

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A23-1935**

State of Minnesota,
Respondent,

vs.

Alton Dominique Finch,
Appellant.

**Filed December 2, 2024
Affirmed
Connolly, Judge**

Hennepin County District Court
File No. 27-CR-23-4503

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Wynn Curtiss, Hopkins City Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Erik I. Withall, Assistant Public
Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Frisch, Presiding Judge; Connolly, Judge; and Cochran,
Judge.

NONPRECEDENTIAL OPINION

CONNOLLY, Judge

Appellant challenges on direct appeal his conviction for driving after revocation,
arguing that the district court erred in denying appellant's motion to suppress his confession

made after a *Miranda* warning because he had made a prior confession before the warning. Because we see no error, we affirm.

FACTS

About 11:00 a.m. on February 28, 2023, Officer A.S. in a squad car saw a gold car fail to stop at a stop sign. The driver appeared to be a woman wearing a headscarf. A.S. turned on the squad car's flashing lights and pursued the car, which pulled into a driveway. When A.S. arrived, the gold car was empty. A.S. radioed that the driver had run away and walked around the house, looking for the driver.

When A.S. returned to the squad car, appellant Alton Finch was standing next to it. A.S. asked appellant who owned the gold car, and appellant said he did. When A.S. asked if appellant had been driving the car, appellant answered, "No, [the] dude just ran that way" and pointed away from the house. Appellant told A.S. that he had been a passenger in the gold car and that an African-American man wearing black pants had been the driver. Appellant produced a Wisconsin ID and told A.S. the driver's first name was Brandon and appellant did not know his last name. Appellant seemed out of breath and hit himself in the head. He also told A.S. that he owned the house to which the driveway led. A.S. again asked appellant who owned the gold car, and appellant said he had just bought it.

A.S. thought appellant actually was the driver and that, because he had already fled once, he was likely to flee again. He therefore put appellant in handcuffs and told appellant he was detaining him, not arresting him. A sergeant arrived and stayed with appellant while A.S. entered appellant's information on the computer and radioed that other officers could stop the search for the driver. A.S. then questioned appellant further; appellant said

he got out of the car and went the same way the driver did. A.S. told appellant there was only one set of tracks in the snow.

A third officer arrived and stayed with appellant while A.S. and the sergeant went to look at the single set of footprints. The sergeant then asked appellant which door he used to get out of the car, and appellant said the passenger side. The sergeant said that was not true. Two other officers arrived and were standing with appellant as A.S. explained that the only set of footprints was on the driver's side of the car. Appellant then said, "I quit. I lied. I'm the driver." He said he had lied because his license had been revoked, he was in the process of trying to get it back, and he did not want a ticket.

A.S. arrested appellant, put him in the back of the squad car, and conversed with the sergeant as they walked around the house. A.S. then got into the squad car and told appellant they were going to talk a little; after about a minute, A.S. reminded appellant that he was under arrest and read him his *Miranda* rights. Appellant said that, in light of those rights, he wanted to talk.

Appellant then said he did not go through a stop sign, did not see A.S. behind him, did not see the squad car, and did not run away. He said he had lied about not being the driver to avoid getting a ticket for driving after revocation. Appellant was charged with felony fleeing a police officer other than in a motor vehicle and with misdemeanor driving after revocation.¹

¹ He was later acquitted of the felony but convicted of the misdemeanor.

Appellant moved to suppress his statements to A.S. and the sergeant, arguing that the statements were the result of unlawful detention, were elicited without a *Miranda* warning, and were tainted by the illegal detention of appellant. Following an evidentiary hearing on the motion, the district court filed an order and memorandum. The district court found that A.S.'s testimony was credible and corroborated by the video of the incident. It concluded that: (1) A.S. had a reasonable, articulable suspicion to believe appellant fled by means other than a motor vehicle; (2) the investigatory detention of appellant was permitted; (3) the handcuffs were lawful as part of the investigatory detention; (4) the handcuffs were an excessive restraint once other officers were on the scene to prevent appellant's flight, when the detention became a de facto arrest; (5) appellant's statements prior to the *Miranda* warning were inadmissible, and (6) appellant's statements after the *Miranda* warning were admissible.

