State of New York
Court of Appeals

OPINION

This opinion is uncorrected and subject to revision before publication in the New York Reports.

No. 98
The People &c.,
Respondent,
v.
Ricardo Casiano,
Appellant.

James A. Hobbs, for appellant.
Ryan P. Ashe, for respondent.

CANNATARO, J.:

The issue on this appeal is whether defendant's incriminating statements should have been suppressed because he was subjected to custodial interrogation by the police during the early stages of an active shooter investigation without being advised of his

Miranda rights (*see Miranda v Arizona*, 384 US 436, 444 [1966]). Since the parties agree that the questioning was likely to yield an incriminating response, resolution of the issue boils down to a question of whether defendant was in custody (*see People v Cabrera*, 41 NY3d 35, 51-54 [2023]). The only conclusion to be drawn from the record before us is that defendant was in custody when he was initially questioned by police in his backyard. However, because the record is insufficient to make a determination as to whether defendant remained in custody when he was later questioned at the hospital or what impact, if any, the earlier custodial interrogation had on the voluntariness of his later statements, we remit to Supreme Court for further proceedings.

At approximately 10:30 p.m. on August 24, 2020, Rochester police were alerted to shots fired in the vicinity of defendant's home. Upon exiting their vehicles in the area, police heard gunshots. One officer observed an individual wearing a light-colored shirt standing on the roof of a detached garage in the backyard of defendant's home and saw the flash of what appeared to be muzzle fire from a gun. Within seconds after climbing a fence to enter the backyard, police found defendant, who matched the description of the individual seen on the roof, on the ground near the garage with a broken leg. As relevant here, officers approached defendant with their guns drawn, shouting "Don't move! Police, don't f***ing move!" Some officers searched the backyard for a weapon, while others guarded defendant. When defendant asked to go inside the house to tell his wife that he had broken his leg, police told him no. Likewise, when he asked if he could be taken to the hospital to receive treatment for his broken leg, officers told defendant he needed to remain in place until the gun was found. During the search for the weapon, officers

repeatedly questioned defendant about what he had done with the gun, ultimately eliciting an incriminating response; namely, that he acted to protect his family after a neighbor stabbed his son. In response to questioning, defendant also told police that he hurt his leg after falling from the roof of the garage. After being held in the backyard for close to an hour, defendant was eventually transported to the hospital. While at the hospital being treated for his injuries, police again questioned defendant about the events in the backyard. This line of questioning, by investigators who were not present in the backyard, again elicited incriminating responses. Defendant reiterated that he fell from the roof of the garage and that he was acting to protect his son. He also admitted that he purchased the gun years earlier.

Defendant was charged with two counts of criminal possession of a weapon in the second degree (Penal Law § 265.03 [1] [b]; [3]). Prior to trial, defendant moved to suppress the statements he made both in the backyard and at the hospital, arguing that they were the product of custodial interrogation without *Miranda* warnings. Supreme Court denied the motion. Following a jury trial, defendant was convicted on both counts of the indictment.

The Appellate Division affirmed, holding that suppression was properly denied because the questioning of defendant in the backyard amounted to "a noncustodial investigatory inquiry for which *Miranda* warnings were not required" (240 AD3d 1212, 1214-1215 [4th Dept 2025] [internal quotation marks and citation omitted]). One Justice dissented and would have held that defendant was subjected to an improper custodial interrogation both in the backyard and at the hospital, and that his statements should have been suppressed. That Justice granted defendant's motion for leave to appeal to this Court.

It is well established, under both the State and Federal Constitutions, that *Miranda* warnings must be administered to a suspect in custody before subjecting them to interrogation (*Miranda*, 384 US at 444; *Cabrera*, 41 NY3d at 52; NY Const, art I, § 6; US Const, 5th Amend). To ascertain custodial status, we must consider "whether a reasonable person innocent of any wrongdoing would have believed that [they were] not free to leave, and whether there [was] a forcible seizure which curtail[ed that] person's freedom of action to the degree associated with a formal arrest" (*Cabrera*, 41 NY3d at 52 [internal quotation marks and citations omitted]). A suspect's custodial status presents us with a mixed question of law and fact, reviewable only for whether the lower court's holding is supported by the record (*see People v Paulman*, 5 NY3d 122, 129 [2005]).

Both courts below concluded that defendant's incriminating statements made to police were the product of investigatory questioning and therefore not suppressible. We explained in *People v Robinson* that, where "investigatory questions are directed to a person who is in custody, under circumstances police should know are likely to yield an incriminating response, *Miranda* warnings are required" (45 NY3d 243, 249 [2025]). As the People concede, the only question before us is defendant's custodial status.

