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NO. COA11-991  
NORTH CAROLINA COURT OF APPEALS

Filed: 7 February 2012

STATE OF NORTH CAROLINA

v.

New Hanover County  
No. 10 CRS 57269-71

DOUGLAS BERNARD SPEARMAN,  
Defendant.

Appeal by defendant from order entered on or about 20 June 2011 by Judge Phyllis M. Gorham in Superior Court, New Hanover County. Heard in the Court of Appeals 12 January 2012.

*Attorney General Roy A. Cooper, III, by Assistant Attorney General Laura E. Parker, for the State.*

*Irons & Irons, P.A., by Ben G. Irons, II, for defendant-appellant.*

STROUD, Judge.

Douglas Bernard Spearman ("defendant") appeals from the trial court's denial of his motion to suppress. For the following reasons, we affirm the trial court's order.

I. Background

On 9 August 2010, defendant was indicted on three counts of first-degree sex offense of a child. On 17 March 2011,

defendant filed a motion to suppress certain statements made to police on 15 July 2010. Defendant's motion came on for a hearing at the 11 April 2011 Criminal Session of Superior Court, New Hanover County. The hearing concluded on 12 April 2011 and the State and defendant agreed that the court could issue its order during a subsequent administrative session. On 12 May 2011, the trial court denied defendant's motion to suppress in open court after making findings of fact and conclusions of law. On 16 May 2011, defendant pled guilty to all counts. The trial court consolidated defendant's three convictions for first-degree sexual offense of a child and sentenced defendant to a term of 221 to 275 months imprisonment. Defendant gave oral notice of appeal from the judgment and the denial of his motion to suppress. On 20 June 2011, the trial court filed a written order denying defendant's motion to suppress, including findings of fact and conclusions of law.

On appeal, defendant contends that the trial court erred in denying his motion to suppress because (1) his statements were made while in police custody without being advised of his constitutional rights and (2) in the alternative, his statements were not voluntary.

## II. Standard of Review

It is well established that the standard of review in evaluating a trial court's ruling on a motion to suppress is that the trial court's findings of fact are conclusive on appeal if supported by competent evidence, even if the evidence is conflicting. . . . Once this Court concludes that the trial court's findings of fact are supported by the evidence, then this Court's next task is to determine whether the trial court's conclusions of law are supported by the findings. The trial court's conclusions of law are reviewed *de novo* and must be legally correct.

*State v. Jordan*, \_\_\_ N.C. App. \_\_\_, \_\_\_, 716 S.E.2d 242, 244 (2011) (quoting *State v. Campbell*, 188 N.C. App. 701, 704, 656 S.E.2d 721, 724 (2008)).

Defendant argues that in addressing his appeal from the denial of his motion to suppress we are also bound by this additional standard of review:

An appellate court must make its own examination of the record in conducting a *de novo* review, *Spano v. New York*, 360 U.S. 315, 316, [3] L.Ed. 2d 1265, 1267 (1959), and may rely on uncontroverted evidence not addressed by the trial court in its findings of fact. *Arizona v. Fulminante*, 499 U.S. 279, 286 n.2, 113 L.Ed. 2d 302, 316 n.2 (1991) [.]

As the cases cited by defendant are factually and legally distinguishable from the case before us, we decline to include them in our review. First, in *Spano* the Court, in the context of reviewing whether the New York appeals court was correct in

ruling that the circumstances of defendant's confession, including the police interrogation, violated the Fourteenth Amendment of the United States Constitution, stated that "[b]ecause of the delicate nature of the constitutional determination which we must make, we cannot escape the responsibility of making our own examination of the record." 360 U.S. at 316, 3 L.Ed. 2d at 1267 (citing *Norris v. Alabama*, 294 U.S. 587, 79 L.Ed. 1074 (1935)). In *Norris*, the Court explained in its review of the Alabama Supreme Court's decision regarding whether the trial court excluded jurors based on race or color in violation of the equal protection clause of the Fourteenth Amendment of the United States Constitution:

When a federal right has been specially set up and claimed in a state court, it is our province to inquire not merely whether it was denied in express terms but also whether it was denied in substance and effect. If this requires an examination of evidence, that examination must be made. Otherwise, review by this Court would fail of its purpose in safeguarding constitutional rights. Thus, whenever a conclusion of law of a state court as to a federal right and findings of fact are so intermingled that the latter control the former, it is incumbent upon us to analyze the facts in order that the appropriate enforcement of the federal right may be assured.

