

**STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT COURT**

**STATE OF NEW MEXICO,
Plaintiff,**

vs.

**DANIEL HOOD,
Defendant,**

**Chief Judge Macias
CR-2015-00523**

FILED

2016 SEP -8 PM 4:02

**DISTRICT COURT
DONA ANA COUNTY**

ORDER DENYING DEFENDANT'S MOTION TO SUPPRESS STATEMENTS

THIS MATTER comes before the Court upon Defendant's Motion to Suppress Statements, filed November 23, 2015. The issue framed for decision is whether Defendant's prison interview constituted a custodial interrogation so as to trigger the need for Miranda warnings. See Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). Having examined the motion and the State's response, and having considered the evidence presented at the January 25, 2016 hearing and the oral arguments of the parties, the Court FINDS and CONCLUDES:

1. Defendant is serving a life sentence at the Southern New Mexico Correctional Facility (SNMCF) in connection with a prior (1998) murder conviction.
2. By way of indictment filed June 25, 2015, Defendant stands accused of a new murder charge, this time stemming from the death of a fellow SNMCF inmate, one Frank Pauline, on April 27, 2015. It is alleged that Defendant repeatedly struck the decedent in the head with a rock while the two, along with a number of other inmates, were in the prison recreational yard.

3. The ensuing investigation spanned ten days and entailed interviews with no fewer than twenty inmates. The last such interview was with the Defendant, taken after corrections officers had discovered blood-stained shoes and a sweat top in Defendant's prison cell, but before the source of the blood on those items had been determined.
4. Two corrections officers brought Defendant from his cell to the interview room – a “good-sized” office measuring roughly fifteen feet in width that contained a desk with a computer and several chairs – an uncramped and unexceptional space not at all suggestive of a location that was itself inherently coercive. Although the two transport officers remained outside the closed door of the interview room throughout the forty-plus minute interview, there is no indication that Defendant was aware of their continued presence or, for that matter, that Defendant asked to leave the interview room or indicated that he did not want to answer any more questions.
5. Defendant was handcuffed and shackled during the transport process and the interview itself, procedures shown to be customary for a “level 6,” maximum security prisoner such as Defendant.
6. The two state police officers who conducted the interview neither threatened Defendant nor engaged in any intimidating, coercive or deceptive conduct. Although the lead interviewer, then agent, now Sergeant, Alvarado, told Defendant that the blood-stained items had been removed from his prison cell, the officer's references to what was then merely potentially inculpatory evidence were made in a non-accusatory, non-confrontational manner.

7. Defendant initially denied any involvement in the incident, but eventually confessed to the killing.
8. Defendant, who was not given Miranda warnings, now moves to suppress his interview statements, arguing that they were the product of custodial interrogation. There is no dispute that Defendant was subject to interrogation during the relevant questioning. Thus, the Court concerns itself only with the custody prong of the Miranda analysis. For reasons that follow, the Court finds Defendant's custody-related arguments unavailing.
9. State v. Lopez, 2000-NMCA-069, 129 N.M. 352, 8 P.3d 154, cert. denied 129 N.M. 385 (2000), is the leading case in New Mexico on the issue of when and under what circumstances Miranda warnings need be given in the context of investigations of prison inmates. The Court of Appeals in Lopez flatly rejected the notion that "an inmate is automatically entitled to Miranda warnings every time he is questioned by a prison official by virtue of his prisoner status," ¶ 6, joining "the many courts" nationwide that have recognized that "the traditional analysis for determining whether a person is in custody under the holding in Miranda cannot be applied where the suspect is already incarcerated for a different crime" ¶ 7.
10. Instead, the Lopez Court instructed, the proper test is whether the inmate "has been subjected to additional restraints on his freedom of movement than is customary." ¶ 7. In determining the custody prong of the Miranda inquiry when faced with an interview of a prison inmate, a court must consider "the totality of the circumstances surrounding the interrogation," id., with emphasis placed on those circumstances that would have affected how a reasonable person in the inmate's position would have

perceived his or her freedom of action. See J.D.B. v. North Carolina, 564 U.S. 261, ___, 131 S.Ct. 2394, 2402, 180 L.Ed.2d 310 (stating that the subjective views harbored by either the interrogating officers or the person being questioned are irrelevant).

