Circuit Court for Frederick County
Case No. C-10-CR-20-000355

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND**

No. 0003

September Term, 2022

RICHARD EUGENE CARTNAIL, JR.,

v.

STATE OF MARYLAND

Berger,
Beachley,
Ripken,

JJ.

Opinion by Ripken, J.

Filed: April 24, 2023

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

**At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

In July of 2020, Appellant, Richard Eugene Cartnail, Jr. ("Cartnail"), was interviewed at the Frederick County Sheriff's Office regarding the death of Ty'Kerria Dawson ("Dawson"), who had been found shot three times in the head. Dawson was found deceased the day before her 18th birthday in a wooded area near Cartnail's home. During the interview, Cartnail made incriminating statements and confessed to shooting Dawson. Cartnail was charged in the Circuit Court for Frederick County with first degree murder, conspiracy to commit first degree murder, possession of a firearm by a minor, and use of a firearm in commission of a felony. Cartnail, who was 16-years-old when charged, petitioned to transfer jurisdiction of his case to juvenile court, and that petition was denied. Subsequently, Cartnail filed a motion to suppress his statements to the interviewing officers as involuntarily made. Following a hearing, the circuit court denied the motion.

In December of 2021, a jury found Cartnail guilty of all charges. The circuit court imposed a life sentence for first degree murder, a concurrent life sentence for conspiracy to commit first degree murder, a concurrent five years for possession of a firearm, and a consecutive twenty years for use of a firearm in a crime of violence. Cartnail now appeals to this Court.

For the following reasons, we shall affirm the judgments of the circuit court.

ISSUES PRESENTED FOR REVIEW

Cartnail presents two issues for our review:[1]

[1] Rephrased from:

I. Did the trial court err in ruling that Mr. Cartnail's incriminating statements to his interrogating officers were voluntary under Maryland

I. Whether the circuit court erred in denying Cartnail's motion to suppress his statements to police officers.

II. Whether the circuit court erred in denying Cartnail's petition to transfer his case to juvenile court.

FACTUAL AND PROCEDURAL BACKGROUND[2]

On June 27, 2020, Dawson's body was found in a wooded area in Frederick, Maryland. Dawson lived in Hagerstown and had been in Frederick the previous evening to visit Cartnail, who was her boyfriend at the time. On June 28, Sergeant Joseph McCallion, Detective Jennifer Skelley, and a third officer went to Cartnail's home to gather "general information" because Dawson's family indicated they believed Cartnail was the last person who had been with Dawson. Cartnail was "calm" when answering the officers' questions.

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common law where an officer offered, immediately before Mr. Cartnail's confession, to "put . . . in our report" that he was "not a monster" if he explained "why" he killed the victim?

II. Does CP § 4-202(c)(2)'s prohibition of transfer to juvenile court for defendants accused of committing first degree murder at the age of sixteen or seventeen violate the due process or equal protection guarantees of Article 24 of the Maryland Declaration?

The State presents the issues as follows:

I. Did the suppression court correctly admit Cartnail's statement to police?

II. Did the circuit court correctly deny Cartnail's petition to transfer to juvenile court, and is the challenged statute constitutional?

[2] For context, we provide facts included in the parties' agreed statement of facts pertaining to Cartnail's conviction. However, only those facts presented at the suppression hearing are considered for purposes of our appellate review. *See Lee v. State*, 418 Md. 136, 148 (2011) (citing *Longshore v. State*, 399 Md. 486, 498 (2007)) ("In undertaking our review of the suppression court's ruling, we confine ourselves to what occurred at the suppression hearing.").

However, his mother was "very upset" and frequently interrupted the officers' conversation with Cartnail by interjecting information about Dawson's mental health that she contended she had learned from Dawson's father. Cartnail provided the officers with a one-page written statement outlining his version of what had happened while he was with Dawson on June 26 and 27.

On July 1, 2020, police returned to Cartnail's home to request that he go to the sheriff's office for an interview. Sergeant Kevin Britt, the first officer to arrive at Cartnail's residence, testified that Cartnail "appeared to be around 18"-years-old, although he was 16-years-old at the time. Cartnail agreed to speak further with the officers and, upon arrival at the sheriff's office, the officers placed Cartnail in an interview room and his mother in a conference room down the hall. Sergeant McCallion spoke with Cartnail's mother for about an hour while Cartnail waited alone in the interview room.

