Circuit Court for Washington County
Case No. 21-K-16-053148

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 301

September Term, 2017

TERRY LEE YOST, JR.

v.

STATE OF MARYLAND

Nazarian,
Shaw Geter,
Davis, Arrie W.,
(Senior Judge, Specially Assigned)

JJ.

Opinion by Davis, J.

Filed: January 24, 2018

Appellant Terry Lee Yost, Jr., was convicted of third degree burglary by the Circuit Court for Washington County (Wright, J.), pursuant to his entry of an agreed statement of facts. Appellant was sentenced to 10 years' incarceration all but seven years suspended. Appellant filed the instant appeal, raising the following questions for our review:

1. Did the lower court err in finding Appellant guilty on the basis of the "agreed statement of facts" presented it?

2. Did the motions court err in denying that Appellant's statement to police was not the product of improper inducement?

FACTS AND LEGAL PROCEEDINGS

Appellant was arrested at 4:43 p.m. on October 21, 2017 by Detectives Jesse Duffy and Shane Blankenship in connection with a burglary at the Wakefield home of Kimberly and Curtis Myers earlier that day. Appellant was charged with burglary and related offenses. A suppression hearing was held on February 27 and 28, 2017 during which the issue raised by Appellant was that the police made unlawful inducements to elicit a confession. On March 13, 2017, the Circuit Court for Washington County (Long, Jr., J.) denied Appellant's Motion to Suppress.

On April 4, 2017, the court granted the parties' request to proceed with Appellant's not guilty plea concerning the third-degree burglary charge, based on an agreed upon statement of facts. The agreed statement of facts read aloud by the prosecution at the proceeding was as follows:

> If called upon to do so, the State would prove beyond a reasonable doubt [that] on October 21, 2016, at about 1:03 p.m., officers from the Hagerstown City Police

Department were dispatched to 337 Wakefield Road, which is Hagerstown in Washington County, Maryland for a report of an armed home invasion. The suspect had fled the scene by the time the officers arrived. However, the suspect's weapon had been left behind at the scene. That weapon was later found to be a pellet pistol. The victims were identified as Kimberly Myers and her husband Curtis Myers who were transported to HPD headquarters so they could be interviewed. Ms. Myers indicated that she was at home with her husband Curtis [and] that they did reside at 337 Wakefield Road. That, when they heard a knock at the front door, she left the bedroom, went to the front window to see who was at the door but only could see that someone was holding the storm door open. She then went to the front door and, as she opened it, a man forced his way in and pointed a handgun at her. She screamed out and as the man pushed her to the floor but the man did not initially say anything or indicate what he wanted. As she was falling to the floor, her husband Curtis came out of the bedroom, saw what was going on. He rushed after the armed man, was able to chase him out of the house. During the scuffle with Curtis Myers, the man dropped the gun, the gun was dropped near the front door of the house onto the concrete.

Ms. Myers was asked to describe the man. She described him as an unknown aged male thin built, about 5'6" to 5'8", wearing a dark colored hoodie. She indicated that the hoodie was pulled tightly around his face and head so that she could not see any of [his] facial features. During her interview she expressed suspicion that the suspect could be Terry Yost. [] Yost is the nephew of her husband and they have had problems with him in the past. In fact, they had recently sent him a No Trespass letter due to these problems. However, she indicated that she could not be absolutely sure it was him because she couldn't see the suspect's face and he never said anything to her. The officers did notice that Ms. Myers had abrasions to her right knee. She said that this happened when she was pushed to the ground by the suspects. She had no other notable injuries.

Ms. Myers further indicated that she believed the gun pointed at her was a real firearm and she was made to be fearful by the actions of the suspect. After interviewing Ms. Myers, another man by the name of Shamel Glover was at police headquarters. He was requesting to speak with detectives investigating the home invasion at 337 Wakefield Road and indicated that he had some information that could be important to the investigation. During his interview Mr. Glover explained that Terry Yost is an associate of his and had texted him earlier in the day on the 21st asking if he would give him a ride somewhere. Mr. Glover told Mr. Yost that it [would] have to be later in the day. He in fact picked up Mr. Yost shortly before 1:00 o'clock. He indicated Mr. Yost was wearing all dark colored clothing when he picked him up. After picking Mr. Yost up at his house he directed him where he

wanted him to go. Mr. Glover eventually parked on Salem Avenue near Wakefield Road and Mr. Yost got out of the car. Mr. Glover indicated at this point he did not know where Mr. Yost was going or what he was going to do. Mr. Yost returned to the car a few minutes later [and] got in; however Mr. Glover indicated that he was running to the car and he was now wearing gloves and dark colored sunglasses. He was not wearing either of them when he originally got out of the car.