While in the backyard, police approached defendant with their guns drawn and surrounded him throughout the interaction. Officers told defendant not to move and refused his requests to go into his house, or to the hospital, or to speak with his wife. Under these circumstances, including that defendant specifically asked to leave and was told no, a reasonable person innocent of any wrongdoing would not have felt free to leave. Even though defendant was not placed in handcuffs, the remaining circumstances of the

interaction in the backyard are plainly indicative of a curtailment of defendant's liberty to a degree associated with a formal arrest. As a result, there is no record support for the conclusion that defendant was not in custody in the backyard, and, therefore, those statements should have been suppressed.

If defendant's later statements at the hospital were admissible, we would conclude that any error in failing to suppress the statements made in the backyard was harmless in view of the overwhelming evidence of defendant's guilt (*see People v Crimmins*, 36 NY2d 230, 240-241 [1975]). However, we are unable to determine, from the record, defendant's custodial status at the hospital and, as a result, the admissibility of those statements (*see People v Chapple*, 38 NY2d 112, 114 [1975] ["the majority made no finding of fact with respect to the continuous chain of events in this case"]). Supreme Court found that defendant was not in custody in either location by limiting its inquiry, improperly, to whether the questioning was investigatory in nature. As a result, the record is inadequate to permit review of whether defendant's statements to officers at the hospital were tainted by the custodial interrogation in the backyard. Since we cannot say on this record, as a matter of law, that defendant's statements at the hospital were a part of a continuous chain of events, remittal to Supreme Court for further proceedings is necessary. Upon remittal, should Supreme Court determine that defendant's statements at the hospital were not part of a continuous chain of events originating in the backyard, it may enter judgment accordingly. If not, a new trial must be ordered.

Defendant's remaining contentions are either unpreserved or without merit.

Accordingly, the order of the Appellate Division should be reversed, so much of defendant's motion as sought to suppress his statements from the backyard should be granted, and the case remitted to Supreme Court for further proceedings in accordance with this opinion.

SINGAS, J. (dissenting):

Defendant challenges the denial of his motion to suppress two sets of statements. He made the first set of statements in his backyard, after officers observed him firing his gun from the roof of his garage, and the second later in the hospital, where he was being

treated for injuries from jumping off the roof right after he had fired the shots. The majority twists itself into a procedural Gordian knot in an attempt to disrupt the jury's sound verdict. But the evidence in this case is overwhelming, and any error in admitting defendant's statements was harmless. I dissent.

I.

The narrow issue on appeal should be whether there is support in the suppression hearing record for Supreme Court's affirmed finding that defendant was not in custody when he made either set of statements. The majority first concludes that Supreme Court's custody finding as to the backyard statements lacks record support. Fine start. But then, instead of determining whether there was record support for Supreme Court's finding that defendant was not in custody when he made the *hospital* statements, the majority remits to Supreme Court for "further proceedings" apparently intended to "determine [whether] defendant's statements at the hospital were . . . part of a continuous chain of events originating in the backyard" (majority op at 2, 5). These instructions, though, provide little guidance and follow from an erroneous application of our record-support standard of review.

First, what is the nature of these further proceedings? Is the majority asking Supreme Court to review the record again, this time with an eye toward determining whether there was a break in the chain of events between the questioning in the backyard and the interview in the hospital? If so, the court would surely struggle to conduct that analysis in the first instance—defendant never argued that the hospital statements were "part of a continuous chain of events originating in the backyard" (majority op at 5), so the

record is necessarily underdeveloped as to that point. Or is the majority asking Supreme Court to reopen the suppression hearing entirely and hear new testimony? That cannot be the case either—this Court lacks the discretion to reopen suppression hearings, let alone to do so without a motion from defendant and without the required showing (*see* CPL 710.40 [4] [permitting the trial court to grant renewal of a suppression motion after a decision has been rendered only upon a showing "by the defendant, that additional pertinent facts have been discovered by the defendant which (they) could not have discovered with reasonable diligence before the determination of the motion"]; *People v Clark*, 88 NY2d 552, 556 [1996] [decision whether to reopen suppression hearing on a defendant's motion lies within the sound discretion of the trial court]). Reopening this case's *Huntley* hearing—where the parties presented evidence, and the court concluded, based on that evidence, that defendant was not in custody—would thus circumvent well-established rules about whether and when Supreme Court may reopen suppression hearings. And it would impermissibly give the parties a second bite at the apple to develop the suppression record and make new arguments that they should have made at the first *Huntley* hearing (*see* CPL 710.40 [4]; *People v Havelka*, 45 NY2d 636, 639 [1978] [appellate court cannot remit for a second suppression hearing when "the evidence offered at the (initial) suppression hearing (was) insufficient to justify the challenged police action"]). The majority must therefore envision something else entirely. But what? Supreme Court is left to guess.

