ADVANCE SHEET HEADNOTE
December 18, 2023

2023 CO 62

No. 23SA187, *People v. Sanders*—Criminal Law—Custodial Interrogation—*Miranda* Warnings—Statements by Accused—Voluntariness of Statement—Evidence Wrongfully Obtained—Appellate Brief Defects.

The supreme court holds that where a district court orders evidence suppressed on the separate bases of custody and voluntariness, an appellant challenging that order must address both bases for suppression to prevail on appeal. In doing so, it is the appellant's responsibility to set forth the grounds upon which its argument relies, with citations to the relevant authorities and parts of the record. Here, the People challenged the district court's custody determination but failed to address the court's voluntariness determination, which established an independent basis for suppression. Accordingly, the supreme court must uphold the district court's suppression order.

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

2023 CO 62

Supreme Court Case No. 23SA187
Interlocutory Appeal from the District Court
Fremont County District Court Case No. 20CR594
Honorable Lynette Mary Wenner, Judge

Plaintiff-Appellant:

The People of the State of Colorado,

v.

Defendant-Appellee:

John J. Sanders, Jr.

Order Affirmed
en banc
December 18, 2023

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JUSTICE MÁRQUEZ delivered the Opinion of the Court, in which **JUSTICE HOOD**, **JUSTICE GABRIEL**, **JUSTICE HART**, **JUSTICE SAMOUR**, and **JUSTICE BERKENKOTTER** joined.
CHIEF JUSTICE BOATRIGHT dissented.

JUSTICE MÁRQUEZ delivered the Opinion of the Court.

¶1 The People filed this interlocutory appeal pursuant to section 16-12-102(2), C.R.S. (2023), and C.A.R. 4.1(a),[1] seeking review of the district court's order suppressing inculpatory statements made by Defendant John J. Sanders, Jr. The suppression order held that (1) Sanders's statements were elicited during a custodial interrogation without proper warnings as required by *Miranda v. Arizona*, 384 U.S. 436 (1966), and (2) the statements were not voluntary. Although the People challenged the district court's ruling as to custody, they failed to sufficiently challenge the court's separate ruling as to voluntariness. Because the district court's latter ruling provided an independent basis for suppression and was not challenged on appeal, we must affirm the district court's order.

I. Facts and Procedural History

¶2 The People alleged that Sanders repeatedly sexually assaulted his granddaughter, I.B., between June 21, 2009 and August 20, 2019. He was charged in Fremont County District Court with sexual assault on a child by one in a position of trust pursuant to sections 18-3-405.3(1)–(2), C.R.S. (2023).

[1] The People certified that this appeal was not taken for purposes of delay, and that the evidence is a substantial part of the proof of the charge pending against the defendant. *See* C.A.R. 4.1(a).

¶3 The police began investigating Sanders in 2020 after two of his granddaughters, including I.B., disclosed his alleged abuse.[2] As part of that investigation, Detective Smelser of the Cañon City Police Department traveled to Sanders's residence in Great Bend, Kansas. The detective arrived at Sanders's home the morning of September 25, 2020, where he spoke with Sanders's wife, Marla Sanders. Detective Smelser let Marla know he wanted to speak with Sanders, and Marla agreed to bring Sanders with her to the Great Bend Police Station later that day so the two could speak.

¶4 Detective Smelser's conversation with Sanders took place in an interview room at the police station. The interview room was unlocked, and the detective told Sanders he was not under arrest, would not be arrested that day, and was free to leave at any time. At no point did Detective Smelser read Sanders his *Miranda* rights.

¶5 Sanders later filed a motion to suppress his statements from the September 25 police station interview, arguing that the statements (1) were obtained during a custodial interrogation in violation of *Miranda* and (2) were not made voluntarily.

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[2] Another of Sanders's granddaughters, K.B., similarly disclosed that Sanders abused her in Luray, Kansas, but the instant case solely concerns Sanders's alleged abuse of I.B. in Colorado.