294 U.S. at 590, 79 L.Ed. at 1077 (citations omitted). First, we note that both of these cases related to the United States

Supreme Court's review of state court cases in these specific factual circumstances. In addition, our Supreme Court has not adopted this standard of review of a trial court's ruling on a defendant's motion to suppress. Additionally, the issue here is not whether jurors were excluded because of race or color, but whether defendant was in custody or whether his statements were voluntary. Accordingly, we do not find *Spano* or *Norris* applicable to add to the above, "well established" standard of review. Next, the footnote in *Fulminante* cited by defendant states: "There are additional facts in the record, not relied upon by the Arizona Supreme Court, which also support a finding of coercion." *Arizona v. Fulminante*, 499 U.S. at 286 n.2, 113 L.Ed. 2d at 316 n.2. But contrary to defendant's contention, the Court in *Fulminante* was not stating that it was "rely[ing]" on these additional facts to support its affirmation of the Arizona Supreme Court's legal conclusion that the defendant's confession had been coerced but, after listing the factors the Arizona Court "focused on" in its analysis, noted additional facts in the record further supported the Arizona Court's conclusion. See *id.* This footnote in *Fulminante* does not stand for the proposition that this Court must "rely on uncontroverted evidence not addressed by the trial court in its findings of

fact." Accordingly, review of defendant's appeal will be based on the "well established" standard stated in *Jordan*, \_\_\_\_ N.C. App. at \_\_\_\_, 716 S.E.2d at 244.

In its written order, the trial court made the following findings of fact:

1. The defendant is charged with four (4) counts of Indecent Liberties with a Child and five (5) counts of First Degree Sexual Offense;
2. This offense is alleged to have occurred on July 15, 2010;
3. The defendant filed a motion to suppress the entirety of his statements based upon an argument that the defendant was in custody and that the defendant is of below-average intelligence;
4. There were both written and oral statements made by the defendant during the interview that was conducted by detectives with the New Hanover County Sheriff's Office;
5. The named victim is [Amy]<sup>1</sup>, a minor child who was six (6) years old at the time of offense;
6. The defendant was working for a moving company located in Fayetteville, North Carolina and was 43 years old at the time of offense;
7. On July 15, 2010, the defendant and other employees of the moving company were

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<sup>1</sup> We will refer to the minor-victim by the pseudonym "Amy" to protect the child's identity and for ease of reading.

bringing items of personal property to the residence of [Amy] where she was present with her mother . . . [in] Wilmington, North Carolina;

8. During the time the movers were present, [Amy] was in the house upstairs in a bedroom;

9. The minor child alleges that the defendant came into this room on several occasions during the day and touched her inappropriately;

10. The defendant voluntarily went with Sgt. Swan to the Detective Division for an interview;

11. The defendant was driven to the Detective Division by Sgt. Swan and the defendant was not handcuffed or restrained in any way during this ride;

12. During the course of the interview of the defendant he was not in custody;

13. The defendant was never handcuffed or shackled in any way prior to or during the interview;

14. The defendant was not subjected to any restraints comparable to those of a formal arrest prior to or during the interview;

15. The defendant was interviewed for approximately 1 ½ hours and this was a reasonable amount of time in which the defendant was questioned;

16. The defendant rode to Wilmington on the moving truck with other employees to travel to [Amy's] residence; this was the defendant's only means of transportation in Wilmington that day, however, arrangements

were made by the moving company to pick up the defendant after the interview for the ride home to Fayetteville;