Appellant's motion to suppress was thus granted in part and denied in part. On appeal, appellant argues that it was reversible error to deny his motion to suppress his post-*Miranda* statements.

DECISION

The issue of whether a suspect is in custody and therefore entitled to a *Miranda* warning presents a mixed question of law and fact qualifying for independent review. An appellate court reviews a [district] court's findings of historical fact relating to the circumstances of the interrogation pursuant to the clearly erroneous test but makes an independent review of the [district] court's determination regarding custody and the need for a *Miranda* warning. We grant considerable, but not unlimited, deference to a [district] court's fact-specific resolution of such an issue when the proper legal standard is applied.

State v. Stirling, 834 N.W.2d 162, 167-68 (Minn. 2013) (quotations and citations omitted).

The district court here determined that appellant was legitimately detained while only one officer, A.S., was present and that the handcuffs were a legitimate means of detention because appellant had already fled once. But once other officers who could prevent appellant's flight arrived, the handcuffs became a means of de facto arrest, not merely of detention.

As the district court explained:

Just after the cuffing, [H.] approached and stood with [appellant] as [S.] checked [appellant's] record and found that he had a revoked license. [S.] then began interrogating [appellant] about lying, trying to get him to admit that he was the driver. At this point, two uniformed officers stood in front of [appellant], who was seated against a squad car in handcuffs, two squad cars blocked the driveway, and [appellant] had remained on the scene since he encountered [S.] The concern for flight had been alleviated and the handcuffs should have been removed, or *Miranda* read, before questioning. . . .

. . . .

Because [appellant] was in custody at this time and because police were interrogating him without having given him a *Miranda* warning, his statements in response to this [pre-*Miranda*] interrogation must be suppressed.

But the district court went on to conclude that appellant's "post *Miranda* statements were voluntary and not tainted by the unlawful interrogation." The criteria for voluntariness of a statement are "the defendant's age, maturity, intelligence, education, experience, and ability to comprehend; the length and legality of the detention, and whether the defendant was deprived of physical needs or denied access to friends." *State v. Ezeka*, 946 N.W.2d 393, 404 (Minn. 2020). The district court stated, "[t]he record shows that

[appellant's] post-*Miranda* statement was voluntary, and he does not argue otherwise." On appeal, appellant does not claim that he lacked any of the criteria set out in *Ezeka*.

The district court compared this case to *Oregon v. Elstad*, 470 U.S. 298, 318 (1985) (holding that "a suspect who has once responded to unwarned yet uncoercive questioning is not thereby disabled from waiving his rights and confessing after he has been given the requisite *Miranda* warnings") and contrasted it with *State v. Bailey*, 677 N.W.2d 380, 392 (Minn. 2004) (holding that "where a suspect is apprehended under coercive circumstances, is subjected to lengthy custodial interrogation before being given a *Miranda* warning, does not have the benefit of a significant pause in the interrogation after the *Miranda* warning is given, and essentially repeats the same inculpatory statements after the *Miranda* warning as before, the statements made after the *Miranda* warning are inadmissible"). After concluding that the facts in appellant's case "are distinguishable from *Bailey* and much more like [those in] *Elstad*," the district court admitted appellant's post-*Miranda* statements.

We agree with this conclusion. In *Elstad*, the defendant, 18, was implicated in the burglary of a neighbor's home. *Elstad*, 470 U.S. at 300. The police went to the defendant's home, spoke to his mother, and asked the defendant to join them in the living room after he got dressed. *Id.* Then one officer said that he felt the defendant might be involved in the burglary, and the defendant said, "Yes, I was there." *Id.* at 301.