¶6 Following a hearing on the motion, the district court agreed on both points and ordered the suppression of Sanders's statements. In its written order, the court found that Sanders had been subjected to two phases of questioning over a period of approximately one hour and forty minutes: during the first phase, he was compelled to provide circumstantial evidence of his guilt, and during the second phase, he was compelled to confess and prove to Detective Smelser that he was the "good kind" of offender.

¶7 Building from these findings, the district court conducted separate legal analyses to determine whether Sanders was in custody for purposes of *Miranda*, and whether his statements were voluntarily made. The court's custody analysis considered the totality of the circumstances surrounding the interrogation and applied the custody factors listed in *People v. Matheny*, 46 P.3d 453, 462 (Colo. 2002). Following that analysis, the court concluded that Sanders had been subjected to a custodial interrogation, requiring law enforcement to advise him of his *Miranda* rights. Next, the court examined the voluntariness of Sanders's statements by listing seven factual findings relevant under *People v. Gennings*, 808 P.2d 839, 844 (Colo. 1991), including Smelser's use of implied promises and arguably false evidence of Sanders's guilt.[3] Considering those factors under the totality of the

[3] While the district court did not cite *Gennings* in its suppression order, its findings plainly track the factors listed in that case.

circumstances, the court concluded that Sanders's statements were not truly voluntary and had been effectively coerced by law enforcement.

¶8 The court therefore ordered Sanders's statements suppressed on the basis of both the custody and voluntariness findings, concluding: "Not only should Mr. Sanders'[s] statements be suppressed because Mr. Sanders made them during a custodial interrogation without a valid Miranda advisement and waiver, they must be suppressed because the statements were not voluntary."

¶9 The People now seek interlocutory review pursuant to section 16-12-102(2) and C.A.R. 4.1(a). In their notice of appeal, the People characterized the sole issue to be raised as "[w]hether the district court err [sic] in finding that the Defendant was in custody during a knock-and-talk in his home." Consistent with their notice of appeal, the People's opening brief presented only one issue for review: "Whether the trial court erred in finding that the Defendant was in custody for purposes of *Miranda* during a voluntary interview at the Defendant's local police station; and thus, whether the trial court erred in suppressing the Defendant's statements." The People did not separately challenge the district court's voluntariness ruling.

II. Standard of Review

¶10 Whether a suspect was in custody for purposes of *Miranda* and whether the suspect's confession was involuntary are mixed questions of law and fact with constitutional implications that we review de novo. *Matheny*, 46 P.3d at 461–62.

III. Analysis

A. Relevant Law

¶11 Both the United States Constitution and Colorado Constitution guarantee the privilege against self-incrimination, providing that "[n]o person shall . . . be compelled in any criminal case to be a witness against himself." U.S. Const. amend. V; *see also* Colo. Const. art. II, § 18 ("No person shall be compelled to testify against himself in a criminal case . . . ."). But if an individual does give incriminating statements, both the Fifth and Fourteenth Amendments require such statements to be made voluntarily to be admitted into evidence. *Sanchez v. People*, 2014 CO 56, ¶ 11, 329 P.3d 253, 257 (citing *Dickerson v. United States*, 530 U.S. 428, 433 (2000)); *see also Jackson v. Denno*, 378 U.S. 368, 376 (1964) ("It is now axiomatic that a defendant in a criminal case is deprived of due process of law if his conviction is founded, in whole or in part, upon an involuntary confession, without regard for the truth or falsity of the confession.").

¶12 Recognizing the inherently coercive nature of custodial police interrogations, the United States Supreme Court set forth specific safeguards to

protect the privilege against self-incrimination. *Miranda*, 384 U.S. at 478–79. Prior to conducting a custodial interrogation, law enforcement must advise a suspect of their *Miranda* rights—that a suspect has the right to remain silent; that anything they say may be used against them in a court of law; that they have the right to have an attorney present; and that if they cannot afford an attorney, one will be appointed for them prior to questioning if they so wish. *Id.* at 479. Statements made during a custodial interrogation in the absence of a *Miranda* warning are presumed to have been compelled and must be excluded from the prosecution's case-in-chief. *Oregon v. Elstad*, 470 U.S. 298, 317 (1985).