A. Interview

At approximately 6:10 pm, Sergeant McCallion and Detective Skelley began interviewing Cartnail. Prior to reading Cartnail his *Miranda* rights,[3] the officers told Cartnail that he was "not free to leave." The officers asked Cartnail whether he understood his *Miranda* rights, and Cartnail responded "Mm-hmm" to each, in turn.[4] Cartnail then

[3] *See Miranda v. Arizona*, 384 U.S. 460 (1966).

[4] The officers specifically asked Cartnail whether he understood that he had a "right to remain silent," that "[a]nything [he said could] be used against [him] in [a] court of law," that he had "the right to talk to a lawyer for advice" before they asked him any questions, and the right to have a lawyer "with [him] during any questioning." Additionally, the interview transcript, in conjunction with Sergeant Skelley's testimony at the suppression

signed his initials next to each right on the waiver form provided to him. Cartnail conveyed that he had completed tenth grade and could read and write "pretty well" before choosing to read aloud the "Waiver of Rights" portion of the waiver form. While reading out loud, he did stumble over the word "coercion"; however, he stated that he understood the waiver and that he was "cool" with talking to the officers. Having read, indicated he understood, and agreed to speak with the officers, Cartnail then signed the waiver form.

Throughout the interview, the officers repeatedly indicated that they had "done [their] homework" and "already [knew] the answers" to their questions. They urged Cartnail to be truthful and assured him that they were just searching for "the truth" of "why [Dawson] was killed" because the "[f]amily need[ed] answers." Sergeant McCallion told Cartnail that the evidence was "overwhelming" against him but conveyed that he "did not want to paint the picture that [Cartnail] was a monster," as opposed to someone who had made a "stupid . . . mistake." Sergeant McCallion indicated that if Cartnail told the officers "the why" of what happened, they "could put in [their] report" that "[Cartnail] [was] not a monster." Cartnail ultimately confessed to shooting and killing Dawson, and the interview concluded approximately 15 minutes later. Cartnail declined to provide a written statement at that time. The interview lasted two hours and 17 minutes in total.

B. Petition to Transfer Jurisdiction

Prior to trial, Cartnail petitioned to transfer his case to juvenile court, arguing that

hearing, implies that Cartnail nodded his head in affirmation when asked if he understood his right to stop answering at any time until he spoke with a lawyer. There is no contention as to any impropriety with the *Miranda* advisement.

the prohibition of transfer outlined in section 4-202 of the Criminal Procedure Article ("CP") of the Maryland Code denied him his due process and equal protection guarantees under the Fourteenth Amendment of the United States Constitution and Article 24 of the Maryland Declaration of Rights. The statute precludes the court from transferring jurisdiction to the juvenile court if "the alleged crime is murder in the first degree and the accused child was 16 or 17 years of age when the alleged crime was committed." Md. Code Ann., CP § 4-202(c)(2). The circuit court denied Cartnail's motion.

C. Suppression Hearing

1. Testimony

Cartnail moved to suppress the inculpatory statements he made during the interview on the basis that they were involuntary under Maryland common law.[5] Both Sergeant McCallion and Detective Skelley testified at the suppression hearing and described Cartnail as "calm" during the interrogation. Detective Skelley testified that she told Cartnail his mother was "right down the hall" and that, in the interview room, Cartnail could "say what [he] need[ed] to say without some interruptions from mom."

Detective Skelley and Sergeant McCallion both testified they had not offered Cartnail any benefit for speaking with them. When asked on direct examination whether, during training, Detective Skelley was, "taught to talk to juveniles any differently than [she] would talk to adults," Detective Skelley responded, "Yes. We take into . . . consideration their age, their intelligence, things like that, but I wouldn't use words that

[5] We note that the suppression court admitted into evidence both the video recording of the interview as well as a transcript.

maybe a juvenile wouldn't understand." Sergeant McCallion confirmed that, although officers are not given "special training as far as interrogating juveniles," they consider such factors as "[a]ge, mental competency, communication skills, [and] education level" when conducting all interviews.

