

An unpublished opinion of the North Carolina Court of Appeals does not constitute controlling legal authority. Citation is disfavored, but may be permitted in accordance with the provisions of Rule 30(e)(3) of the North Carolina Rules of Appellate Procedure.

IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA16-1171

Filed: 5 July 2017

Mecklenburg County, Nos. 13CRS237820–22

STATE OF NORTH CAROLINA

v.

JAIRUS TYRONE HENLEY

Appeal by defendant from judgments entered 20 May 2016 by Judge Forrest D. Bridges in Mecklenburg County Superior Court. Heard in the Court of Appeals 19 April 2017.

*Attorney General Joshua H. Stein, by Special Deputy Attorney General Marc Bernstein, for the State.*

*Lisa Miles for defendant.*

DIETZ, Judge.

Defendant Jairus Tyrone Henley appeals the denial of his motion to suppress, arguing that officers questioned him while he was in custody under *Miranda v. Arizona*, 384 U.S. 436 (1966), without providing him with his *Miranda* warnings.

We reject Henley’s argument. Law enforcement repeatedly told Henley that he was not under arrest and that his cooperation was voluntary. The detective who first

## STATE V. HENLEY

### *Opinion of the Court*

questioned Henley shook his hand and introduced himself when he approached. That detective asked Henley to voluntarily accompany him to the police station and allowed Henley to ride with him in the front passenger seat of his car and to make phone calls on the way. Officers then placed Henley in an unlocked, unguarded interrogation room and let him make cell phone calls, charge his cell phone, smoke, eat pizza, and freely use the restroom without permission or supervision. As the trial court found, Henley remained there and continued to answer the officers' questions because he was slowly learning what the officers knew about the alleged crime, and then conformed his story to what the officers knew to minimize suspicion. Viewed in the totality of the circumstances, we agree with the trial court that Henley was not in custody for *Miranda* purposes; on these facts, no reasonable person would believe he was under arrest or restrained to the degree associated with arrest. Accordingly, we find no error in the trial court's judgments.

### **Facts and Procedural History**

On 19 September 2013, the Charlotte Mecklenburg Police Department sought to question Defendant Jairus Tyrone Henley about a burglary and homicide that occurred the night before. Through an informant, the police located Henley and detectives brought him to the station for questioning. After speaking with detectives on-and-off for several hours, Henley confessed to his involvement in the burglary and homicide.

STATE V. HENLEY

*Opinion of the Court*

The State indicted Henley for first degree murder, burglary, and various related crimes. Henley moved to suppress his confession and related statements to the detectives, arguing that the State violated his *Miranda* rights. The trial court denied Henley's motion.

A jury later found Henley guilty on all charges. The trial court sentenced Henley to consecutive sentences of life in prison without parole for the murder conviction, and 60 to 84 months in prison for burglary and robbery. Henley timely appealed.

**Analysis**

Henley argues that the trial court erred by denying his motion to suppress statements he made in violation of his *Miranda* rights. As explained below, Henley was not in custody for purposes of *Miranda*. Accordingly, the trial court properly denied his motion to suppress.

Under *Miranda v. Arizona*, law enforcement officers must inform an individual before any custodial interrogation “that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires.” 384 U.S. 436, 479 (1966). Without those warnings, evidence obtained as a result of an interrogation is inadmissible at trial. *Id.*

STATE V. HENLEY

*Opinion of the Court*

*Miranda* applies only if the interrogation occurs while the defendant is in custody. *Id.* at 478–79. A defendant is in custody for purposes of *Miranda* if “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.” *State v. Buchanan*, 353 N.C. 332, 339–40, 543 S.E.2d 823, 828 (2001).

Henley first argues that the trial court erred because the court “stated that it was only considering what occurred once the defendant arrived at the law enforcement center, disregarding what occurred at the scene of the stop.” This is flatly wrong. The trial court examined all the circumstances surrounding the initial stop, made detailed findings about that initial stop, and expressly noted in its conclusions of law that its decision applied both to the initial stop and to Henley’s questioning at the police station.

Henley next challenges several individual findings of fact in the trial court’s order. We decline to address these challenges in detail because, even if we were to ignore the challenged findings, there would still be more than enough findings to support the trial court’s conclusion that Henley was not in custody. Specifically, the court found that when officers first approached Henley they kept their weapons holstered; that the officers never handcuffed Henley or restrained him in any way;

STATE V. HENLEY

*Opinion of the Court*

that when Detective Greenly arrived he shook Henley's hand and introduced himself; and that the detectives emphasized that Henley was not under arrest.

The court also found that Henley voluntarily agreed to answer questions at the police station and that Henley rode to the station in the front passenger seat of Detective Greenly's car. During the ride, which was tape recorded, Henley called his girlfriend on his cell phone and, apparently in response to a question that she asked him, asked the detective, "Am I in custody?" Detective Greenly responded, "Are you in handcuffs? . . . No you're not under arrest." Henley then told his girlfriend "I'm fine. So I guess when I figure this out, I'll give you a call back, okay?"

The trial court also found that, once at the police station, the officers left Henley alone for long periods of time in an unlocked room with no one posted outside and no means of preventing Henley from leaving. The officers let Henley call people on his cell phone, charge his cell phone, smoke in the interview room, eat pizza, and freely use the restroom. The officers repeatedly told Henley he was not under arrest and had him confirm that he understood he was there voluntarily and was not under arrest.

The court found that Henley's decision to stay at the station for nearly four hours was voluntary and strategic. As the officers spoke to Henley, they slowly revealed what they knew of the crimes. As the court found, "[t]he interview was a game of cat-and-mouse in which Defendant attempted to learn what the detectives

STATE V. HENLEY

*Opinion of the Court*

knew. As Defendant learned what the officers knew, he modified his own story to answer things that he could not convincingly deny while minimizing his own role.” All of these findings are supported by competent evidence in the record.

In light of these findings, we agree with the trial court that Henley was not in custody for purposes of *Miranda* when he made statements to law enforcement. Viewed in the totality of the circumstances, no reasonable person would believe he was under arrest or restrained to the degree associated with arrest. *Buchanan*, 353 N.C. at 339–40, 543 S.E.2d at 828. One who is under arrest does not shake hands with detectives; ride in the front seat of a detective’s car without handcuffs or restraints; freely use a cell phone; smoke and eat pizza unsupervised in an unlocked, unguarded room at a police station; and freely use the restroom without requiring permission or supervision. Moreover, officers continually told Henley the he was not under arrest and that his decision to speak to the detectives was a voluntary one. Faced with similar fact patterns, this Court repeatedly has held that the defendant was not in custody for purposes of *Miranda*. See, e.g., *State v. Rooks*, 196 N.C. App. 147, 150–52, 674 S.E.2d 738, 741–42 (2009) (collecting cases). Accordingly, we hold that the trial court properly denied Henley’s motion to suppress.

**Conclusion**

We find no error in the trial court’s judgments.

NO ERROR.

STATE V. HENLEY

*Opinion of the Court*

Judges CALABRIA and MURPHY concur.

Report per Rule 30(e).