17. The defendant had not been searched or frisked before or during the interview;

18. No personal property was taken from the defendant, except his drivers license;

19. The detectives were not armed during the course of questioning;

20. The defendant was not prevented from leaving the detective division during the course of the interview;

21. There is no evidence that defendant was intoxicated at the time of the crime or at the time of questioning by the detectives;

22. The interview was videotaped, allowing the Court to observe the demeanor of the defendant at the time of questioning;

23. The Court observed that the defendant did not appear to be impaired or have a mental defect during the interview based upon his demeanor;

24. The defendant arrived in Wilmington approximately 11:30 a.m. and 911 was called at 3:14 p.m.;

25. The defendant worked during this time period at the house with the other workers;

26. There is no evidence that the Defendant consumed any alcohol during the time at the victim's residence and there are no allegations by the defendant's co-workers that he was impaired;

27. There is no evidence that the

defendant's ability to communicate was impaired;

28. It is apparent to the Court that the defendant understood the implications of his criminal behavior resulting in his initial denial of the crimes;

29. The defendant stated that he had been abused as a child, indicating he understood the context of the behavior of which he was accused which shows proof of clarity of thought;

30. There has been no finding of mental incompetence or other mental health defect;

31. The defendant suffers from no mental impairment that would render the defendant's statement involuntary;

32. The defendant attended school in North Carolina dropping out in 11<sup>th</sup> grade to seek employment;

33. The defendant has maintained employment since the 11<sup>th</sup> grade in high school and he has a North Carolina drivers license;

34. The defendant was familiar with the criminal justice system, and had numerous contacts with law enforcement and the criminal justice system prior to the current charges;

35. The defendant was previously investigated and charged with multiple felonies and misdemeanors;

36. The defendant was coherent at the time of questioning;

37. Defendant responded to questions in an appropriate way and did not indicate any

evidence of mental impairment or intoxication before, during, or after questioning;

38. The Court further finds that the statements made by the defendant were voluntary;

39. No evidence has been presented that the defendant was scared, intimidated, confused, intoxicated, or disoriented in any way during questioning;

40. There were no physical threats or shows of violence toward the defendant by law enforcement;

41. No promises were made to the defendant; and

42. The detectives had determined in their minds that the defendant had committed the crimes of which they were investigating and their questioning was not calculated to procure an untrue confession.

Based on these findings, the trial court made the following conclusions of law:

1. The defendant was not in custody at the time the statements were made by the defendant;

2. The defendant voluntarily accompanied the detectives to the detective division;

3. A reasonable person in the defendant's position would not believe that they were in custody;

4. The defendant's freedom of movement was not restrained by law enforcement to the degree associated with a formal arrest;

5. The statement was given freely, voluntarily, and intelligently by the defendant;

6. The defendant's statements to law enforcement were not custodial and accordingly Miranda warnings were not required;

7. The defendant's State and Federal Constitutional rights were not violated; and

8. The defendant's Motion to Suppress his statements is hereby denied and the evidence is admissible at the trial of this matter.

We first note that the trial court's findings of fact contain conclusions of law, specifically finding of fact #12, which states that defendant was not in custody, and finding of fact #38, which states that defendant's statements were made voluntarily, as these determinations would require the application of legal principles. *See State v. Sparks*, 362 N.C. 181, 185, 657 S.E.2d 655, 658 (2008) (noting that "[i]n distinguishing between findings of fact and conclusions of law, as a general rule, . . . any determination requiring the exercise of judgment or the application of legal principles is more properly classified a conclusion of law." (citations, quotation marks, and brackets omitted)). We note that these conclusions are repeated in the trial court's conclusions of law section. However, this Court has stated that "[f]indings of