¶13 For purposes of *Miranda*, a person is in custody "if [they] ha[ve] been formally arrested or if, under the totality of the circumstances, a reasonable person in the suspect's position would have felt that [their] freedom of action had been curtailed to a degree associated with formal arrest." *People v. Garcia*, 2017 CO 106, ¶ 20, 409 P.3d 312, 317. We have outlined a non-exhaustive list of factors relevant to *Miranda* custody determinations, *Matheny*, 46 P.3d at 465–66 (listing factors), but recognize that no single factor is determinative and that courts are not limited in the number of factors they may consider, *People v. Minjarez*, 81 P.3d 348, 353 (Colo. 2003).

¶14 Our inquiry into the voluntariness of a confession is similar but distinct. To be voluntary, "a statement must be the product of an essentially free and

unconstrained choice," *People v. Klinck*, 259 P.3d 489, 495 (Colo. 2011), and cannot have been the product of coercive government conduct that actually overbore the suspect's will, *Cardman v. People*, 2019 CO 73, ¶ 22, 445 P.3d 1071, 1079–80. We make this determination by considering "the totality of the circumstances surrounding the statements." *Id.* at ¶ 22, 445 P.3d at 1079 (quoting *People in Int. of Z.T.T.*, 2017 CO 48, ¶ 12, 394 P.3d 700, 703). A thorough but non-exhaustive list of factors—which overlaps with but does not duplicate the *Miranda* custody determination factors—guides our voluntariness analysis. This list includes:

> whether the defendant was in custody or was free to leave and was aware of his situation; whether Miranda warnings were given prior to any interrogation and whether the defendant understood and waived his Miranda rights; whether the defendant had the opportunity to confer with counsel or anyone else prior to the interrogation; whether the challenged statement was made during the course of an interrogation or instead was volunteered; whether any overt or implied threat or promise was directed to the defendant; the method and style employed by the interrogator in questioning the defendant and the length and place of the interrogation; and the defendant's mental and physical condition immediately prior to and during the interrogation, as well as his educational background, employment status, and prior experience with law enforcement and the criminal justice system.

Gennings, 808 P.2d at 844.

¶15 Not surprisingly, the *Gennings* voluntariness factors include whether a defendant was in custody and whether *Miranda* warnings were given prior to any interrogation. *Id.* Therefore, a custody determination will have some bearing on a voluntariness analysis. "Custody, however, is only one factor to consider and is

not indispensable to a finding of voluntariness." *Id.* at 846. Accordingly, a statement may have been procured involuntarily even if the suspect was not in custody. *See, e.g.*, *People v. McIntyre*, 789 P.2d 1108, 1110 (Colo. 1990) ("The admission of a defendant's involuntary confession offends the Due Process clause of the fourteenth amendment, whether or not the defendant was in custody when the confession was made."); *People v. Parada*, 533 P.2d 1121, 1123 (Colo. 1975) (holding that the defendant's statement to investigators at a social services office was not custodial but was nonetheless involuntarily obtained as the result of an implied promise).

B. The People's Procedural Obligations as Appellants

¶16 To prevail on appeal, the People needed to address both bases for the district court's suppression ruling: custody and voluntariness. It is an appellant's responsibility to set forth "a clear and concise discussion of the grounds upon which [it] relies . . ., with citations to the authorities and parts of the record on which the appellant relies," C.A.R. 28(a)(7)(B), and we do not "assume the mantle" when an appellant fails to offer supporting argument or authority for their claims, *Vallagio at Inverness Residential Condo. Ass'n v. Metro. Homes, Inc.*, 2017 CO 69, ¶ 40, 395 P.3d 788, 795 (first citing *Farrell v. Bashor*, 344 P.2d 692, 693 (Colo. 1959), and then citing *Barnett v. Elite Props. of Am., Inc.*, 252 P.3d 14, 19 (Colo. App. 2010)). Nor

do we consider bald legal propositions presented without argument or development. *Vallagio*, ¶ 40, 395 P.3d at 795 (citing *Barnett*, 252 P.3d at 19).

