

Circuit Court for Baltimore City
Case No. 123333001

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1493

September Term, 2024

EARL LEROY LEE

v.

STATE OF MARYLAND

Reed,
Kehoe, S.,
Eyler, James R.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kehoe, J.

Filed: April 21, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

Appellant, Earl Leroy Lee (“Mr. Lee”), was convicted by a jury of first-degree murder, use of a firearm in the commission of a crime of violence, and possession of a firearm while prohibited. The Circuit Court for Baltimore City sentenced Mr. Lee to a term of life-imprisonment on the first-degree murder conviction, a consecutive 15 years for the use of a firearm conviction, and a consecutive six years for the possession of firearm while prohibited conviction. On this timely appeal, Mr. Lee poses the following question for our review:¹ Did the trial court err in denying Mr. Lee’s motion to suppress his statements to police and evidence derived therefrom? We answer in the negative and thus affirm the judgment of the Circuit Court for Baltimore City.

I. FACTUAL & PROCEDURAL BACKGROUND

A. The October 6, 2023 Shooting & Mr. Lee’s Interrogation

In the early evening hours of October 6, 2023, David Boykin (“Mr. Boykin”) sat on the outside porch of his home located in the 2000 block of Cliftwood Avenue in Baltimore City.² Ms. Shanta Bunch (“Ms. Bunch”), the mother of Mr. Boykin’s child, was speaking with Mr. Boykin when shots rang out. Ms. Bunch called 911 and would later recall seeing

¹ The question presented remains unchanged from the Appellant’s Brief. The State posed the following question for our review: Did the suppression court properly deny Lee’s suppression motion?

² Mr. Boykin, who performed under the stage name “President Davo” was under home monitoring via an ankle bracelet at the time these events unfolded.

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a person fully covered in black clothing at the time of the shooting. Mr. Boykin suffered multiple gunshot wounds and passed away from his injuries.³

Officer Erwin Scofield (“Officer Scofield”) arrived at the scene around 6:00 p.m. and rendered first aid to Mr. Boykin. Officer Scofield spoke to Ms. Bunch and other potential witnesses on the scene, and one witness discreetly informed Officer Scofield that the suspected shooter was driving a white sport utility vehicle (“SUV”). Crime scene lab technicians recovered ten firearm cartridge cases, blood samples, projectiles, metal fragments, and a lollipop from the location. Detective Kimberly Tonsch (“Detective Tonsch”) responded to the scene and obtained recorded video footage from nearby Citiwatch cameras based on the information given to Officer Scofield. The five clips were later entered into evidence by the State. Detective Tonsch procured additional surveillance footage from a private residence reflecting a white Nissan Pathfinder driving in the area. Officers acquired surveillance video footage from the nearby Lillie May Charter School, which also showed a white Nissan Pathfinder. Using a license plate reader and the video footage, Detective Tonsch identified Mr. Lee as the owner of a vehicle of interest.

On November 8, 2023, officers stopped Mr. Lee in his Nissan Pathfinder and brought him into the station for questioning. Mr. Lee was taken to an interview room and

³ Witnesses for the State would later testify Mr. Boykin’s manner of death was homicide, with the cause of death as multiple gunshot wounds.

waited for two hours before the interview began. Mr. Lee was Mirandized⁴ by officers and advised of his rights. Officers conducted a three-hour interrogation, which was audio and video recorded. During the interrogation, Mr. Lee made varying statements of his presence in the area of the shooting and his involvement in the shooting and can be seen pacing around the room and speaking to himself when left alone.