fact that are essentially conclusions of law will be treated as such upon review[,]” and will be “upheld where there are other findings upon which they are based.” *State v. Rogers*, 52 N.C. App. 676, 681-82, 279 S.E.2d 881, 885 (1981) (citations omitted). We further note that defendant makes no argument that any of the trial court’s findings are not supported by competent evidence. “Unchallenged findings of fact, where no exceptions have been taken, . . . are presumed to be supported by competent evidence and [are] binding on appeal.” *State v. McLeod*, 197 N.C. App. 707, 711, 682 S.E.2d 396, 398 (2009) (citations, brackets, and quotation marks omitted). Thus the trial court’s above findings are binding on appeal and our review is limited to determining “whether the trial court’s conclusions of law are supported by the findings.” See *Jordan*, \_\_\_ N.C. App. at \_\_\_, 716 S.E.2d at 244. We turn next to address defendant’s substantive arguments as to why the trial court erred in denying his motion to suppress.

### III. Custodial Interrogation

Defendant contends that the trial court erred in denying his motion to suppress because his statements to police were made while he was in police custody but he was not advised of his constitutional rights. Defendant, citing portions of the

trial transcript, argues that he was in custody because the moving truck he arrived in was blocked in by police; he was not allowed to walk around in the police station without an escort; he had no vehicle to leave the police station; he did not have a way to leave the police station as he did not know his coworker's phone numbers; police gathered evidence, including DNA swabs and fingernail scrapings; and he was questioned by police regarding how his DNA was found on the victim. Despite defendant's factual arguments, the trial court's findings are binding, as defendant failed to challenge any of them on appeal, and as noted above, our review is limited to determining whether the trial court's findings support its conclusions of law that defendant was not in custody at the time he gave incriminating statements. See *Jordan*, \_\_\_\_ N.C. App. at \_\_\_\_, 716 S.E.2d at 244.

We have noted that

[a] defendant's statement made "from custodial interrogation [is] admissible at trial only if, prior to questioning, the defendant has been fully advised of his rights to remain silent and to have counsel present during questioning." *State v. Braxton*, 344 N.C. 702, 708, 477 S.E.2d 172, 175 (1996) (citing *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966)). "The *Miranda* Court defined 'custodial interrogation' as 'questioning initiated by law enforcement officers after

a person has been taken into custody or deprived of his freedom of action in any significant way.'" *State v. Crudup*, 157 N.C. App. 657, 659, 580 S.E.2d 21, 24 (2003) (quoting *Miranda*, 384 U.S. at 444, 86 S. Ct. at 1612, 16 L.Ed. 2d at 706).

*State v. Hensley*, \_\_\_\_ N.C. App. \_\_\_\_, \_\_\_\_, 687 S.E.2d 309, 314, *disc. review denied*, 364 N.C. 244, 698 S.E.2d 662 (2010). In determining whether defendant was "in custody" for purposes of *Miranda*, the inquiry is

"based on the totality of the circumstances, whether there was a 'formal arrest or restraint on freedom of movement of the degree associated with a formal arrest.'" *State v. Buchanan*, 353 N.C. 332, 339, 543 S.E.2d 823, 828 (2001). . . . [Courts] must examine "whether a reasonable person in defendant's position, under the totality of the circumstances, would have believed that he was under arrest or was restrained in his movement to the degree associated with a formal arrest." *Id.* at 339-40, 543 S.E.2d at 828; *see also Thompson v. Keohane*, 516 U.S. 99, 112, 133 L. Ed. 2d 383, 394 (1995).

*State v. Barden*, 356 N.C. 316, 337, 572 S.E.2d 108, 123 (2002), *cert. denied*, 538 U.S. 1040, 155 L.Ed. 2d 1074 (2003). Here, the relevant unchallenged findings state that defendant voluntarily went with police; he was not handcuffed or restrained in any way during the ride to the police station or during the interview; he was interviewed for only 1 ½ hours; even though he had ridden with the moving truck to Wilmington,

arrangements were made by the moving company to pick him up at the police station after the interview; he was not searched or frisked during the interview; no personal property except for his driver's license was taken from him; detectives were not armed during the interview; and defendant was not prevented from leaving the detective division during the interview.