As he drove Mr. Yost back to his house, he became concerned Mr. Yost had done something wrong. He asked Mr. Yost what he did. Mr. Yost replied he didn't do anything. After he dropped Mr. Yost off, he then shortly called police to make notification that he was suspicious of Mr. [Yost's] actions.

Next, the police interviewed Curtis Myers about what happened. Mr. Myers indicated that he was home as it was his day off from work. He was watching television in his bedroom with his wife Kimberly when there was a knock at the front door. Kimberly got out of bed to see who was there. A few moments had gone by when he heard a scream and a thump from the area of the front door living room. When he got out of the bedroom he saw Kimberly on the floor and a man inside moving toward the front door. The man he saw was turned away from him so he rushed at him and grabbed his hood to pull him back. He also saw the man had a gun [in] his right hand and Mr. Myers indicated he chopped the man's arm to get him to drop the gun. The man was able to slip out of his grip and run out the front door but he did drop the gun near the ground near the front door onto the concrete. Mr. [Myers] also indicated the man had his hoodie pulled tightly around his face and back and was turned away when he first saw him. He indicated he could not see his face or any other features. He also indicated, however, he was suspicious that the male was Terry Yost.

Later that day, Hagerstown Police Department officers did make contact with Terry Yost. Mr. Yost was then taken into custody. They received permission to search the house from the wife of Terry Yost, Tammy Yost, and that, when searching the house, they did not find any gloves or sunglasses. However, they did locate several dark colored hoodies and sweatpants that were consistent with what the victims indicated the suspect had worn. After the search of the home, Mr. Yost was transported to police headquarters so an interview could be attempted. Mr. Yost was advised of his *Miranda* Rights. He did agree that he would submit to questioning.

During the questioning of Mr. Yost, he indicated that he had contacted a man identified as Mel, would later be identified as Shamel Glover, who he identifies as being his heroin supplier. Mr. Yost indicated that he was going to try to sell his pellet pistol so that he could get the money to buy the heroin. He indicated that he

asked Mr. Glover to drive him to the house owned by his uncle, Curtis Myers. When he got to his uncle's house he indicated that he knocked on the door which was answered by Kimberly Myers. He further stated that she opened the door for him and he stepped into the house and he indicated that he was holding the pellet pistol in his hand, but he denied pointing it at Kimberly. He also said that his hoodie was in fact pulled up at the time. As he stepped inside the house, he believed that he was invited in. Kimberly opened the door and she stepped back and that she did in fact then scream out and his Uncle Curtis came into the living room and his uncle rushed at hi[m] angrily, so he turned around and tried to walk out the front door; before he walked out, Curtis grabbed the pellet gun out of his hand, at which point, Mr. Yost indicated he ran out the door. He indicated he never had the chance to ask him if they wanted to buy the pellet pistol from him and he did not try to go back and retrieve it. Court's indulgence.

During the investigation, there was also a witness contacted, Mr. Robert Edington. Mr. Edington indicated he saw a man running away from the area of 337 Wakefield Road at the same time this incident was reported. He described the male as wearing a black hoodie and dark colored pants. He was about 5 foot 6 inches tall. He also indicated he was wearing black sunglasses and that his hoodie was pulled up over his head.

Your Honor, all events did occur in Washington County, Maryland. That would be the State's proffer.

After the prosecution read aloud the agreed statement of facts, Appellant's counsel responded as follows:

We agree that if called upon, [] the State, subject to the following caveats, the State would, the State would present[] at trial. A suppression hearing was held regarding the statement on February 27, 2017. A bench opinion was issued on March 13, 2017 regarding Mr. Yost's statement indicating that that the motion was denied. Um, we are proceeding in this fashion with the Not Guilty Statement of Facts in order to preserve that issue for appeal I would raise, the objections I would raise at the suppression hearing regarding Mr. Yost's statements to preserve the record. We know that [] certainly the defense would challenge Mr. Glover's credibility at trial. But we would agree if called upon to do so at trial this would be the evidence the State would present.