We briefly summarize Mr. Lee's varying statements for legal clarity. Mr. Lee first told officers his truck was in the area of the murder because of his work, and after work he visited his sister's home. Mr. Lee then stated he went to a friend's home to play videogames. After officers confronted Mr. Lee on this discrepancy, he explained to officers that he was "just riding through" the area at the time the murder. Following more questioning by the officers, Mr. Lee said that he had picked up a person named "10" and allowed 10 to use his vehicle. As the interrogation continued, Mr. Lee denied his involvement. Mr. Lee also told officers a person named "Ant" paid him \$2,000 to use his vehicle, and that Ant was the person responsible for the murder. As the interrogation continued, Mr. Lee then claimed someone threatened him with the lives of his children and that there was a \$50,000 hit out on him from an existing feud. The total interrogation lasted around three hours. Based on the interrogation, officers obtained a warrant to search Mr. Lee's home and uncovered further evidence.

⁴ The prophylactic catechism of being "Mirandized" refers to the officer warnings or advisements given to suspects consistent with the Supreme Court's holding in *Miranda v. Arizona*, 384 U.S. 436, 479 (1966). *Smith v. State*, 186 Md. App. 498, 511–12 (2009), *aff'd*, 414 Md. 357 (2010). Miranda warnings ensure an individual's privilege against self-incrimination is upheld when subject to police custody and interrogation. *Id.*

B. Procedural Background

The trial on the merits began on June 25, 2024 before the Hon. Kendra Y. Ausby. Both parties stipulated that Mr. Lee was prohibited from possessing a firearm. Defense counsel moved to suppress Mr. Lee’s statements as involuntary, and the evidence recovered from the search of his home based on his statements. Defense counsel pointed to the interrogation’s length and claimed Mr. Lee was “brow beaten” by officers until his denials became confessions, which rendered his statements involuntary under *Williams v. State*.⁵

The court denied the motion, and stated the following:

THE COURT: Okay. While there’s clear statement of the law in *Williams versus State*, one, I don’t see that this—I think it’s factually distinguishable based upon what I’m saying, but I think even if the facts were closer to *Williams, Williams*, the statement was still found to be voluntary. So I’m not sure, unless I’m missing something, I’ve not heard that there is sort of as a matter of law based on what you’ve proffered to me that there's an indicia of involuntariness.

* * *

THE COURT: Obviously, you know, the jury can evaluate the voluntariness as they evaluate the credibility of the statement and they will be given the instruction which includes most of the law, but I’ve not heard by proffer from the Defense that there’s anything in the statement that would make it per se involuntary such that it is not reliable and should not be presented to the jury for the jury in its discretion to determine the reliability of the statement given the instruction. So what I have is the Supplemental Motion to Suppress Statements by the Defendant is denied...

Defense counsel renewed their objection to the recording based on their original motion. The interrogation video was admitted into evidence with a portion redacted over defense objection. After the State rested, the court ruled on the motion to suppress, stating:

⁵ 375 Md. 404, 434–35 (2003).

THE COURT: All right...revisiting the suppression motion, the Court, now having seen the entire video, does not find that the confession is, per se, or I guess, not unreliable due to some violation of policy, procedure, length of time, constitutional rights or any of the other factors. I think that it is right for the jury to decide. The jury will be given the instruction with the factors for them to consider to decide the reliability, ultimately, of the statement. So the Motion to Suppress is denied.

Mr. Lee took the stand and testified in his own defense on the last day of trial. Mr. Lee denied shooting Mr. Boykin and testified that he gave varying statements because he was “tired.” A jury convicted Mr. Lee of first-degree murder, use of a firearm in commission of a crime of violence, and possession of a firearm while prohibited. The court held a sentencing hearing on October 1, 2024. Mr. Lee was sentenced to a term of life-imprisonment on the first-degree murder conviction, a consecutive 15 year term for the use of a firearm conviction, and another consecutive six year term for the prohibited firearm possession conviction. Mr. Lee then timely appealed to this court on October 2, 2024.

Additional facts will be included in the discussion as they become relevant.

II. DISCUSSION

Mr. Lee contends his statements violate *Miranda*, the Due Process Clause of the Fourteenth Amendment, Article 22 of the Maryland Declaration of Rights, and Maryland non-constitutional common law. At no time during the hearing on the motion to suppress or at any other time below, did Mr. Lee present any issue related to his *Miranda* rights. Improperly preserved arguments are not before this Court. *Russell v. State*, 138 Md. App.