Cartnail testified that the interview room was "very cold" and that he was "very shaky" and "very nervous." Cartnail initially testified that he wanted his mother in the interview room with him "[s]o she [could] hear everything," but he thought he was not allowed to have her present. Shortly thereafter, however, Cartnail testified that he did not ask for his mother because he was "in the moment" and "nervous," even though he wanted to ask for her "later on." When asked why he did not exercise his *Miranda* rights, Cartnail responded, "Because I felt like I needed to talk to them. . . . There [were] questions that needed to be answered[.]" Cartnail testified that he repeatedly told the officers that he was not the shooter. Per Cartnail, there came a point where he no longer wanted to speak to the officers, but he did not ask the officers to stop the interview because he "felt [he] couldn't leave."

Defense counsel questioned Cartnail about the conversation he had with Sergeant McCallion in the minutes leading up to his confession, during which Sergeant McCallion indicated that the evidence against Cartnail was "overwhelming" and that, if Cartnail told them "the why" of what happened, the officers could "put in [their] report" that Cartnail was "not a monster." When asked what effect the officer's statements had on him, Cartnail answered, "I didn't know what evidence they had on me, but I was overwhelmed." Cartnail added various explanations regarding his reasoning, from "whatever I said[,] they were

going to say something else" to "I kind of gave up" and "didn't care anymore" because "they [were] basically telling me I killed somebody, committed a murder."

Ultimately, Cartnail testified that he told the officers that he was the shooter because his "mind[] [was] a little messed up at the time" and he "wanted full responsibility of it, because [Dawson] was last with [him]." Cartnail described his feeling that he "wouldn't be allowed to leave the room until they heard what they wanted to hear" as a factor in his decision to confess: "I basically told them . . . what they wanted to hear, so I could leave, because at the time, I was like it's whatever now."[6]

2. Ruling

The circuit court indicated that the standard for juvenile confessions and inculpatory statements is different than that for adults. Accordingly, the court applied a totality of the circumstances analysis "from the juvenile suspect's point of view." In doing so, the court found that the officers made no improper inducements, that, even if they had, Cartnail did not rely on such inducements, and that, therefore, Cartnail's confession was voluntary.[7]

The court applied the two-prong test established in *Hillard v. State*, 286 Md. 145 (1979), when assessing whether Cartnail's statements were improperly induced. Under the first prong of the *Hillard* test, the court must make an objective determination as to

[6] Notably, at no point during the suppression hearing, even when directly questioned on the issue, did Cartnail suggest that the officer's potential characterization of him in a report was the reason he made incriminating statements and confessed.

[7] The court additionally found that the interrogators knew or should have known Cartnail was a juvenile, that this was a custodial interrogation, and that Cartnail's waiver of his *Miranda* rights was knowing and intelligent. These findings are not contested.

"whether a reasonable person in the position of the accused would be moved to make an inculpatory statement upon hearing the officer's declaration[.]" *Brown v. State*, 252 Md. App. 197, 237 (2021) (quoting *Williams v. State*, 445 Md. 452, 478–79 (2015)). The second prong of the *Hillard* test "requires the court to determine whether the accused relied on" such an improper inducement when making the confession or inculpatory statement. *Id.* In other words, there must be a "causal nexus." *Id.*[8]

The court found that the officers "[p]romising to put something in a report about [Cartnail] not being a monster" was not an improper inducement that "in any way . . . could have coerced this confession." As such, the court found that the officers' statements did not "fall[] under the form of assistance, or special promise made" in exchange for a confession required to satisfy *Hillard*'s first prong. The court subsequently found that, even if the first prong had been satisfied and "there were inducements, [Cartnail] didn't rely on them[.]"

Regarding the voluntariness of Cartnail's confession, the court found "most compelling" Cartnail's "own words" that "he felt he needed to talk to the police, because there were questions that needed to be answered." According to the court, these statements demonstrated that Cartnail "knew and understood what he was saying." The court found that there was no evidence of "coercive police activity," "no good cop/bad cop scenario," and that "the officers didn't raise their voices, or get angry[.]" The court additionally found that Cartnail "[a]t no time . . . ask[ed] for his mother to come into the room," and that "the

[8] We outline the *Hillard* test in greater detail in the Discussion section, *infra*.

environment in the interview room was not threatening at all." Additionally, the court found that the interview environment was "unremarkable" and that the interview was "done by the book." Accordingly, the circuit court denied Cartnail's motion to suppress.

