



IN THE SUPREME COURT OF THE STATE OF DELAWARE

LUIS COELLO,)
)
 Defendant Below,)
 Appellant,)
) No. 50, 2024
 v.)
)
 STATE OF DELAWARE,)
)
 Plaintiff Below,)
 Appellee.)

APPELLANT'S REPLY BRIEF

ON APPEAL FROM THE SUPERIOR COURT
IN AND OF NEW CASTLE COUNTY

Santino Ceccotti, Esquire [#4993]
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DATE: June 28, 2024

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I. THE SUPERIOR COURT ERRED IN REFUSING TO SUPPRESS COELLO'S ADMISSIONS POLICE OBTAINED IN VIOLATION OF HIS PRIVILEGE AGAINST SELF-INCRIMINATION GUARANTEED BY THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION AND ARTICLE ONE, SECTION SEVEN OF THE DELAWARE CONSTITUTION, WHERE THE MIRANDA WARNINGS WERE NOT ADMINISTERED, COELLO DID NOT IMPLICITLY OR EXPLICITLY WAIVE HIS RIGHTS, AND HE DID NOT COMPREHEND THE NATURE OF THE RIGHT ABANDONED.

The State dwells at length and in detail about how Coello was not in police custody because he had not been handcuffed. Ans. Br. at 12-13. However, this is of no consequence because the State fails to recognize that “the concerns that animate *Miranda* are identical” “for the custodial interrogation of both a defendant who is actually under arrest and a witness who believes he is under arrest.” *Taylor v. State*, 23 A. 3d 851, 856 (Del. 2011). Here, the record reflects that any reasonable individual in Coello’s situation would feel that they were in police custody and not free to leave.

In its answering brief, the State argues that “[t]his was not a traffic stop case” and therefore Coello could not be in custody. Ans. Br. at 11. It is absurd to contend that one cannot be in custody by police on site of a vehicle crash or other emergency. The reason for the initial police presence is of no consequence in the

analysis of whether an individual is in custody and knowingly, intelligently, and voluntarily waived his or her *Miranda* rights.

Appellant and the State agree that “[i]n order for a court to conclude that a suspect is in custody, it must be evident that, under the totality of the circumstances, a reasonable man in the suspect's position would feel a restraint on his freedom of movement fairly characterized as that ‘degree associated with formal arrest’ to such an extent that he would not feel free to leave.” *Torres v. State*, 1992 WL 53406, at *2 (Del. Feb. 7, 1992). Ans. Br. at 12. Under this record, Coello was in custody when he was questioned on the morning of June 22, 2022. At the time police elicited Coello statements, he was approached by officers Braun and Strickland so that he was surrounded on three sides by officers with a patrol vehicle at his back. Under the totality of the circumstances, a reasonable man in Coello’s position would feel a restraint on his freedom of movement fairly characterized as that ‘degree associated with formal arrest’ to such an extent that he would not feel free to leave.

One of the State’s final lines of argument is perhaps the most dubious of all. Like the Superior Court, the State advances the position that “nothing Mr. Coello said or did indicated to the police that he was ambiguously asserting his right to counsel or to remain silent.” Ans. Br. at 16. The absurdity of this argument lies in the fact Coello is Hispanic and has difficulty speaking and understanding the

English language. He expressed repeatedly that he does not speak English and he only speaks Spanish. Nonetheless, as evidenced in the video, Coello is continuously asked the same questions in English and as Braun testified, his answers to those questions were unresponsive. He wasn't answering the questions that were asked. A55. That evidences the fact that he wasn't, in fact, understanding what was taking place. Simply put, one can not expressly or ambiguously assert their right to counsel or to remain silent when they do not possess “the requisite level of comprehension” for a “knowing” and “intelligent” waiver. *Moran v. Burbine*, 475 U.S. 412, 421 (1986).

CONCLUSION

For the foregoing reasons and upon the authority cited herein, the undersigned respectfully submits that Luis Coello's convictions should be reversed.

\s\ Santino Ceccotti
Santino Ceccotti, Esquire

DATE: June 27, 2024