And I would make a motion for Judgment of Acquittal at this time. I would indicate that, even in the Statement of Facts, there's been no, there's no indication that the

> person who, who the State is, is (unintelligible) suggesting is Mr. Yost *there's no indication that that person actually said anything to indicate an intention to obtain property through use of fear with this pellet gun*; *so* even with those facts we would make a motion for judgment of acquittal as to whether the elements have been met.

(Emphasis supplied).

In response to Appellant's Motion for Judgment of Acquittal, the prosecution provided the following response:

> Your Honor, with regards to the motion for Judgment of Acquittal, given that we are only proceeding by way [of] the Third Degree Burglary which only in case he had to have the intent to commit a crime and the facts are alleged by the victim Kimberly Myers said that he pointed the pellet pistol and shoved her to the ground immediately upon entering. That the crime of assault was intended upon his [entry] of the dwelling. So we would ask that the Motion be denied.

After prompted by the court, Appellant reiterated that he was submitting to the arguments that he had already made. The court denied Appellant's Motion, thereafter making its ruling, explaining as follows:

> Okay. Alright. So, having considered the Not Guilty Statement of Facts, the Court in looking at the elements of Burglary in the Third Degree under 6-204, a person may not break and enter the dwelling of another with the intent to commit a crime. The Court does find Mr. Yost you're guilty beyond a reasonable doubt. I do find that you did break and enter the dwelling of Mr. and Mrs. Myers with the intent to commit a crime therein. There is certainly ample evidence that there was an assault that took place immediately upon the entry and I do believe that criminal [a]gency has been sufficiently proven. So I do find you guilty beyond a reasonable doubt of Third Degree Burglary. Thank you.

Appellant was then sentenced to 10 years' imprisonment with all but seven years suspended, to be served at the Division of Correction with a 165 day credit against the sentence. Appellant was also sentenced to a five-year probation, upon his release, including, as a term of probation; he was to have no contact with Kimberly or Curtis Myers.

The instant appeal followed.

DISCUSSION

I.

Appellant first contends that the lower court erred in finding him guilty based on the "agreed statement of facts." Appellant asserts that the agreed statement of facts contained material evidence in conflict, *i.e.*, that Appellant forced his way into the Myers' home, pointing a gun at and pushing down Mrs. Myers and that Appellant was invited into the Myers' home, holding a pellet gun, but not pointing it at her or pushing her down.

The State responds that the trial court did not err in convicting Appellant on the agreed statement of facts because, according to the State, there was no conflict of material fact with respect to the third-degree burglary charge. The State also argues that, "[e]ven if there is a dispute of facts, there was a basis in the record for the trial court to credit the proffered testimony of the State's witnesses, namely defense counsel's statement that [Appellant] was not challenging the credibility of the State's witnesses." Finally, the State asserts that, even if the trial court erred, reversal is not required because Appellant invited the error.

"By pleading not guilty and agreeing to the proffer of stipulated evidence or an agreed statement of facts, an individual, like with a guilty plea, waives a jury trial and the right to confront witnesses, but retains appellate review of the suppression decision." *Bishop v. State*, 417 Md. 1, 20 (2010). "[A]n accused must preserve his or her legal challenges by ensuring that the proffer includes the challenged evidence." *Bishop v. State*,

417 Md. 1, 23 (2010).

> Under an agreed statement of facts both [the] State and the defense agree as to the ultimate facts. Then the facts are not in dispute, and there can be, by definition, no factual conflict. The trier of fact is not called upon to determine the facts as the agreement is to the truth of the ultimate facts themselves. There is no fact-finding function left to perform. To render judgment, the court simply applies the law to the facts agreed upon.

Bishop v. State, 417 Md. 1, 20–21 (2010) (quoting *Barnes v. State*, 31 Md. App. 25, 35 (1976)).

> [C]riminal cases cannot be resolved on the basis of stipulated evidence that embodies disputes of material fact resolvable only by credibility determinations, when there is nothing in the stipulated evidence that would allow the court, properly, to make such determinations. Should such a procedure be presented, the court must reject it as inappropriate.

Bishop v. State, 417 Md. 1, 25 (2010) (quoting *Linkey v. State*, 46 Md. App. 312, 318 (1980)).