638, 646 (2001) (quoting *McKoy v. State*, 127 Md. App. 89, 99 (1999)). Therefore, we decline to address the *Miranda* argument.⁶

We instead consider whether Mr. Lee's statements were proper under the Due Process Clause of the Fourteenth Amendment and Article 22 of the Maryland Declaration of Rights, before turning to the statements' admissibility under Maryland non-constitutional common law. For the foregoing reasons, we conclude that Mr. Lee's statements were not involuntary under the Due Process Clause of the Fourteenth Amendment, Article 22 of the Maryland Declaration of Rights, or the applicable non-constitutional common law.

A. Standard of Review

We review a trial court's ruling on a motion to suppress under a blended standard. *Campbell v. State*, 267 Md. App. 248, 269 (2025). We give great deference to the suppression judge's determination and weighing of first-level fact-findings, viewed in the light most favorable to the prevailing party. *Brewer v. State*, 220 Md. App. 89, 99 (2014). The trial court's ruling will not be disturbed unless it is clearly erroneous. *Id.* Our consideration includes only the facts and information contained the suppression hearing's

⁶ The grounds for the objection during the suppression hearing were based on overbearing and improper police conduct, which differs from the *Miranda* argument Mr. Lee now presents before us. Considering the difference in the objection grounds at trial and new issues introduced upon appeal, we may consider the new issues waived. *Klaunenberg v. State*, 355 Md. 528, 552 (1999). We therefore decline to address the *Miranda* argument, as the circuit court was not given the chance or the option to correct this potential issue.

record.⁷ *State v. Lockett*, 413 Md. 360, 375 n.3 (2010) (quoting *Longshore v. State*, 399 Md. 486, 498 (2007)). Reviewing the law and applying the facts of the case, we undertake our own independent constitutional appraisal. *Bailey v. State*, 412 Md. 349, 362 (2010) (citing *Crosby v. State*, 408 Md. 490, 505 (2009)).

B. Federal and State Constitutional Strictures

Mr. Lee dedicates moderate space in his brief concerning his arguments under the Due Process Clause of the Fourteenth Amendment and Article 22 of the Maryland Declaration of Rights, as the bulk of the argument arises under common-law voluntariness. We nevertheless address the statements under federal and state constitutions, as the State is precluded from using any involuntarily statements that conflict with federal, state, or common law grounds. *Lee v. State*, 418 Md. 136, 158–59 (2011). Confessions must be voluntary under the Due Process Clause of the Fourteenth Amendment of the United States Constitution and Article 22 of the Maryland Declaration of Rights to be admissible as evidence. *Perez v. State*, 168 Md. App. 248, 267–68 (2006) (citing *Knight v. State*, 381 Md. 517, 531–32 (2004)). The inherent due process protections within Article 22 are construed *in pari materia* with the rights afforded by the Fourteenth Amendment. *Lee*, 418

⁷ Mr. Lee does not challenge the circuit court’s factual findings, as the bulk of his argument lies in the voluntariness of his statements under the federal and state constitutions and common law. Having gleaned no clear error from the record, we defer to the trial court’s findings while applying them in our own constitutional analysis. *State v. Nieves*, 383 Md. 573, 581 (2004).

Md. at 158–59. Therefore, our analysis applies to both federal and state constitutional arguments. *Id.*

Mr. Lee argues that officers used excessive psychological pressure over the course of several hours. Mr. Lee further argues that his multiple differing accounts given to officers in quick succession and behavior when left alone (i.e., pacing around the room and talking to himself) both demonstrate the unduly and coercive interrogation tactics used by officers. Per the State’s view, no evidence supported by the record indicates Mr. Lee was either mentally incompetent or susceptible to officer interrogation tactics considering his education level, age, or drug use as specified by *Colorado v. Connelly*, 479 U.S. 157, 167 (1986). The State further argues that Mr. Lee fails to show involuntariness under the constitutional due process test, since the officers abstained from threats or physical mistreatment or withholding of restroom access, food, or water before and during Mr. Lee’s interrogation.