Among the relevant circumstances are “(1) the language used to summon the individual; (2) the physical surroundings of the interrogation; (3) the extent to which the suspect is confronted with evidence of his guilt; and (4) any additional pressure exerted to detain the suspect.” Lopez, 2000-NMCA-069, ¶ 7. The Lopez Court noted that no single factor is dispositive, and stressed that “in every case, the question is whether the circumstances suggest any measure of compulsion above and beyond the [inmate’s pending] confinement.” Id.

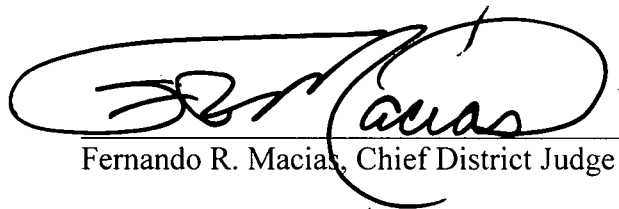
11. In urging that he was in custody for Miranda purposes, Defendant principally relies on two factors, the undisputed fact that he was handcuffed and shackled throughout the process and his contention that he was “ordered to remove himself from his cell and speak to” the interrogating officers. Significantly, the defense in Lopez had raised similar arguments, but to no avail.
12. With respect to the physical restraints placed on Defendant, Lopez teaches that where, as here, the physical restraints used on an inmate are customary for safety purposes, they do not require the giving of Miranda warnings “because in that context the restraint[s] do[] not add any appreciable measure of pressure or coercion beyond the usual prison environment.” Lopez, 2000-NMCA-069 ¶ 10.
13. Further, Defendant’s intra-prison transport to the interview room – which he describes as a “unit manager’s office” and which he does not assert was either unduly cramped or confining – did not serve as evidence of further restraint of the type

necessary to invoke the Miranda rule. “Although the door to the office was closed, [the Court] do[es] not believe that Defendant’s movement to the office was evidence of further restraint subjecting the inmate to such coercion as to render his statements suspect and unfair under the circumstances.” Lopez, 2000-NMCA-069, ¶ 11 (noting that the inmate defendant “was not placed in an interrogation room or segregated area but was taken instead to an office that was large [and] comfortable ...”).

14. Nor is a different result with respect to the Miranda custody inquiry warranted merely because the interviewing officers did not inform Defendant that he was free to stop the interview or refuse to answer questions, at least in these circumstances where the interviewing officers made no threats to Defendant or so “dominated” the atmosphere in which the questioning took place “as to overcome Defendant’s free will and give him no choice but to submit.” Lopez, 2000-NMCA-069, ¶ 12. This is so even were the Court to assume that Defendant, unlike his counterpart in Lopez, was a suspect in the prison murder investigation at the time of the interview. See Oregon v. Mathiason, 429 U.S. 492, 495, 97 S.Ct. 711, 50 L.Ed.2d 714 (recognizing that the requirement of Miranda warnings is not to be imposed simply because “the questioned person is one whom the police suspect,” but instead is triggered “only where there has been such a restriction on a person’s freedom of movement as to render him in custody.”).
15. On balance, and in view of the totality of the circumstances, the hearing evidence did not establish that Defendant was questioned in a custodial setting for Miranda purposes. Where either the “custody” or “interrogation” prong is absent, the cautionary warnings formulated in Miranda are not required.

16. In reaching this result, the Court has not taken into account the State's contention that it was the Defendant, not the investigating police or corrections officers, who initiated the "meeting" with law enforcement agents, a contention unsupported in the underlying criminal complaint or reflected in the investigating officers' conduct of the interview.

IT IS THEREFORE ORDERED that Defendant's Motion to Suppress Statements is DENIED.

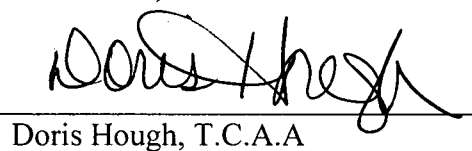


Fernando R. Macias, Chief District Judge

I certify that on the above file-stamped date I mailed or delivered copies of this order to:

Todd A. Holmes
1123 Indiana Ave.
Alamogordo, NM 88310

Keythan F. Park
Third Judicial District Attorney's Office
845 N. Motel Blvd., Suite D
Las Cruces, NM 88007



Doris Hough, T.C.A.A