In the instant case, the substance of Appellant's statement was included in the agreed statement of facts in order to preserve the voluntariness of the statement, *vel non*, on appeal, rather than the sufficiency of the statement as substantive evidence. The State points out that, at the April 4th proceeding, the prosecution stated, "I don't believe that there is going to be any serious argument as to the merits, is that correct?" In response, Appellant's counsel remarked, "Correct, that's the intention." Appellant's counsel also stated, to the trial court, that he would have challenged the credibly of the State's witness *if the case had gone to trial*, but made no objection to the statements made to police by either Mr. or Mrs. Myers, or Glover in the agreed statement of facts. It was discussed and

agreed, at the April 4th proceeding, that Appellant wanted to proceed on a not guilty plea based on an agreed statement of facts to preserve for appeal the issue which constituted his Motion for Suppression, which had been denied, *i.e.*, that the police had used coercive force to induce an involuntary confession from Appellant. Furthermore, after the agreed statement of facts was read aloud at the April 4th proceeding, Appellant made a Motion for Judgment of Acquittal, basing it upon the contention that the individual alleged to have broken into the Myers' residence had not said anything "to indicate an intention to obtain property through use of fear with this pellet gun[.]" As the State noted, after Appellant made his motion, the charge of third-degree burglary, which constituted the sole charge after the parties consented to proceed with the not guilty plea based on the agreed statement of facts, did not require evidence that the accused verbally indicated his desire to obtain property through the use of fear with the pellet gun.

According to Appellant, there is a dispute of the material facts because his statement to the police indicates that he went to the Myers' residence to sell the pellet gun, knocking on the door and entering the premises, believing that he had been invited in. However, the inclusion of this statement was for the express purpose of preserving for appeal the issue that Appellant raised at his Suppression Hearing. Obviously, Appellant cannot include the contested statement in order to preserve appellate review of the suppression decision and proceed by way of a not guilty plea pursuant to an agreed statement of facts and then assert, on appeal, that the contested statement constituted a dispute of material fact, thereby asserting that proceeding on an agreed statement of facts is inappropriate. Appellant seeks

to create a legal paradox whereby he avails himself of the right to preserve appellate review by proceeding on an agreed statement of facts, then seeks to invalidate the same agreed statement of facts, citing his statement to police as a dispute of material facts, when that statement to police *must* be included to preserve the suppression decision for appeal.

We are unpersuaded, by Appellant's argument, that there is a dispute of material fact as it concerns the charge of third-degree burglary. As the prosecution noted at the April 4th proceeding, the accused must "intend to commit a crime," *inter alia*, in order to be convicted of third-degree burglary pursuant to Md. Code Ann., Crim. Law § 6–204. The assault upon Mrs. Myers, when Appellant entered the residence and knocked her to the ground, satisfies the particular element of the crime.

Furthermore, there is no dispute of material fact regarding the assault. Although Appellant's statement to police is silent about the assault on Mrs. Myers, it does not contradict Mrs. Myers' account of the events nor does it render the facts surrounding the assault subject to material dispute. According, we hold that, because there was no dispute of material facts, the trial court did not err in convicting Appellant of third-degree burglary based upon the agreed statement of facts.

II.

Appellant's final contention is that the motion's court erred in denying his motion to suppress, finding that his statement to police was not the product of improper inducement. Appellant maintains that Detective Blankenship's statements to Appellant were inducements. Specifically, Appellant asserts that the Detective's statements that he

was "a facilitator" whose job it was to help Appellant and "get this out," in conjunction with earlier statements that "20 years ago, we wouldn't have this nice little conversation, we'd just put you away for 20 years," were promises made to compel Appellant to make an inculpatory statement, putting himself at the scene of the crime.

The State responds that the motion's court properly denied Appellant's motion to suppress his statement because it was made freely to police without any improper inducements upon which he relied. The State asserts that the Detective did not make any statements during the interview that constituted improper inducement. The State further asserts that Appellant's "argument misquotes the [D]etective and strips his comments from the context in which they were made."

> Only voluntary confessions are admissible in evidence. In order to be deemed voluntary, and hence admissible, a confession must satisfy the mandates of the Constitution of the United States, the Maryland Constitution and Declaration of Rights, the Supreme Court's decision in *Miranda v. Arizona*, and Maryland non-constitutional law. Under Maryland non-constitutional law, a confession must be "'freely and voluntarily made at a time when [the defendant] knew and understood what he was saying.' Similarly, in order to pass federal and Maryland constitutional muster, a confession must be voluntary, knowing, and intelligent.