In *Bailey*, the defendant was suspected of murder.

[His] unwarned [pre-*Miranda*] statements were made during interrogation in the detective's car immediately after he was arrested at gunpoint, placed against the squad car, patted down

for weapons, handcuffed, and placed in the back seat. These facts make it clear that [he] was in “custody” and that the first interrogation was accompanied by coercion.

Bailey, 677 N.W.2d at 391.

Bailey distinguished *Elstad*, noting that in *Elstad*, as here, “it was not clear that police questioning involved the custodial interrogation necessary to trigger a *Miranda* warning.” *Id.*

“[I]t is an unwarranted extension of *Miranda* to hold that a simple failure to administer the warnings unaccompanied by any actual coercion or other circumstances calculated to undermine the suspect’s ability to exercise his free will, so taints the investigatory process that a subsequent voluntary and informed waiver is ineffective for some indeterminate period. Though *Miranda* requires that the unwarned admission must be suppressed, *the admissibility of any subsequent statement should turn in these circumstances solely on whether it is knowingly and voluntarily made.*”

Id. at 389 (quoting *Elstad*, 470 U.S. at 309). *Elstad* rejected the defendant’s contention that “his confession was tainted by the earlier failure of the police to provide *Miranda* warnings and must be excluded as ‘fruit of the poisonous tree’” because “the alleged ‘fruit’ of a noncoercive *Miranda* violation [was] neither a witness nor an article of evidence but the accused’s own voluntary testimony.” *Id.* at 305, 308.

Bailey is also distinguishable here: appellant was suspected of running a stop sign, not of murder; unlike the two officers in *Bailey*, A.S. did not pull a gun and arrest appellant, but handcuffed and detained him after he had fled; appellant was not put into a police car and driven to a police station while being interrogated; the entire encounter from A.S.’s meeting appellant to the *Miranda* warning lasted only 22 minutes; and, as the district court

observed, “the break of six minutes between placing [appellant] in the squad car and reading him *Miranda* rights rendered a distinct change in the pace and tenor of the events that was absent in *Bailey*.”

Appellant also relies on *Missouri v. Seibert*, 542 U.S. 600, 604 (2004) (holding that a police protocol for giving no warnings until after an interrogation produced a confession, then getting the suspect to repeat the confession, made the second confession inadmissible) which was decided three months after *Bailey*. But *Seibert* is also distinguishable. The suspect in that case was the mother of a 12-year-old with cerebral palsy who had died in his sleep; she feared charges of neglect because of the bedsores on the boy’s body. *Seibert*, 542 U.S. at 604. She and her other sons agreed to set fire to the mobile home containing the body and a mentally ill teenager, Donald, who lived with the family, so the body’s condition would not be discovered and the boy would not appear to have been left alone; Donald died in the fire. *Id.*

An officer who had been instructed to refrain from giving a *Miranda* warning went to the hospital where the woman was with another son who had been burned in the fire and woke her at three a.m. *Id.* at 604-05. She was taken to a police station, left alone for 15 to 20 minutes, then questioned for 30 to 40 minutes while the officer squeezed her arm and repeated, “Donald was also to die in his sleep.” *Id.* at 605. After the woman admitted this, she was given a 20-minute coffee and cigarette break, then the officer gave her *Miranda* warnings and obtained a signed waiver of rights from her; she also repeated her statement on video after being confronted with her confession. *Id.* She was charged with first-degree murder. *Id.* The officer testified that he made a conscious decision to withhold *Miranda*

warnings, because he had been taught to question first, then give the warning, then repeat the question until the suspect repeated the answer that had already been given. *Id.* at 605-606. Nothing resembling the interrogation in *Seibert* happened here.

Based on the circumstances of this case, the district court did not err in concluding that the post-Miranda statements admitting that appellant was the driver were voluntarily and in denying appellant's motion to suppress the post-Miranda statements.

Affirmed.