Coercive police activity is a necessary precondition when assessing the voluntary aspect of a confessions under the Due Process Clause of the Fourteenth Amendment. *Connelly*, 479 U.S. at 167. Crucial consideration is given to whether a suspect’s free will was “overborne by official pressure, fatigue, and sympathy falsely aroused after considering all the facts in their post-indictment setting.” *Spano v. New York*, 360 U.S. 315, 323–324 (1959). Although the defendant’s mental condition is a relevant factor regarding their susceptibility to police coercion, “mere examination of the confessant’s state of mind can never conclude the due process inquiry.” *Connelly*, 479 U.S. at 165. The defendant’s

mental state at the time the incriminating statement was made is critical in involuntariness inquiries. *Hof v. State*, 337 Md. 581, 619 (1995). Turning now to proper interrogation tactics when questioning suspects, officers “are permitted to use a certain amount of subterfuge.” *Ball v. State*, 347 Md. 156, 178 (1997), *cert. denied*, 522 U.S. 1082 (1998). Therefore, certain officer actions, such as showing false sympathy for the suspect or lying to the suspect about the strength of evidence, are permitted. *Lee*, 418 Md. at 159.

Applying the Due Process Clause test for voluntariness, we are unpersuaded that officers used coercive action in obtaining Mr. Lee’s statements. The record shows officers did not use excessive psychological pressure, as the officers’ statements mirror general appeals to Mr. Lee’s conscience and more pointed encouragements to tell the truth.⁸ Officers told Mr. Lee various statements, such as “it would be in your best interest to be 100 percent with us.” Notably, an appeal to the suspect’s “inner psychological pressure of conscience to tell the truth does not constitute coercion in the legal sense.” *Ball*, 347 Md. at 179 (quoting *Kier v. State*, 213 Md. 556, 562 (1957)). At most, the record reflects officers made cajoling and coaxing statements to Mr. Lee. *Had* the officers’ statements to Mr. Lee escalated, we might have viewed these statements differently. Yet the record instead reflects that officers’ statements appealed to Mr. Lee’s conscience under appropriate

⁸ Although officer statements are later explored in more detail further in this Opinion, we briefly provide some of the statements for clarity. Officers stated to Mr. Lee, “We’ve had a very, very, very long discussion. Right? And we’ve thrown you life jacket, after life jacket, after life jacket trying to figure out this whole situation.” Officers also stated during the interrogation, “...Son, this is your life. We know there’s nobody in the car.”

psychological pressure. As such, we determine the statements given by officers to Mr. Lee as proper and uncoercive.

Moreover, there is no indication that Mr. Lee's will was more susceptible to the use of interrogation techniques. No evidence about the mental capacity of Mr. Lee was ever offered, and the only insight into Mr. Lee's mental state exists via his testimony and the taped interrogation. Mr. Lee spoke to his own mental state at the time of the interrogation at trial, stating "So, eventually, I got tired. I got tired. Like, I know I didn't do it...[b]ut you don't want to hear it so I'm going to tell you what you want to hear so I can get up out of here so I can go home to my kids." Mr. Lee testified about his varying statements, "So I felt as though if I keep making up stories, because they [(the officers)] don't want to listen to the truth that I didn't do it, maybe I can get out of here."

