

RENDERED: May 30, 2003; 10:00 a.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court of Appeals

NO. 2002-CA-000310-MR

KEITH STANLEY PALMER

APPELLANT

v. APPEAL FROM FAYETTE CIRCUIT COURT
HONORABLE REBECCA M. OVERSTREET, JUDGE
ACTION NO. 01-CR-00991

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION

AFFIRMING

** ** *

BEFORE: DYCHE, AND McANULTY, JUDGES; AND JOHN WOODS POTTER,
SPECIAL JUDGE.¹

McANULTY, JUDGE: Keith Stanley Palmer entered a conditional
guilty plea to the charges of burglary in the second degree and
being a persistent felony offender in the second degree,

¹ Senior Status Judge John Woods Potter sitting as Special Judge by assignment of the Chief Justice pursuant to Section 110(5)(b) of the Kentucky Constitution.

reserving his right to appeal the trial court's denial of his motion to suppress incriminating statements made while under the influence of drugs. We affirm.

On August 22, 2001, two officers from the Lexington Police Department knocked on the door of an apartment located at 1228 Centre Parkway in Fayette County, Kentucky. One of the inhabitants of the apartment allowed the officers to enter. Appellant and several others were in the apartment using crack, powdered cocaine, loritabs and marijuana. The officers arrested Appellant on outstanding warrants. Thereafter, the officers transported Appellant to the Fayette County Detention Center (detention center).

About fifteen to thirty minutes after Appellant's arrival at the detention center, Detective Steven Ingle of the Lexington Police Department's Burglary Division interviewed Appellant about some burglaries that had occurred in the Lexington area. Detective Ingle taped the interview. Apparently, Appellant admitted to committing at least one burglary and agreed to show Detective Ingle the following day the residence he burglarized. Appellant remained in the detention center overnight.

On August 23, 2001, as agreed, Detective Ingle picked up Appellant in an unmarked car with tinted windows, and

Appellant guided the police officers to the location they had discussed the day before.

On September 25, 2001, the Grand Jury of Fayette County returned an indictment charging Appellant with burglary second degree; criminal possession of a forged instrument second degree; receiving stolen property; and persistent felony offender second degree. On October 26, 2001, Appellant made a motion to set a date for a suppression hearing on the basis that Appellant was under the influence of drugs when he spoke to Detective Ingle on August 22, 2001, and did not understand his rights at the time he gave the statement. The trial court scheduled the hearing for November 13, 2001.

Detective Ingle testified at the suppression hearing that he advised Appellant of his rights prior to taking his statement. Detective Ingle said that Appellant seemed to understand his rights. Appellant then gave a statement regarding his activity in at least one burglary. When Detective Ingle asked Appellant questions, Appellant seemed to understand the questions and responded logically. The two agreed that Appellant would show Detective Ingle the location of the burglary the following day. Upon cross-examination by Appellant's counsel, Detective Ingle testified that Appellant did not appear to be on drugs on August 22, 2001, nor did he have any drug paraphernalia on him at the time of his arrest.

Appellant testified after Detective Ingle at the suppression hearing. Appellant said that he started using a lot of drugs earlier that day. He said he was "stoned" when the officers arrested him. Appellant did not understand that he could refuse to speak to the officers. He just knew he was in trouble. Appellant felt that he was taken advantage of because he was high in that the officers painted a picture that they were aware of a number of burglaries, and they would try to help Appellant if he confessed. Upon cross-examination by the Commonwealth, Appellant testified that he had been arrested many times before, and he understood what all of his rights were. Moreover, a cocaine high lasts anywhere from 45 minutes to an hour.

After hearing the evidence, the trial court denied Appellant's motion to suppress the incriminating statements that Appellant made on August 22, 2001. The court found that Detective Ingle advised Appellant of his rights and that Appellant understood those rights. Moreover, the court found that Appellant voluntarily waived those rights and gave a statement. The trial court noted the Appellant discussed a number of burglaries during the interview and seemed to be trying to work some kind of deal with the police. Finally, the trial court found that it was clear that Appellant was aware of what was going on and waived his right to remain silent.

The standard of review on appeal of a trial court's decision to admit an incriminating statement when a defendant files a motion to suppress is whether the factual findings of the trial court are supported by substantial evidence. See RCr 9.78; Hamilton v. Commonwealth, Ky., 580 S.W.2d 208, 210 (1979). In this case, we believe there is substantial evidence to support the factual findings by the trial court. Given Appellant's experience with the criminal justice system, the trial court placed greater weight on Detective Ingle's testimony that Appellant seemed to understand what was going on than Appellant's testimony that he did not. Significantly, Detective Ingle testified that he informed Appellant of his rights, but Appellant chose to waive those rights and give a taped statement. Moreover, Appellant responded appropriately to questions, and his speech was not slurred or otherwise impaired. Finally, "[t]he traditional rule has been a confession otherwise voluntary is not to be excluded by reason of self-induced intoxication unless 'the accused was intoxicated to the degree of mania, or of being unable to understand the meaning of his statements.'" Britt v. Commonwealth, Ky., 512 S.W.2d 496, 499 (1974) (internal citations omitted). We agree with the trial court that that is not the case here.

Therefore, the reasons stated above, the judgment of the Fayette Circuit Court is affirmed.

ALL CONCUR.

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