As the United States Supreme Court has stated:

Any interview of one suspected of a crime by a police officer will have coercive aspects to it, simply by virtue of the fact that the police officer is part of a law enforcement system which may ultimately cause the suspect to be charged with a crime. But police officers are not required to administer *Miranda* warnings to everyone whom they question. Nor is the requirement of warnings to be imposed simply because the questioning takes place in the station house, or because the questioned person is one whom the police suspect.

*Oregon v. Mathiason*, 429 U.S. 492, 495, 50 L. Ed. 2d 714, 719, (1977); see also *State v. Gaines*, 345 N.C. at 662, 483 S.E.2d at 405. Although defendant cites an instance where the door to one of the interview rooms was closed, no single factor is necessarily controlling when we consider the totality of the circumstances. See, e.g., *State v. Bone*, 354 N.C. 1, 11, 550 S.E.2d 482, 489 (2001) ("We have noted that an individual's voluntary agreement to accompany law enforcement officers to a place customarily used for interrogation does not constitute an arrest."), cert. denied, 535 U.S. 940, 152 L. Ed. 2d 231 (2002); *State v. Daughtry*,

340 N.C. 488, 504-07, 459 S.E.2d 747, 754-56 (1995) (the defendant held not to be in custody when the defendant agreed to accompany the police to the station for questioning; was told that he was not under arrest and could leave at any time; was not handcuffed or restrained; and was questioned at the police station by officers, who at one point closed the door for privacy), *cert. denied*, 516 U.S. 1079, 133 L. Ed. 2d 739, (1996); *State v. Medlin*, 333 N.C. 280, 291, 426 S.E.2d 402, 407 (1993) (the defendant held not to be in custody when he was escorted to police station bathroom, was told he could leave at any time, and was in presence of officers at all times); *State v. Phipps*, 331 N.C. at 442-45, 418 S.E.2d at 185-87 (the defendant held not to be in custody where he voluntarily went to the station to talk with investigators when asked by the police, was not arrested, was allowed to return home, and later agreed to take a polygraph examination).

*Id.* at 338, 572 S.E.2d at 124. Like the cases cited in *Barden*, here, defendant voluntarily went with police, was not put in restraints, and was not prevented from leaving. Additionally, defendant was not searched, the length of the interview was relatively short, only his driver's license was taken from him, and detectives were unarmed during the interview. *See id.* We hold that, based upon the totality of the circumstances, these findings of fact show that a reasonable person in defendant's position would not have believed that he was under arrest or that he was restrained to a degree that would cause him to

believe he was formally arrested. See *id.* at 337, 572 S.E.2d at 123. Accordingly, the trial court did not err in concluding that defendant was not "in custody" when he made statements on 15 July 2010, and therefore, the police were not required to give *Miranda* warnings.

Defendant also argues that the trial court erred in failing to make specific findings about the detectives' answers to his questions regarding whether he was being arrested, as those answers "clearly indicated that he would be detained" and such a finding would have supported a conclusion that he was in custody at the time of his statements. But as noted above, the defendant failed to challenge the trial court's findings, the trial court's above findings are binding on appeal, and our review is limited to determining "whether the trial court's conclusions of law are supported by the findings." See *Jordan*, \_\_\_ N.C. App. at \_\_\_, 716 S.E.2d at 244. Essentially, defendant argues that the trial court should have made additional findings of fact which are favorable to defendant, even if the findings which the trial court did make are not challenged, and that these additional findings would support a conclusion that defendant was in custody. Yet, even if we assume that there was conflicting evidence as to the detectives' answers to

defendant's questions and that the trial court could have made findings favorable to defendant based upon the evidence presented,

a trial court's resolution of a conflict in the evidence will not be disturbed on appeal, *State v. Braxton*, 344 N.C. 702, 709, 477 S.E.2d 172, 176 (1996), and its findings of fact are conclusive if they are supported by the evidence, *State v. Robinson*, 346 N.C. 586, 596, 488 S.E.2d 174, 181 (1997). Once this Court concludes that the trial court's findings of fact are supported by the evidence, then this Court's next task "is to determine whether the trial court's conclusion[s] of law [are] supported by the findings." *State v. Hyde*, 352 N.C. 37, 45, 530 S.E.2d 281, 287 (2000).