Based on our review of the record, we cannot say Mr. Lee lacked understanding of his statements nor that he was more susceptible to police pressure. Interrogations are not meant to be comfortable for suspected individuals, and growing fatigued while questioning is well within the realm of reality. However, Mr. Lee was given access to breaks and restroom access, and was informed he could stop the interview at any time. Although Mr. Lee's contradictory statements to officers and his pacing around the interrogation room were albeit strange, we decline to generalize Mr. Lee's reactions as definitive conclusions of excessive psychological pressure. Nothing indicates that Mr. Lee's age, education, or mental state was an additional factor overlooked by officers or the circuit court. Absent any record support that Mr. Lee was more susceptible to psychological pressure, Mr. Lee's

exhaustion following two hours of waiting and three hours of interrogation holds no reasonable nexus to his vastly different accounts given to officers. No reasonable person could have believed that conflicting statements about one's presence near a murder scene would quell police suspicion. Moreover, we cannot deduce how Mr. Lee responses are reflective of improper police action when no coercive police action is present in this case. Therefore, Mr. Lee's statements were voluntary, and for the same reasons did not violate the Due Process Clause of the Fourteenth Amendment or Article 22 of the Maryland Declaration of Rights.

C. Non-Constitutional Analysis

Mr. Lee argues that under the totality of the circumstances test, officers made several promises during the interrogation were a "transcendent and decisive" factor overlooked by the circuit court. Mr. Lee further argues that the additional factors of waiting two hours before the interrogation began and his erratic behavior when left alone during the interrogation reflect involuntariness under Maryland non-constitutional law. Mr. Lee also argues that statements by the police that what he would tell them, "doesn't leave this room" were coercive. The State argues that the statements were voluntary, as the officers' statements could not be reasonably interpreted as an implied or express promise of leniency in exchange for Mr. Lee's confession. The State further argues that there is no nexus between an improper inducement and Mr. Lee's confession, as there was no reliance made by Mr. Lee on the alleged promises for leniency based on his own testimony at trial.

Courts look to the totality of the circumstances when assessing the voluntariness of a confession. *Bellard v. State*, 229 Md. App. 312, 350 (2016), *aff'd*, 452 Md. 467 (2017) (citing *Winder v. State*, 362 Md. 275, 307 (2001)). When determining whether a suspect's confession was either given to the police through the exercise of free will or through coercion by use of improper means, we look to all elements of the interrogation. *Winder*, 362 Md. at 307. Relevant factors include "the defendant's age and education, the defendant's physical condition and mental capacity, the length of the interrogation, the manner of questioning, and whether there was any physical mistreatment of the defendant." *Hoey v. State*, 311 Md. 473, 483 (1988) (quoting *Lodowski v. State*, 307 Md. 233, 254–55 (1986)). Deliberate and unnecessary delays are also factors to consider in voluntary confession inquiries. *Williams*, 375 Md. at 434.

We first determine whether officers made promises to Mr. Lee in exchange for his statements. Confessions produced by improper threats, promises, or inducement of the police are involuntary and therefore inadmissible under the common law. *Lee*, 418 Md. at 158 (citing *Knight*, 381 Md. at 531). When improper officer action has been alleged, we apply a two-prong test to confessions: (1) whether the police made a threat, inducement, or promise to the suspect, and (2) whether a nexus between the inducement or promise and the suspect's confession exists. *State v. Tolbert*, 381 Md. 539, 558 (2004). Both prongs must be satisfied to deem a confession involuntary. *Winder*, 362 Md. at 310.

Mr. Lee generally argues that officers secured his incriminating statements through improper promises. Aside from the officers' statements already addressed above, it is

unclear exactly which officers' statements Mr. Lee takes issue with as improper inducement. This Court has no obligation to skim the record and "unearth factual support favorable" to Mr. Lee. *Van Meter v. State*, 30 Md. App. 406, 408 (1976). Our review of the record reflected one portion of the interrogation that appears the most applicable to Mr. Lee's claim. The following exchange occurred between officers and Mr. Lee:

INTERVIEWING OFFICER: That's what we're trying to figure out some. You know, that's where being truthful in this really comes to your benefit because we know your car is present when some shit happens. Right? So if it's a matter of, Oh, I'm driving through enjoying, don't worry about it. There's something else going on, like maybe another girl involved or something. We ain't telling nobody.

MR. LEE: No.