Second, regardless of what the majority's "further proceedings" will entail, its remittal is improper. The majority directs Supreme Court to consider whether "defendant's statements at the hospital were a part of a continuous chain of events" that began with the

custodial interrogation in the backyard (majority op at 5, citing *People v Chapple*, 38 NY2d 112 [1975]). Unlike in *Chapple*, where the defendant specifically argued that "the subsequent statement was 'tainted' by the earlier ones" (*see* 42 AD2d 883, 883 [3d Dept 1973]), here defendant failed to raise this argument before Supreme Court, and it is therefore unpreserved (*see* CPL 470.05 [2]; *People v Brown*, 213 AD3d 1035, 1036 [3d Dept 2023]; *People v Escamilla*, 168 AD3d 758, 759 [2d Dept 2019]; *People v Brown*, 195 AD2d 1055, 1055-1056 [4th Dept 1993]). Regardless, *Chapple* is irrelevant. *Chapple* holds that all statements that are part of a "continuing custodial interrogation" must be suppressed where the defendant is belatedly Mirandized (*People v White*, 10 NY3d 286, 290 [2008]; *accord Chapple*, 38 NY2d at 115). If there is "a definite, pronounced break in the *interrogation*" before the defendant is Mirandized, however, subsequent statements may be admissible (*see Chapple*, 38 NY2d at 115 [emphasis added]). *Chapple*'s analysis presumes that the defendant is continuously in custody throughout the events. It presents a test for determining whether an interrogation is continuous—it does not, as the majority suggests (*see* majority op at 5), present a test for determining whether a defendant is continuously in custody. And here, police did not give defendant *Miranda* warnings at any point, making any break in interrogation immaterial to whether defendant's statements were admissible (*see* majority op at 4 ["the only question before us is defendant's custodial status"]). Rather, because this Court is presented with an affirmed factual finding that defendant was *not* in custody at the hospital, *Chapple* is wholly inapposite.

Third, the majority's treatment of the hospital statements disregards our record-support standard of review. The majority states that its remedy flows from its inability "to

determine, from the record, defendant's custodial status at the hospital" (majority op at 5). But as noted, Supreme Court already found that defendant was *not* in custody at the hospital, and the Appellate Division affirmed that finding. Our only role is therefore to answer a yes-or-no question: whether that decision was supported by the record (*see People v Robinson*, 45 NY3d 243, 247 [2025] ["We *will affirm* the determination of the lower courts if there is support in the record for the conclusion reached" (emphasis added)]). We are not empowered to engage in an open-ended inquiry about whether the record might have supported a different decision had the parties chosen to assert different arguments at the suppression hearing and develop the record differently (*see People v Centano*, 76 NY2d 837, 838 [1990] [stating that the Court has no power to review lower courts' finding that there was no custodial interrogation where "reasonable minds may differ as to the inference(s) to be drawn from the facts" (internal quotation marks omitted)]). In declining to decide the single, dispositive question that the applicable standard of review requires or permits—i.e., whether the record supports the finding that the hospital statements were not custodial—and instead remanding for "further proceedings," the majority chooses to abstain from engaging in the only analysis it can legally conduct.

II.

I would steer clear of all these questions and hold instead that even if Supreme Court erred in admitting both sets of statements, that error was harmless.

Because the error in admitting the statements would have violated defendant's *Miranda* rights, "the constitutional test for harmless error applies" (*People v Goldstein*, 6 NY3d 119, 129 [2005]). Under that test, we "must first consider whether the evidence of a

defendant's guilt is overwhelming. If the proof was overwhelming, we must then consider whether there is a reasonable possibility that the error might have contributed to defendant's conviction" (*People v Ortega*, 40 NY3d 463, 478 [2023] [internal quotation marks, citation, and brackets omitted]; *see People v Vasquez*, 36 NY3d 1066, 1067 [2021] [analyzing whether "the jury would have acquitted defendant but for the" error]).

At trial, the People introduced significant, comprehensive, and direct evidence apart from defendant's statements that proved defendant possessed a loaded firearm and possessed it with the intent to use it unlawfully (*see* Penal Law § 265.03 [1] [b]; [3]). That evidence included the testimony of two officers who responded to the area of defendant's residence at approximately 10:30 p.m. after receiving a shots-fired alert. The officers, one of whom was just "twenty feet from [defendant's] house," "heard what sounded like people arguing," saw the muzzle flash from a gun, and then observed and heard a man in a "white shirt" and "jean shorts" firing shots from the roof of defendant's garage. "[I]mmediately after" the shots, an officer saw the shooter "either fall[ ] or jump[ ]" from the roof into defendant's backyard. The officers responded to defendant's backyard within minutes and found defendant, wearing a "white shirt and jean bottoms" with "a pretty significant injury to his left leg." This sequence of events was corroborated by body-worn camera footage played for the jury. Police then searched the yard and found a magazine, spent casings, and a gun just a few feet from where they found defendant. An expert witness tested the gun, the casings, and bullets from the magazine and concluded that the spent casings were ejected from the gun. And an investigator testified that she responded to the hospital—

where defendant was being treated for his injuries—"to determine who [was] the primary aggressor" in the incident.