D. Trial

A jury trial took place December 7 to 15, 2021, in the Circuit Court for Frederick County. The trial court admitted into evidence both the full video recording of the interview and the video transcript containing Cartnail's confession. A jury found Cartnail guilty of all charges.

Cartnail noted this timely appeal. Additional facts will be included as relevant.

STANDARD OF REVIEW

"Only voluntary confessions are admissible as evidence under Maryland law." *Knight v. State*, 381 Md. 517, 531 (2004). The circuit court's ruling on the voluntariness of a confession is a mixed question of law and fact that this Court reviews *de novo*.

> In undertaking our review of the suppression court's ruling, we confine ourselves to what occurred at the suppression hearing. [W]e view the evidence and inferences that may be reasonably drawn therefrom in a light most favorable to the prevailing party on the motion, here, the State. We defer to the motions court's factual findings and uphold them unless they are shown to be clearly erroneous. We, however, make our own independent constitutional appraisal, by reviewing the relevant law and applying it to the facts and circumstances of this case.

Brown v. State, 252 Md. App. 197, 234 (2021) (internal citations and quotations omitted).

DISCUSSION

In assessing voluntariness, we examine the "totality of the circumstances affecting the interrogation and confession." *Smith v. State*, 220 Md. App. 256, 273 (2014) (quoting

Hill v. State, 418 Md. 62, 75 (2011)). Factors considered include "the length of interrogation, the manner in which it was conducted, the number of police officers present throughout the interrogation, and the age, education, and experience of the suspect." *Hill*, 418 Md. at 75. "[T]he State carries the burden of 'showing affirmatively that the inculpatory statement was freely and voluntarily made and thus was the product of neither a promise nor a threat.'" *Winder*, 362 Md. at 306 (quoting *Hillard*, 286 Md. at 151); *see Hill*, 418 Md. at 75 ("[T]he State must prove the voluntariness of the confession by a preponderance of the evidence.").

Hillard's two-prong test prohibits the admission of a confession where:

> (1) any officer or agent of the police promises or implies to the suspect that he will be given special consideration from a prosecuting authority or some other form of assistance in exchange for the suspect's confession, and (2) the suspect makes a confession in apparent reliance on the police officer's explicit or implicit inducement.

Lee v. State, 418 Md. 136, 161 (2011) (citing *Hillard*, 286 Md. at 153). The first prong is an objective inquiry, meaning that "a suspect's subjective belief that he or she will be advantaged in some way by confessing will not render the confession involuntary unless the belief was premised upon a statement or action made by an interrogating officer." *Winder*, 362 Md. at 311 (citing *Stokes v. State*, 289 Md. 155, 161–62 (1980)). The second prong "triggers a causation analysis to determine whether there was a nexus between the promise or inducement and the accused's confession." *Id.* Both prongs must be satisfied to deem a confession involuntary. *Brown*, 252 Md. App. at 236 (quoting *Lee*, 418 Md. at 161).

I. THE CIRCUIT COURT DID NOT ERR IN DENYING CARTNAIL'S MOTION TO SUPPRESS HIS STATEMENTS TO THE POLICE OFFICERS.

We begin with the second prong of the *Hillard* test because our conclusion as to that issue is dispositive. We find that the State met its burden under the second prong of the *Hillard* test by proving that Cartnail's incriminating statements were not made in reliance on the alleged improper inducements. As the *Winder* Court explained, "if a suspect did not rely on an interrogator's comments, obviously, the statement is admissible regardless of whether the interrogator had articulated an improper inducement. By definition, there would have been no 'inducement' at all, because the interrogator 'induced' nothing." 362 Md. at 309–10 (quoting *Reynolds v. State*, 327 Md. 494, 509 (1992)). Therefore, because "[b]oth prongs of the *Hillard* test must be satisfied before a confession is deemed involuntary," *Lee*, 418 Md. at 161, we need not decide whether the State met its burden in proving that Sergeant McCallion's statements were not improper inducements under *Hillard*'s first prong. *See Brown*, 252 Md. App. at 241.