C. Application

¶17 Although the People challenged the district court's finding regarding custody, they failed to sufficiently address the district court's separate basis for suppression: that Sanders's statements were not voluntary. Accordingly, regardless of whether we agree with the People on the issue of custody, we must affirm the district court's suppression order.

¶18 The People's notice of appeal lists a single issue—whether the district court erred in finding that Sanders was in custody during a knock-and-talk. The People's opening brief frames the sole issue presented for review as whether the district court erred in its finding that Sanders was in custody for purposes of *Miranda* during a "voluntary interview." The focus of the People's brief is limited to the district court's custody finding; the sole argument section header reads "The Defendant was not in custody for purposes of *Miranda*," and the summary of the People's argument fails to mention voluntariness at all. The People's discussion of applicable case law is limited to a custody analysis for *Miranda* purposes. They present no case law relevant to the independent assessment of voluntariness, and their brief fails to develop any legally supported argument as to the voluntariness of Sanders's statements in this case. Although the People twice assert that

Sanders's statements were made voluntarily, these conclusory statements are unsupported by legal arguments or relevant authorities. Other references to the word "voluntary" appear only in support of the People's argument regarding the *custody* analysis.

¶19 The issues of custody and voluntariness, while related, remain distinct. Here, the district court concluded that suppression was warranted on both grounds. Thus, even if we were to agree with the People that the district court erred in its custody determination, we would be required to affirm the district court's order on the ground that Sanders's confession was not voluntary because the People failed to challenge that independent basis for suppression. *See People v. Archer*, 2022 COA 71, ¶ 42, 518 P.3d 1143, 1152 (noting that an appellant's failure to challenge each alternative ground for a district court's ruling requires affirmance). Because we must affirm the district court's order on that basis, any resolution of the custody issue is unnecessary, and we accordingly decline to reach the merits of that issue. *See A.O. Smith Harvestore Prods., Inc. v. Kallsen*, 817 P.2d 1038, 1039 (Colo. 1991) (declining to address an issue that was unnecessary to the disposition of the appeal).

IV. Conclusion

¶20 Because the People's appeal failed to challenge the district court's finding that Sanders's statements were not made voluntarily, we must affirm the district court's suppression order.

CHIEF JUSTICE BOATRIGHT dissented.

CHIEF JUSTICE BOATRIGHT, dissenting.

¶21 I agree with the majority that the People sufficiently challenged the district court's decision regarding custody. Maj. op. ¶ 17. However, I respectfully dissent because I disagree with the majority's conclusion that the People did not sufficiently challenge the district court's voluntariness determination. In my view, the People's brief sufficiently contested voluntariness. Therefore, I believe we should have reached the merits of both the custody and voluntariness bases of the district court's suppression order. In reviewing the suppression order, I conclude it should be reversed because Defendant John J. Sanders, Jr. was not in custody, nor were his statements involuntary. Importantly, the officer's statements that gave the trial court concern were not made until the last ten minutes of the approximately hour-and-a-half interview, and Sanders made no inculpatory statements during those last ten minutes. Hence, I respectfully dissent and would reverse the district court's order suppressing Sanders's statements.

I. Sufficiency of the People's Interlocutory Appeal

¶22 To begin, I recognize that the People's brief did not provide robust arguments regarding voluntariness. But to say that it is so utterly lacking in argument that we can't even consider voluntariness goes too far in my opinion. Qualitative shortcomings should not override our sufficiency inquiry, which I think was satisfied here via formal, factual, and legal arguments sufficiently

challenging the district court's order regarding both the custody and voluntariness issues.