Even without considering the contested statements, the evidence overwhelmingly established that defendant unlawfully possessed a firearm. The officers' testimony, the body-worn camera footage, and the investigator's testimony clearly established that defendant—who was apprehended minutes after the shooting while wearing clothes that matched two officers' contemporaneous descriptions of the shooter's clothes, who was found with "a pretty significant injury to his left leg" at the base of the roof from which the shooter "had either fallen or jumped" just minutes earlier, and who was apprehended a few feet away from where the subject weapon was located—was the shooter. Nor was there a reasonable possibility that the error might have contributed to defendant's conviction. The statements do not, on their own, serve to establish that defendant was the shooter.[1] They require context to understand (*cf. People v Hardy*, 4 NY3d 192, 198 [2005] [holding that the erroneous admission of a plea allocution statement into evidence was not harmless where the "allocution was used precisely to stitch all the evidence together" and "corroborated most of the People's evidence," while the other evidence was either

[1] In the backyard, one officer said defendant "picked the wrong night"; defendant said, "I know"; the officer asked him, "so why?"; and defendant responded, "because the guy kept coming to the front of the house." Defendant also said to an officer that he "was protecting [his] family" and that someone "literally stabbed my son. What would you have done?" In the hospital, one of the investigators said, "[w]hat about you shooting at him with the gun?," and defendant again said, "[w]hat was I supposed to do? He stabbed my son." He also said that he kept an "automatic" gun for the day he would need it for self-defense, and "apparently, it came to the damn day."

circumstantial or unreliable]), and they are conflicted by defendant's concurrent statements denying that he threw a gun from the roof. Defendant did not once say, during either encounter with the police, that he had either fired a gun that evening or intended to use one unlawfully, nor did he direct the police to where they could find the gun (*cf. Matter of Delroy S.*, 25 NY3d 1064 [2015] [error was not harmless where the erroneously admitted statement was an admission]).[2] Instead, the evidence to establish those facts came from the police's observations and the ballistics evidence. To put it simply: given that the police observed defendant fire the gun, that a K-9 unit found the gun in defendant's backyard a short time later, and that scientific evidence showed that the recovered gun fired the bullets, it is unreasonable to suggest that the jury would have acquitted defendant but for the statements he made. Accordingly, any error in admitting defendant's statements was clearly harmless.

The majority does not engage in this harmless error analysis. Instead, it notes only that it "would conclude that any error in failing to suppress the statements made in the

[2] The People primarily relied on the hospital statements to establish a motive for the charged crime of criminal possession of a weapon with the intent to use it unlawfully against another (Penal Law § 265.03 [1] [b]). But, as the trial judge explained during the jury charge, motive is not an element of the charged weapon-possession offenses (*see id.* § 265.03 [1] [b]; [3]). To the extent that evidence of defendant's motive was probative of his intent to use the gun unlawfully (*see id.* § 265.03 [1] [b]), ample evidence aside from the statements established that intent, including the evidence that defendant actually fired the gun (*see People v Muhammad*, 17 NY3d 532, 543 [2011] [noting that "intent to use . . . weapons unlawfully could reasonably be inferred from their criminal use"]) and that the shots followed "what sounded like people arguing" (*see People v Farmer*, 194 NY 251, 272 [1909] ["When a crime has been fully proven, the nature and extent of the motive is unimportant"]).

backyard was harmless" "[i]f defendant's later statements at the hospital were admissible" (majority op at 5). I agree (*see e.g. People v Paulman*, 5 NY3d 122, 134 [2005]), but I would not stop there. The evidence the People adduced at trial shows that any error in admitting *both* contested statements was harmless beyond a reasonable doubt. The majority ignores this overwhelming evidence, needlessly remits this case to an already overburdened lower court, and abandons common sense along the way.

I dissent.

Order reversed, so much of defendant's motion as sought to suppress his statements from the backyard granted and case remitted to Supreme Court, Monroe County, for further proceedings in accordance with the opinion herein. Opinion by Judge Cannataro. Chief Judge Wilson and Judges Rivera, Troutman and Halligan concur. Judge Singas dissents in an opinion, in which Judge Garcia concurs.

Decided November 24, 2026