Accordingly, here, we focus our analysis on the reliance prong. Cartnail argues that the State failed to meet its "very heavy burden" that the statements at issue "in no way" induced Cartnail's incriminating statements and ultimate confession. *Williams*, 375 Md. at 429. First, Cartnail notes that the timing of his inculpatory statements strongly suggests a nexus to the officers' alleged inducements because "[s]hortly after three" of the four "inducements," Cartnail "made a critical admission." Cartnail relies on the decisions in *Winder* and *Taylor v. State*, 388 Md. 385 (2005), in which the Supreme Court of Maryland

(at the time named the Court of Appeals of Maryland)[9] held that the State failed to disprove reliance given the closeness in time between the improper inducement and incriminating statements. *See Winder*, 375 Md. at 320 (where the interrogating officers made "flagrant promises" to the defendant in the two-plus hour window "just before" the defendant confessed); *Taylor*, 388 Md. at 403 (where the defendant "refrained from giving an oral statement and resisted later giving a written one" until he was assured that the interrogating officer would "intercede with the commissioner").

Next, Cartnail contends that the record does not show any intervening factors, other than Sergeant McCallion's statements, that could have caused the confession. Cartnail contrasts the circumstances surrounding his confession to those in *Johnson v. State*, 348 Md. 337 (1998), where the Supreme Court held that the defendant could not have relied upon an officer's improper inducement when he confessed days later, to a different officer, in a different building. *Id.* at 352. Cartnail analogizes his circumstances to those in *Winder*, where the Supreme Court found that the State failed to disprove reliance where there was "no attenuation in time or circumstances, no change of environment, and no interruptive change of the interrogation team." 362 Md. at 320.

Cartnail maintains that his suppression hearing testimony wherein he indicated "he felt like he needed to talk to the police" because "there were questions that needed to be

[9] At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland. The name change took effect on December 14, 2022.

answered," does not establish an absence of reliance.[10] According to Cartnail, the circuit court misunderstood this testimony, which he claims was related only to his *Miranda* waiver, not his decision to confess to the crime. In support, Cartnail cites *Jones v. State*, 48 Md. App. 726 (1981), in which this Court reversed the judgments of the circuit court after concluding that the appellant had relied upon the interrogating officer's improper inducement, despite the Court's finding that "[t]here [was] no suggestion that appellant did not receive the *Miranda* warnings, nor that he did not understand them." *Id.* at 732 (footnote omitted).

Finally, Cartnail argues that the State failed to meet its burden of disproving reliance because of the egregiousness of the interrogating officers' conduct toward Cartnail as a juvenile. Cartnail highlights that, although his mother was "right down the hall," the officers "never told him that she could be present for the interrogation or that police procedures required questioning to stop if he asked to speak with her." Additionally, Cartnail claims that Sergeant McCallion's words "exploited" his inadequate knowledge of the criminal justice system as a juvenile because a characterization of him in the officer's

[10] Cartnail is referring to the following colloquy from the suppression hearing:

> [Counsel]: You heard the Miranda rights. You heard them tell you could ask for a lawyer, you had a right to remain silent. Why didn't you exercise that right?
>
> [Cartnail]: Because I felt like I needed to talk to them.
>
> [Counsel]: Okay. Why'd you feel like you needed to talk to them?
>
> [Cartnail]: There was questions that needed to be answered, and I wasn't thinking about it really at the time.

report would never have been admissible evidence. Cartnail urges this Court to view Sergeant McCallion's statements as "part of a sustained strategy to coax inculpatory statements" from him.

The State responds that Cartnail cannot show a nexus between his confession and Sergeant McCallion's interview statements. Per the State, Cartnail "gradually gave bits and pieces of information in response to the detectives' questions," as opposed to confessing "directly after the 'monster' comments." The State maintains that, because the officers were entitled to "make appeals to [Cartnail's] inner conscience," *Winder*, 362 Md. at 305, "[n]othing about the appeal to Cartnail to be truthful was inappropriate" or coercive. The State highlights that Cartnail's own testimony at the suppression hearing indicated that he was compelled to talk to police because there were "questions that needed to be answered," and he "felt bad that [the murder] happened."

The State additionally argues that the officers' interview statements were "unremarkable," not egregious. The State disagrees that the officers were required to advise Cartnail that his mother could be in the room. Regardless, the State notes that Cartnail testified that he believed he *could* ask for his mother to be present during the interrogation but chose not to on his own accord because he was "in the moment." Furthermore, the State contends that the record does not support Cartnail's claim that the officers "exploited" his "inadequate knowledge of the criminal justice system." Rather, the State maintains that the officers' conduct was appropriate because they were operating with a strategy of obtaining the truth that is implicit in all police interviews. We agree.

