facts satisfy the applicable legal standard." *Burnside* at ¶ 8, citing *State v. McNamara*, 124 Ohio App.3d 706 (4th Dist. 1997). "Accordingly, this Court reviews the trial court's factual findings for competent, credible evidence and considers the court's legal conclusions de novo." *State v. Jackson*, 2012-Ohio-3785, ¶ 7 (9th Dist.).

Miranda Rights

{¶8} The United States Supreme Court established the *Miranda* rights to protect a defendant's Fifth Amendment right against self-incrimination. *Miranda*, 384 U.S. at 444 (1966). Pursuant to *Miranda*, a defendant must be informed prior to custodial interrogation that he has the right to remain silent, any statement he makes may be used as evidence against him, and he has the right to the presence of an attorney, either retained or appointed. *Id.* A defendant does not need to "know and understand every possible consequence of a waiver of the Fifth Amendment privilege." *Colorado v. Spring*, 479 U.S. 564, 574 (1987), citing *Moran v. Burbine,* 475 U.S. 412, 422 (1986). Rather,

> [t]he Fifth Amendment's guarantee is both simpler and more fundamental: A defendant may not be compelled to be a witness against himself in any respect. The *Miranda* warnings protect this privilege by ensuring that a suspect knows that he may choose not to talk to law enforcement officers, to talk only with counsel present, or to discontinue talking at any time. The *Miranda* warnings ensure that a waiver of these rights is knowing and intelligent by requiring that suspect be fully advised of this constitutional privilege, including the critical advice that whatever he chooses to say may be used as evidence against him.

Colorado at 574.

{¶9} The United States Supreme Court has explained that the purpose of its decision in cases such as *Miranda* is to "prevent[] government officials from using the coercive nature of confinement to extract confessions that would not be given in an unrestrained environment." *Arizona v. Mauro*, 481 U.S. 520, 529-530 (1987); *see also Cleveland v. Oles*, 2017-Ohio-5834, ¶

9, citing *Miranda* at 469 (recognizing that the purpose of *Miranda* warnings is to "protect a suspect from the coercive pressure present during a custodial interrogation.").

{¶10} "'A defendant may waive his/her *Miranda* rights, provided that the waiver was made knowingly, voluntarily and intelligently.'" *Jackson*, 2012-Ohio-3785, at ¶ 9 (9th Dist.), quoting *State v. Grunder*, 2005-Ohio-2145, ¶ 9 (9th Dist.). The inquiry has two separate and distinct inquiries. *Edwards v. Arizona*, 451 U.S. 477, 482 (1981). First, the relinquishment of the right must be voluntary, meaning that it was "'the product of a free and deliberate choice rather than'" a result of "'intimidation, coercion, or deception.'" *State v. Dailey*, 53 Ohio St.3d 88, 91 (1990), quoting *Moran at* 421. Coercive police activity is a necessary predicate to a finding of involuntariness. *Colorado v. Connelly*, 479 U.S. 157, 167 (1986); *State v. Wesson*, 2013-Ohio-4575, ¶ 35 ("a waiver is not involuntary *unless* there is evidence of police coercion[]") (Emphasis in the original). Second, the waiver must have been made knowingly and intelligently, meaning that it was "'made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it.'" *Dailey* at 91, quoting *Moran* at 421.

{¶11} "[A] *Miranda* waiver need not be expressly made in order to be valid. A court may infer a waiver from a suspect's behavior, viewed in light of the surrounding circumstances." (Citation omitted.) *State v. Ford*, 2019-Ohio-4539, ¶ 188; *State v. Kuhn*, 2006-Ohio-4416, ¶ 15 (9th Dist.) (recognizing that a *Miranda* waiver "can be inferred from a defendant's words and actions."). It is the prosecution's burden to prove, by a preponderance of the evidence, that the defendant knowingly, voluntarily, and intelligently waived his *Miranda* rights based on the totality of the circumstances surrounding the investigation. *State v. Yeager*, 2003-Ohio-1808, ¶ 7 (9th Dist.), *citing State v. Gumm*, 73 Ohio St.3d 413, 429 (1995).