*State v. Steen*, 352 N.C. 227, 237, 536 S.E.2d 1, 7-8 (2000), *cert. denied*, 531 U.S. 1167, 148 L.Ed. 2d 997 (2001). The trial court resolved any conflicts in the evidence in the findings of fact, and even if the trial court could have made different findings based on the evidence, we cannot disturb the findings on appeal since the trial court's findings are supported by the evidence. *See id.*; *McLeod*, 197 N.C. App. at 711, 682 S.E.2d at 398. Accordingly, defendant's argument is overruled.

#### IV. Voluntary Statements

Defendant next contends in the alternative that if this Court finds that he was not in custody when his statements were made, then "his statements should [still be] excluded because

they were involuntary." Defendant argues that his statements were involuntary because he was in custody; he was not read his *Miranda* rights; he had no ability to communicate with anyone other than his interrogators; he had no means to leave the police station; he was not allowed to move around the police station without a police escort; he did not know any of his coworkers' phone numbers; his driver's license was taken from him; he was deceived "on multiple levels" by detectives, including telling defendant that his DNA was found on the victim; he was given the impression by the detectives' statements that he was not free to leave; he had never been interrogated before; and he "is mildly mentally retarded" which "affected his ability to understand the Constitutional rights and how they applied to him prior to questioning."

A statement is admissible if it "was given voluntarily and understandingly." *State v. Schneider*, 306 N.C. 351, 355, 293 S.E.2d 157, 160 (1982). The determination of whether defendant's statements are voluntary "is a question of law and is fully reviewable on appeal." *State v. Greene*, 332 N.C. 565, 580, 422 S.E.2d 730, 738 (1992). The appropriate test is one "in which the court looks at the totality of the circumstances of the case in determining whether the confession was voluntary." *State v. Jackson*, 308 N.C. 549, 581, 304 S.E.2d 134, 152 (1983). Factors that are considered include whether defendant was in custody, whether he was deceived, whether

his *Miranda* rights were honored, whether he was held incommunicado, the length of the interrogation, whether there were physical threats or shows of violence, whether promises were made to obtain the confession, the familiarity of the declarant with the criminal justice system, and the mental condition of the declarant.

*State v. Hardy*, 339 N.C. 207, 222, 451 S.E.2d 600, 608 (1994).

*Barden*, 356 N.C. at 339, 572 S.E.2d at 124-25.<sup>2</sup> We now consider these factors in this case.

First, as we determined above, defendant was not "in custody" when he made his incriminating statements and therefore, his *Miranda* rights were not violated. See *Barden*, 356 N.C. at 339, 572 S.E.2d at 124-25. We note that both detectives admitted that they were attempting to deceive defendant when they told him that his DNA was found on the victim and her DNA was found under his fingernails. However, our Supreme Court has noted that

[t]he use of trickery by police officers in dealing with defendants is not illegal as a matter of law. The general rule in the United States, which this Court adopts, is that while deceptive methods or false statements by police officers are not

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<sup>2</sup> We note that in contrast to the above analysis regarding whether defendant was "in custody" when he made his statements to police, *Barden* requires us to conduct a *de novo* review to determine whether defendant's statements were "voluntary[.]" See *Barden*, 356 N.C. at 339, 572 S.E.2d at 124-25.

commendable practices, standing alone they do not render a confession of guilt inadmissible. The admissibility of the confession must be decided by viewing the totality of the circumstances, one of which may be whether the means employed were calculated to procure an untrue confession. False statements by officers concerning evidence, as contrasted with threats or promises, have been tolerated in confession cases generally, because such statements do not affect the reliability of the confession.