As previously stated, when conducting the requisite causation analysis under

Hillard's reliance prong, the court considers relevant factors such as "the amount of time that elapsed between the improper inducement and the confession; whether any intervening factors, other than the officer's statement, could have caused the confession; and the testimony of the accused at the suppression hearing related to the interrogation." *Hill*, 418 Md. at 77 (internal citations omitted); *see Smith*, 220 Md. App. at 281 n.11 ("Only the defendant can truly tell us what was going on in the defendant's mind." (quoting *Ashford v. State*, 147 Md. App. 1, 56 (2002))).

Assuming without deciding that Sergeant McCallion's statements were improper inducements under *Hillard*'s first prong, we agree with the circuit court that the State met its burden of proving that there was no nexus between the alleged improper inducements and Cartnail's confession. First, although Cartnail's ultimate confession came shortly after Sergeant McCallion's statement that he could "put . . . in [their] report" that Cartnail was "not a monster," Cartnail had maintained his innocence after each of the prior similar statements, evincing that the officer's use of this terminology had not affected him in the way he now claims. Moreover, immediately preceding Cartnail's ultimate confession, Sergeant McCallion communicated to Cartnail that the evidence against him was "overwhelming." There is sufficient evidence in the record to conclude that Sergeant McCallion's statements regarding "overwhelming" evidence independently prompted Cartnail to confess at the time in which he made the statement.

Concerning intervening factors and the egregiousness of the officers' conduct, we find no error in the circuit court's findings. As the circuit court aptly stated, this was an "unremarkable" interview. After reviewing a video recording of the entire interrogation,

which lasted only two hours and 17 minutes and was uninterrupted, the trial court concluded that the environment in the interview room was "not threatening at all" and that the interrogation "was pretty much done by the book." Unlike in *Winder*, where the accused was "shaking" during the interrogation, "had a nervous twitch in his neck," and his "heart was beating rather fast," 362 Md. at 319, Cartnail was "calm" and "did not appear to be uncomfortable at all," when responding to the officers' questions. The *Winder* Court found that the officers' extensive monologues throughout a twelve-hour interrogation "abandoned all pretense of questioning" in a "quest to gain a confession." *Id.* at 293, 320. Here, to the contrary, the circuit court found that the officers were "gentle" with Cartnail, that they "didn't raise their voices, or get angry, or do anything else . . . [that] the Court could find caused some sort of coercion[.]"

Furthermore, and notably, the suppression court observed that Cartnail testified that he spoke with the officers because "he felt like he needed to talk" and that "there were questions that needed to be answered." Cartnail additionally testified that he confessed because his mind was "a little messed up at the time," because he wanted "full responsibility" as the last person with Dawson, and because he wanted to leave. None of these reasons indicate that, "in [Cartnail]'s mind," he confessed because he felt coerced or because he believed he would gain some type of benefit from the State. *See Smith*, 220 Md. App. at 281 n.11. The record does not support a finding that there was a nexus between the officer's alleged improper statements and Cartnail's ultimate confession. Cartnail's own words are to the contrary.

For the foregoing reasons, we find no error in the circuit court's conclusion that,

even if improper inducement had occurred, Cartnail neither relied on such inducements nor was coerced into confessing. As a result, we need not address the first prong of the *Hillard* test—whether the officers' statements were improper inducements—because "[b]oth prongs of the *Hillard* test must be satisfied before a confession is deemed involuntary." *Lee*, 418 Md. at 161. Accordingly, we conclude that the circuit court did not err in finding that Cartnail's statements were voluntary under Maryland common law, and we affirm the denial of the motion to suppress.

II. THE CIRCUIT COURT DID NOT ERR IN DENYING CARTNAIL'S PETITION TO TRANSFER HIS CASE TO JUVENILE COURT.

Cartnail argues that section 4-202(c)(2)'s prohibition against transfer for defendants aged 16- and 17-years-old who have been charged with first degree murder violates his constitutional rights under Article 24 of the Maryland Declaration of Rights. According to Cartnail, precluding transfer without a hearing violates his due process guarantee because he has a protected liberty interest to adjudication in juvenile court under Article 24. Furthermore, Cartnail claims section 4-202(c)(2) is violative of his equal protection guarantee because "there is no legitimate governmental purpose in denying sixteen-year-olds charged with first degree murder the opportunity for transfer afforded to sixteen-year-olds charged with other offenses . . . given that the 'nature of the offense' has no 'independent significance' in transfer hearings." *See Davis v. State*, 474 Md. 439, 465 (2021).[11] However, Cartnail concedes that this Court has rejected due process and equal

[11] Cartnail's reliance on *Davis* is misplaced. As the State accurately argues, *Davis* does not support the argument that section 4-202(c)(2) is unconstitutional because there is no

protection challenges to the identical predecessor provision of the challenged statute. *See Miles v. State*, 88 Md. App. 360, 391–93, 393 n.7 (1991).