Analysis

{¶12} The trial court's factual findings are not at issue in this appeal and are accepted as true. "Given the undisputed facts, the question is one of law. It is our duty to examine the facts, and independently, without deference to the trial court's legal conclusions, determine if those facts support the legal determinations made by the trial court." *In re T.F.*, 2009-Ohio-3141, ¶ 8 (9th Dist.); *see also Burnside*, 2003-Ohio-5372, ¶ 8. We must reverse "[i]f we determine the facts do not support the trial court's legal conclusions[.]" *In re T.F.* at ¶ 8.

{¶13} The State argues that the trial court did not properly apply the law and that its factual findings establish that Lombeba knowingly, voluntarily, and intelligently waived his *Miranda* rights. It further argues that the trial court's finding that Lombeba's *Miranda* waiver was involuntary is not supported by the record as there is no evidence or finding of any police coercion or "an inherently coercive [police] tactic." Lombeba contends the trial court properly applied its factual findings "to the correct legal standard." He acknowledges that his "statements were not elicited by police coercion" yet maintains that, regardless, the trial court correctly found that he did not knowingly or intelligently waive his *Miranda* rights.

{¶14} We first conclude that the trial court erred as a matter of law when it found that "Lombeba did not . . . voluntarily waive his rights under the circumstances." There is no finding by the trial court of any coercive conduct by the police and Lombeba acknowledges that he did not render statements because of any such conduct. Coercive police conduct is a necessary predicate to a finding of involuntariness. *Connelly*, 479 U.S. at 167 (1986); *Wesson*, 2013-Ohio-4575, at ¶ 35. Accordingly, the State has established the voluntary prong of a *Miranda* waiver.

{¶15} Looking at the trial court's factual findings and the totality of the circumstances, we further conclude that the trial court erred in holding that Lombeba did not knowingly and

intelligently waive his *Miranda* rights. The trial court found that Detective Heller individually read Lombeba his *Miranda* rights through the use of a Swahili interpreter prior to the interview. There is no dispute that this interpreter properly interpreted the substance of the *Miranda* rights to Lombeba and that Lombeba affirmatively nodded his head after each right was read to him. *See Kuhn*, 2006-Ohio-4416, at ¶ 15 (9th Dist.) (recognizing that a waiver can be inferred from the defendant's actions).

{¶16} After all the *Miranda* rights were read to Lombeba, the trial court found that the detective "asked [] Lombeba if he understood his rights" and "Lombeba responded that he did not." The detective inquired further and Lombeba responded that "he did not understand why the officers woke him up and wanted to talk to him at the police station." The detective testified that Lombeba's confusion as to why the police wanted to talk to him is "a common response." Lombeba's response expressed confusion as to why the police wanted to talk to him. There is no evidence that Lombeba expressed any confusion or lack of understanding relative to the *Miranda* rights.

{¶17} The detective informed Lombeba that "he would explain why [] Lombeba had been brought to the station, but first he wanted to make sure [] Lombeba understood his rights." It is undisputed that Lombeba responded that "he understood[.]" Lombeba's interview with the police occurred after he had affirmatively nodded his head after each *Miranda* right had been read and after he responded that "he understood" his rights. Lombeba waived his *Miranda* rights through both his actions and his words.

{¶18} The trial court acknowledged the detective's testimony that "Lombeba was relaxed throughout the interview" and that Lombeba "acted like he wanted to explain the situation." Based

on Lombeba's answers to interview questions, the detective believed that "Lombeba knew what was going on during the interview."

{¶19} The detective told Lombeba towards the conclusion of the interview that "he had committed a felony and would be going to jail[.]" There is no finding that Lombeba expressed any confusion over this statement. Rather, the trial court found it odd that "Lombeba's only response was to ask whether [the police] would provide him with trousers." Lombeba's request for trousers is not indicative of a lack of understanding of his *Miranda* rights and this request occurred after he had already waived said rights.