¶23 Formally, the People invoked voluntariness in the issue statement of their brief, "Whether the trial court erred in finding that the Defendant was in custody for purposes of Miranda *during a voluntary interview* at the Defendant's local police station . . . ." (Emphasis added.) The People raised the voluntariness issue elsewhere, for example, "Following the caselaw set forth from the Supreme Court and the Colorado Supreme Court, the Defendant was not in custody for purposes of Miranda; his statements should not be suppressed at trial; and they were voluntary." Granted, I agree with the majority insofar as these invocations would amount to insufficient briefing on their own. *See* C.A.R. 28(a)(7)(B) (requiring "citations to the authorities and parts of the record on which the appellant relies"); Maj. op. ¶ 16 (holding that "we do not assume the mantle when an appellant fails to offer supporting argument or authority for their claims" (internal quotation marks omitted)). The People's brief, however, included factual and legal support regarding voluntariness.

¶24 Factually, the People briefed three arguments to support the contention that Sanders's statements were voluntary: Sanders "voluntarily drove himself and his wife" to the police station to be interrogated; he "volunteered information without a single prompting question"; and "he was allowed to leave the interview at any

time." Even though incanting "voluntarily" before factual statements does not automatically make them pertinent to a voluntariness analysis, those three contentions are relevant here. *See Cardman v. People*, 2019 CO 73, ¶ 23, 445 P.3d 1071, 1080 (holding that whether someone is in custody, free to leave, had the opportunity to confer with anyone prior to interrogation, and the method of the interrogation are relevant voluntariness considerations).[1] Thus, the People argued facts based on the record to explain their conclusion. This satisfies the briefing standard. *See Vallagio at Inverness Residential Condo. Ass'n v. Metro. Homes, Inc.*, 2017 CO 69, ¶ 40, 395 P.3d 788, 795 (declining to address claims when the appellant "offers no supporting argument or authority").

¶25 Further, under our precedents, the People's arguments regarding custody weigh toward voluntariness too. *E.g.*, *Cardman*, ¶ 23, 445 P.3d at 1080 (considering custody first among the thirteen voluntariness factors and echoing custodial considerations in many of the remaining twelve voluntariness factors). Because we explicitly incorporate a custody analysis into our voluntariness determination, the issues are more than "similar," Maj. op. ¶ 14; rather, any argument and

[1] While the People did not cite *Cardman*, the facts they argue plainly track the factors listed in that case as derived from *People v. Gennings*, 808 P.2d 839, 844 (Colo. 1991). *See* Maj. op. ¶ 7 n.3 (noting that the district court's voluntariness factual findings were relevant, even though the court did not cite *Gennings*, because "its findings plainly track the factors listed in that case.").

authority regarding custody necessarily weighs toward voluntariness. *See Cardman*, ¶ 23, 445 P.3d at 1080; *see also People v. Gennings*, 808 P.2d 839, 846 (Colo. 1991) (noting that, although custody is not dispositive to a voluntariness analysis, it is still "one factor to consider"); Maj. op. ¶ 15 (noting "a custody determination *will* have some bearing on a voluntariness analysis" (emphasis added)). In my view, it is inappropriate for this court to hold that custody is the foremost consideration for voluntariness, then reject an appeal for insufficient briefing regarding voluntariness because it primarily focuses on custody. *Compare Cardman*, ¶ 23, 445 P.3d at 1080 (listing custody as the first factor to consider in a voluntariness determination), *with* Maj. op. ¶ 19 ("The issues of custody and voluntariness, while related, remain distinct.").

¶26 Consequently, the majority raised the briefing bar above what the law requires. Even though the briefing regarding voluntariness was not robust, I don't think anyone is left wondering what the question is here. Under what I think is the appropriate standard, the People sufficiently briefed both issues. Because this court should reach the merits of the People's challenge to the district court's suppression order, I next assess the district court's *Miranda* determinations. I respectfully dissent because Sanders's statements were voluntary, and he was not in custody.