In response, the State highlights that Cartnail provides no legal authority as to why this Court should reverse course from current precedent. The State argues that "there is no constitutional right to be treated as a juvenile," *In re Samuel M.*, 293 Md. 83, 95 (1982), and that section 4-202(c)(2)'s use of a "cut-off age" to prohibit transfer under specified circumstances is not violative of Cartnail's equal protection guarantee because such distinctions "have always been, and will continue to be, a necessary factor in making a determination of whether a person is capable of assuming certain responsibilities." *Miles*, 88 Md. App. at 392. Therefore, based on the statute's plain language and current legal precedent, the State argues that the trial court properly denied Cartnail's petition to transfer to juvenile court. We agree.

Section 4-202(c)(2) states: "The court may not transfer a case to the juvenile court under subsection (b) of this section if: . . . the alleged crime is murder in the first degree and the accused child was 16 or 17 years of age when the alleged crime was committed."

legitimate governmental purpose in denying a 16- or 17-year-old charged with first degree murder the opportunity to transfer to juvenile court. In *Davis*, the juvenile defendant's petition for transfer was not precluded from review under subsection (c)(2) as Cartnail's petition was precluded here. *See Davis*, 474 Md. at 441 (noting that the petitioner was charged, in part, with *attempted* first-degree murder, not first degree murder). Rather, the *Davis* petitioner challenged the adequacy of the circuit court's consideration of the five factors a court contemplating transfer should address under CP section 4-202(d). *See id.* at 451; *see also* CP § 4-202(d) (listing the five factors as "age," "mental and physical condition of the child, "amenability of the child to treatment," "nature of the alleged crime," and "public safety"). Therefore, the *Davis* Court's assessment that "the nature of the offense" had "no independent significance" is not indicative of Cartnail's contention that a court's denial of a transfer petition under subsection (c)(2) is unconstitutional.

CP § 4-202(c)(2). In *Miles*, when addressing constitutional challenges to the predecessor statute to section 4-202(c)(2),[12] this Court held that the "appellant's due process rights were not infringed" because "there is no constitutional right to be treated as a juvenile and, furthermore, [the] appellant [would] be afforded the full panoply of constitutional safeguards in the ensuing trial." 88 Md. App. at 391–92. Similarly, in *In re Samuel*, the Supreme Court of Maryland held that "[t]reatment as a juvenile is not an inherent right but one granted by the state legislature[;] therefore the legislature may restrict or qualify that right as it sees fit, as long as no arbitrary discriminatory classification is involved." 293 Md. at 95–96.

The legislature's determination that the "quality of mind of one individual—in the case at bar, a 16 or 17-year-old charged with first degree murder—is distinguishable from another, *e.g.*, a 14 or 15-year-old charged with the same offense" is not "so irrational and invidiously discriminatory as to constitute a denial of either the equal protection or due process clauses." *Miles*, 88 Md. App. at 393 (citing *Matter of Trader*, 272 Md. 364, 401–02 (1974) ("In the absence of the requisite showing of unconstitutionality by the party attacking the legislative classification, it cannot be said that it does not rest upon any reasonable basis.")).

Therefore, we affirm the lower court's denial of Cartnail's petition to transfer to juvenile court.

[12] *See Miles*, 88 Md. App. at 393 n.7 (quoting Md. Code, art. 27 § 594A(b)(3) (repealed 2001)) ("Article 27, § 594A reads, in pertinent part, . . . [t]he court may not transfer a case to the juvenile court under subsection (a) if: . . . [t]he alleged offense is murder in the first degree and the accused child is 16 or 17 at the time the alleged offense was committed.").

JUDGMENTS OF THE CIRCUIT COURT FOR FREDERICK COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.