INTERVIEWING OFFICER: Right? And that's what I'm saying, this doesn't leave this room. Like if you were over east seeing a side piece, we don't give a shit. We're trying to figure out what were you there for and what did you see? Because you realize with these Ring cameras and all this shit going on.

Given the context of the words exchanged, officers made clear that *if* Mr. Lee was engaged in another relationship outside of his current one, that piece of information *would not* leave the room. We cannot see how a reasonable person would have been moved to make an inculpatory statement given the context above. *See Hill v. State*, 418 Md. 62, 76 (2011) (explaining that the reasonable person standard applies to the accused). Officers may show false sympathy for the suspect, as this is not considered coercion. *Lee*, 418 Md. at 159. Here, we cannot see how officers made a promise to Mr. Lee beyond his own assumptions. Although Mr. Lee testified that he believed officers would let him leave if he told them whatever they wanted to hear, our consideration is not based on Mr. Lee's

subjective belief but rather an objective standard. Mr. Lee's subjective belief carries no weight in our determination. *Hill*, 418 Md. at 76. While officers did press Mr. Lee on potential reasons he could have been in the area at the time of the murder, the officers' promise regarded potential infidelity in his personal relationship. Since officers were not investigating potential adultery, it is unpersuasive that a reasonable person in the position of Mr. Lee would have been moved to make an inculpatory statement related to murder.

Other officers' statements to Mr. Lee do not reflect any implied promises either, as they function as general appeals to Mr. Lee's conscience to tell the truth. Statements such as, "[w]e've had a very, very, very long discussion. Right? And we've thrown you life jacket, after life jacket, after life jacket trying to figure out this whole situation[,]” and “[s]on, this is your life. We know there's nobody in the car[,]” cannot be seen as motivated to make an inculpatory statement. Officers are permitted to use a certain amount of subterfuge when questioning an individual about their suspected involvement in a crime. *Ball*, 347 Md. at 178. Moreover, nothing was offered to Mr. Lee in exchange for his statements. Our review of the interrogation showed that officers gave Mr. Lee several chances to explain his vehicle's presence near the crime scene, and Mr. Lee's varying statements were met by proper pushback and clarification from the officers. Having determined that the officers' statements were not promises to Mr. Lee in exchange for leniency, we need not address whether a proper nexus exists. As such, Mr. Lee's statements were voluntary under the first prong as no promises by officers were made in exchange for Mr. Lee's statements.

Based on the totality of the circumstances, we are unpersuaded that Mr. Lee's statements were made involuntarily. Although Mr. Lee waited two hours before his interrogation even began, this is only one factor in our analysis. Mr. Lee was given water, and received access to the restroom several times, during his waiting period and throughout the course of the interrogation. Mr. Lee was questioned for three hours, and officers did not use improper interrogation tactics. Mr. Lee testified he was "tired," which we consider in the context that he spent a total of five hours at the police station (from his time waiting for the interview to begin to the actual interrogation length). While Mr. Lee did exhibit some strange behavior when by himself, the parties do not argue and nothing from the record shows that Mr. Lee was particularly susceptible to officer pressure. As such, the totality of the circumstances supported Mr. Lee's statements as voluntary.

III. CONCLUSION

We hold that the statements were properly admitted under the Due Process Clause of the Fourteenth Amendment and Article 22 of the Maryland Declaration of Rights, given the lack of coercive police activity and the absence of any evidence that Mr. Lee was more susceptible to police questioning. We conclude that officers made no promises to Mr. Lee in exchange for his statements, and as such his statements were voluntary. We further hold that Mr. Lee's statements were voluntary based on the totality of the circumstances, having determined officers did not exceed proper interrogation tactics. Accordingly, we conclude that the circuit court properly denied the motion to suppress the statements.

-Unreported Opinion-

**JUDGMENT OF THE CIRCUIT COURT FOR
BALTIMORE CITY AFFIRMED. COSTS TO
BE PAID BY APPELLANT.**