*Jackson*, 308 N.C. at 574, 304 S.E.2d at 148 (citations omitted). As evidence that the detective's deception was not "calculated to procure an untrue confession[.]" see *id.*, both detectives testified that there was "no doubt" in their minds "at the time of the interview that the defendant had committed the offenses of which he was accused[.]"

Defendant also argues that he was being held "incommunicado." In this regard, the trial court's findings, which are supported by competent evidence in the record, state that "defendant was not prevented from leaving the detective division during the course of the interview[;]" "arrangements were made by the moving company to pick up defendant after the interview for the ride home to Fayetteville;" and "[t]here is no evidence that the defendant's ability to communicate was impaired[.]" In addition, the videotaped recording of his

interview shows that defendant was permitted to answer his cell phone, which rang during the interview, and detectives left the interview room while he carried on a conversation on his cell phone, which he had on his person during the entire interview. As to defendant's argument that he was not allowed to move around the police station without an escort, our Supreme Court, in addressing the issue of whether the defendant was in custody, explained that

[a]lthough defendant focuses on his inability to leave the interview room without supervision or escort, we believe it unlikely that any civilian would be allowed to stray through a police station. Defendant was in an area not open to the public, and the prevention of unsupervised roaming in such a space is hardly the type of restriction that a reasonable person would associate with a formal arrest. See *State v. Medlin*, 333 N.C. 280, 290-92, 426 S.E.2d 402, 407-08 (1993) (holding that the defendant, who was constantly in the presence of officers and escorted to the rest room, was not in custody and "[i]t is also unlikely that anyone would have been permitted to wander unmonitored around police headquarters").

*State v. Waring*, \_\_\_ N.C. \_\_\_, \_\_\_, 701 S.E.2d 615, 634 (2010), cert denied, \_\_\_ U.S. \_\_\_, 181 L.Ed. 2d 53 (2011). Likewise, here, defendant was not in an area open to the public and, like any civilian, would not have been allowed to roam "unsupervised" around the police station. Detectives testified that it was

their policy not to allow civilians to walk around unescorted. Therefore, we fail to see how police escorting defendant around the police station would contribute to making his statements involuntary, as a "reasonable person" would expect this type of restriction in the police station. See *id.* Next, defendant was only interviewed for approximately 1 ½ hours. Also, the trial court's findings, which are supported by competent evidence in the record, state that "[n]o evidence has been presented that the defendant was scared, intimidated, confused, intoxicated, or disoriented in any way during questioning;" "[t]here were no physical threats or shows of violence toward the defendant by law enforcement;" "[n]o promises were made to the defendant;" and "[t]he defendant was familiar with the criminal justice system, and had numerous contacts with law enforcement and the criminal justice system prior to the current charges[.]" Even though defendant was diagnosed as having "mild mental retardation[.]" the findings of fact, which are supported by competent record evidence, note that "[t]here has been no finding of mental incompetence or other mental health defect[;]" "defendant did not appear to be impaired or have a mental defect during the interview based upon his demeanor;" and "[d]efendant responded to questions in an appropriate way and did not

indicate any evidence of mental impairment or intoxication before, during, or after questioning[.]” Despite his mental condition, these findings show that “[d]efendant’s independent will was not overcome, so as to induce a confession he was not otherwise disposed to make, by mental or psychological coercion or pressure.” *Jackson*, 308 N.C. at 582, 304 S.E.2d at 153 (citation omitted). Also, the video of his interview shows that defendant repeatedly acknowledged that he was at the station voluntarily. We hold that, based upon the totality of the circumstances, defendant voluntarily made his statements to the detectives. *See Barden*, 356 N.C. at 339, 572 S.E.2d at 124-25. Accordingly, the trial court did not err in concluding that defendant’s statements were “voluntary.”

For the foregoing reasons, we affirm the trial court’s denial of defendant’s motion to suppress.

AFFIRMED.

Judges STEPHENS and BEASLEY concur.

Report per Rule 30(e).