{¶20} The trial court found that Lombeba expressed confusion at the suppression hearing and that he "could not properly respond to the State's questions[.]" It had acknowledged, however, that the State's questions that were being translated by the Swahili interpreter were "very convoluted" and it admonished the State "to simplify your questions." While the trial court found that Lombeba expressed confusion at the suppression hearing, there is no finding that Lombeba expressed any confusion when the *Miranda* rights were read.

{¶21} The cases cited by the trial court in its decision are factually distinguishable from this case. The Second District in *State v. Jiminez*, 2008-Ohio-1601, ¶ 40 (2d Dist.), did note in dicta that some cultures may be so foreign that a person coming from those cultures may find the *Miranda* rights to be incomprehensible. The court recognized, however, that "[a]bsent some defect of competency, an adult individual is presumed to be able to understand [the *Miranda* rights], and if he does not, to have the capacity to at least ask for an explanation." *Id.* at ¶ 39. The *Jiminez* court affirmed the judgment of the trial court denying the defendant's motion to suppress. *Id.* at ¶ 20. Judgment was affirmed even though, unlike in this case, the police did not use a certified interpreter to read the *Miranda* rights to the defendant whose primary language was Spanish. *Id.* at ¶ 15.

Rather, the police officer in that case read the *Miranda* rights to the defendant from a "Speedy Spanish For Police Personnel" card. *Id.*

{¶22} *United States v. Nakhoul*, 596 F.Supp. 1398 (D.Mass. 1984), a case involving three defendants, is also distinguishable from the facts of this case. The police read the *Miranda* rights to Nakhoul, a Lebanese national, in English in a police vehicle at the arrest scene. *Id.* at 1400. Nakhoul responded "yes" or nodded affirmatively after each right was read to him. *Id.* The court found that Nakhoul knowingly and intelligently waived his rights at that time and it denied his motion to suppress statements he made in the police vehicle. *Id.* at 1401. It suppressed, however, statements the defendant made at a later interview that was conducted by other police agents at DEA headquarters. *Id.* at 1402. This subsequent interview had occurred after the defendant had been "locked up . . . in a small windowless room for a period of time and then [was] questioned by two unfamiliar agents." *Id.* at 1401. The case before this Court does not involve facts that are evenly remotely similar to the second interview of Nakhoul.

{¶23} Similarly, the police read the *Miranda* rights in English to Tannous, who speaks Arabic, in a police vehicle and Tannous "indicated his understanding of each right." *Id.* at 1402. The court denied Tannous's motion to suppress statements he made in the vehicle upon a finding that he knowingly and intelligently waived his rights at that time. *Id.* at 1403. The court denied the motion to suppress even though the police in that case did not obtain an Arabic interpreter until they were at police headquarters. *Id.* The *Nakhoul* court also denied defendant El-DeBeib's motion to suppress upon a finding that he had also made a knowingly and intelligent waiver of his *Miranda* rights. *Id.*

{¶24} The trial court did not cite any cases where a court suppressed evidence where the police had a certified interpreter present at the beginning of the interview, the interpreter correctly

interpreted the *Miranda* rights, and the suspect waived his rights. Lombeba did not cite any such cases for the trial court's consideration. All cited cases are clearly distinguishable from the facts in this case.

{¶25} There is no dispute the *Miranda* rights were properly read to Lombeba through a Swahili interpreter, that Lombeba nodded affirmatively, and that Lombeba stated he understood. The police did not engage in any coercive conduct. Based on these findings, we conclude that Lombeba knowingly, voluntarily, and intelligently waived his *Miranda* rights. The State's sole assignment of error is, accordingly, sustained.

III.

{¶26} The State's assignment of error is sustained. The judgment of the Summit County Court of Common Pleas is reversed and the cause is remanded for further proceedings consistent with this decision.

Judgment reversed,
and cause remanded.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Summit, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to

mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed to Appellee.

SCOT STEVENSON
FOR THE COURT

FLAGG LANZINGER, P. J.
MANNING, J.
CONCUR.

APPEARANCES:

ELLIOT KOLKOVICH, Prosecuting Attorney, and C. RICHLEY RALEY, JR., Assistant Prosecuting Attorney, for Appellant.

ANDREW KARAS, Attorney at Law, for Appellee.