Harper v. State, 162 Md. App. 55, 71–72 (2005) (citations omitted).

> "When a criminal defendant claims that his or her confession was involuntary because of a promise made to him or her by interrogating officers, the State must present evidence in order to refute the claim." The voluntariness of a confession is first litigated at a hearing on a motion to suppress the confession, at which the State must prove the voluntariness of the confession by a preponderance of the evidence. Courts that are asked to determine at a suppression hearing whether a confession was made voluntarily must examine the totality of the circumstances affecting the interrogation and the confession. A non-exhaustive list of factors to consider in that analysis includes 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 v. State, 418 Md. 62, 75 (2011) (citations omitted).

Maryland has devised

> a two-pronged test for determining whether a confession is the result of an improper inducement by law enforcement. Under that test, an inculpatory statement is involuntary and must be suppressed if: (1) any officer or agent of the police force promises or implies to a 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.

Id. at 76 (citing *Hillard v. State*, 286 Md. 145, 153 (1979).

"Both prongs of the *Hillard* test must be satisfied before a confession is deemed to be involuntary." *Id.* (citation omitted).

> The first prong of the *Hillard* test is an objective one. In other words, when determining whether a police officer's conduct satisfies the first prong, the court must determine whether a reasonable person in the position of the accused would be moved to make an inculpatory statement upon hearing the officer's declaration; an accused's subjective belief that he will receive a benefit in exchange for a confession carries no weight under this prong.

Id. (citation omitted).

"If the suppression court finds that the law enforcement officer improperly induced the accused, then the second prong of the *Hillard* test requires the court to determine whether the accused relied on that inducement in making the statement he or she seeks to suppress. Specifically, the court must examine 'whether there exists a causal nexus between the inducement and the statement . . . .'" *Id.* at 77 (citation omitted).

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> confession by a preponderance of the evidence. Courts that are asked to determine at a suppression hearing whether a confession was made voluntarily must examine the totality of the circumstances affecting the interrogation and the confession. A non-exhaustive list of factors to consider in that analysis includes 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.

Id. at 75 (citations omitted).

> In reviewing a trial court's decision to grant or deny a motion to suppress, an appellate court ordinarily limits its review to the record of the motions hearing. The evidence is viewed in the light most favorable to the prevailing party, and the trial court's fact findings are accepted unless clearly erroneous. "The ultimate determination of whether there was a constitutional violation, however, is an independent determination that is made by the appellate court alone, applying the law to the facts found in each particular case."

Sinclair v. State, 444 Md. 16, 27 (2015) (citation omitted).

In the instant case, when Detective Blankenship interviewed Appellant, he expressed the following:

> People understand addi[c]tions. They understand what people do, you know that. Times are changing. You know that. Twenty years ago, this probably would have been a much different thing. But it's not 20 years ago, it's right now. And it's [a] much different thing. Twenty years ago, we wouldn't be having this nice little conversation. We'd just put away the paperwork and put you away [inaudible] for 15 or 20 years.

Furthermore, the Detective discussed the difference between a robbery committed under the influence of drugs resulting from addiction and a vengeful robbery committed with the intent to do harm resulting from bad blood. Detective Blankenship said that he could not "put words" in Appellant's mouth and that Appellant would have to explain the events for himself. The Detective continued: "My job is to help facilitate this for you. To

get this out." He later reiterated: "So again, I'm a facilitator today, okay. My job is to help you get this out and to explain what happened here, but I need to hear some words from you."

In denying Appellant's Motion to Suppress, the lower court found as follows:

> So the record reflects that Mr. Yost was *Mirandized*. I find that those *Miranda* warnings were given and understood. I find that —I find that, uh, Mr. Yost voluntarily agreed to speak with Detective Blankenship. *** In this instance [the interview] was conducted in an interview room at the Hagerstown Police Department. It is the room they use for these interviews and it was visible on the video portion of the interview. The length of the interview was approximately 45 minutes. Uh, they were in the room just over one hour. Who was present—Detective Duffey began the interview. *** Thereafter Detective Blankenship entered the room. Detective Duffey had left and it was a one-on-one between, uh, the defendant and Detective Blankenship. It was conducted in a question and answer manner. It's content—Detective Blankenship was seeking information and was giving the defendant an opportunity to tell his side of the story. *** The mental and physical condition of the defendant—He was calm. He was aware. There was no evidence presented during the interview that I saw or in what he said that led me to believe that he was either frail or incapacitated. The defendant did say at the end of the interview that he had used heroine two hours before his arrest, but, quote "I'm fine," unquote, "I just used a little to avoid being sick." His age, background, experience and education, character and intelligence—It's clear he was not a novice. He had been through the judicial system previously and the record reflects in the *Miranda* warnings that he's 44 years old. Whether he was taken before a commissioner following his arrest—Clearly the defendant knew he was under arrest and he was not unduly detained by the length of the interview. And whether the defendant was physically mistreated, physically intimidated or psychologically pressure[d]—It's clear he was not physically mistreated. He was not physically intimidated. And I do not believe that he was psychologically pressured.
>
> *** Detective Blankenship [all]uded [to] the changing times and society's efforts to deal with addiction. He, uh, described his role as facilitator, a person to help defendant, uh, get his version of the events of October 21st, 2016 out since, uh, Detective Blankenship said that he had already heard the victim's version of the events of that day. Each time Detective Blankenship described himself as a facilitator and how important it was for the defendant to give his side of the story, Mr. Yost either remained silent or denied any involvement. *** The statements of

> Detective Blankenship were substantially similar to those statements which were previously approved. I do not find that Detective Blankenship's statements to this defendant constituted an inducement. Detective Blankenship made no offers to help. He did not offer to present defendant's situation to the State or to the judge to assist the defendant, to go to bat for the defendant. Those kinds of things which have been said in the past which constitute inducements. The only promise Detective Blankenship made was to inform the defendant he was going to be charged criminally and he might like to provide his version of the event. When Mr. Yost finally made his statement, it must be noted he did not confess to the commission of any crime. He simply explained why he was at the residence giving a non-inculpatory reason—he was there to sell a pellet pistol. While Detective Blankenship stated that the times today are different by alluding to better treatment of drug abusers, I find that the defend—that the detective was simply making a statement. It was not an offer of help or assistance, either overtly or tacitly to obtain treatment for the defendant.
>
> Mr. Yost also complained that he was deprived of water initially, He said around 5:42, "You got anything cold to drink," quote/unquote. And then he declined that offer of—when the detective said, "I only have water," he declined. Mr. Yost then later asked for water and, when Detective Blankenship brought him water and a soda, his contention was that it was a trick to obtain his confession. I find it very difficult to accept that Detective Blankenship somehow knew that, if he brought Mr. Yost a soda, that Mr. Yost was going to make a statement. I simply do not believe nor was there any evidence to show that Detective Blankenship was playing some mind game with this particular defendant. While the—Mr. Yost was not permitted to call his wife during the interview, Detective Blankenship advised him he would be able to do so when the interview concluded. It must be remembered that this interview only lasted for approximately one hour. Refusing Mr. Yost's request to interrupt the interview for a phone call to his wife was not improper.
>
> So in consideration of the totality of the circumstance, having reviewed the cases cited by counsel *** the Court finds and reaches the conclusion that, after Mr. Yost was *Mirandized*, he made a free and voluntary statement. It was free of any, quote "coercive barnacles," unquote, that he was afforded due process and that Maryland Non-Constitutional Law regarding confession was not violated. The motion to suppress is denied.

In the instant appeal, viewing the record of the suppression hearing in the light most favorable to the prevailing party, *i.e.* the State, we are persuaded that the trial court properly

denied Appellant's Motion to Suppress. In reviewing the non-exhaustive factors, the motions court determined that Appellant's statement was made knowingly, voluntarily and intelligently. Furthermore, in accessing inducement, *vel non*, the court examined whether a reasonable person, in the position of the accused, would be moved to make an inculpatory statement upon hearing the officer's declaration. In this case, Appellant focuses upon the Detective's self-description as a "facilitator" of Appellant's story and that the response to drug addiction is different now, as opposed to 20 years ago. The motions court concluded that the Detective's statements were akin to those previously determined to be permissible and that the Detective "made no offers to help," "[h]e did not offer to present defendant's situation to the State or to the judge to assist the defendant, to go to bat for the defendant." Because the court found that the first prong had not been met, it was under no legal obligation to proceed to the second prong, pursuant to *Hill, supra*. Accordingly, the court was not required to "determine whether the accused relied on that inducement in making the statement he or she seeks to suppress." *Hill, supra*.

In sum, the motions court properly denied Appellant's Motion to Suppress.

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