II. The District Court's Suppression Order

¶27 While I largely agree with the majority's factual and procedural history, Maj. op. ¶¶ 2–9, I find a small supplement necessary as to the district court's order. The majority correctly observed that the district court "found that Sanders had been subjected to two phases of questioning over a period of approximately one hour and forty minutes." *Id.* at¶ 6. Importantly, the district court also wrote in its order that "[w]hile the initial portion of the interrogation may have suggested a non-custodial interrogation, the Court finds that Mr. Sanders was subjected to a custodial interrogation during the second phase of questioning carried out by Detective Smelser." Without regard to this distinction, the district court then went on to suppress the *entire* interrogation.

¶28 The district court did not specify when phase one of the interrogation ended, but "we may independently review audio-recorded interrogations." *People v. Padilla*, 2021 CO 18, ¶ 14, 482 P.3d 441, 445. Upon reviewing the recording, I heard the following: For the first hour of the ninety-minute interrogation, the discussion was conversational. Detective Smelser began by telling Sanders that the door was unlocked, and he could leave whenever. Sanders primarily led the discussion, explaining why he did not and could not have abused his step-grandchildren. Before Detective Smelser asked any substantive questions, Sanders offered a three-point explanation as to his innocence that lasted over five minutes. Detective

Smelser answered Sanders's questions regarding why the children would make accusations years after the alleged incidents. They discussed how, where, and who was around when Sanders wrestled with the children. These facts lead me to the conclusion that phase one was non-custodial. *See People v. Matheny*, 46 P.3d 453, 465–66 (Colo. 2002) (holding that an interrogation tends not to be custodial when the officer is non-confrontational, the officer speaks with a conversational tone, the officer answers the interviewee's questions, the mood is not intense, and the interviewee is free to leave). In sum, during the first hour and twenty minutes of the interview—phase one—Sanders was free to leave, he controlled the pace of the conversation, the detective was conversational, and no promises had been made. Therefore, up to that point, Sanders was not in custody, and his statements were voluntary. In fact, while making the unremarkable admission that he spent time with the children, he denied any wrongdoing throughout.

¶29 Over an hour into the interrogation, the mood began to shift. Detective Smelser transitioned from a conversational and non-accusatory mode of questioning in the manner of "help me figure out why the children made these accusations," to asking Sanders if the children were lying. Even with the change in mood, the interrogation remained conversational, the detective remained calm, and Sanders continued to deny any inappropriate conduct.

¶30 It is clear that "phase two" began in earnest when Detective Smelser returned to the interrogation room from a break about ten minutes before the interrogation ended. Then Detective Smelser repeatedly accused Sanders and declared Sanders guilty. The detective coupled his assertions with implied promises that he would help Sanders in exchange for a confession (e.g., "I want to be straight with you. I know this happened. . . . There's still going to be consequences but [someone who admits] is someone I can save."). In response to the detective's new aggressive mode, Sanders denied everything (e.g., "You guys are saying something that never happened."). Sanders ended the interview by asking if he was under arrest. Detective Smelser replied "no," and Sanders voluntarily exited. In my view, once the detective made promises in an attempt to gain admissions, the interrogation was no longer voluntary. *See Cardman*, ¶ 27, 445 P.3d at 1080 (concluding that the officers' "repeated promises during the interrogation . . . [were] dispositive" to a voluntariness analysis).[2]

¶31 The district court's decision to suppress the entire interrogation, however, is not supported by the record. Notably, the district court correctly made a meaningful distinction between the non-confrontational phase one and

[2] Although I believe the detective's promises are relevant to a voluntariness analysis, Sanders did not make any admissions in response, thus rendering the analysis moot.

subsequent confrontational phase two, but then suppressed the entire interrogation because of the second phase. An interrogation that begins as non-custodial and voluntary may become custodial or involuntary. *See Matheny*, 46 P.3d at 467 (acknowledging that an initially non-custodial interrogation may be "convert[ed]" into a custodial interrogation by intervening events "during the interview"). But that does not mean the entire interrogation required a *Miranda* warning to be admissible. When a discrete phase of an interrogation does not violate *Miranda*, but a subsequent phase does, there is only one proper course: suppress only the statements from the subsequent phase. *E.g.*, *People v. Ramadon*, 2013 CO 68, ¶ 3, 314 P.3d 836, 838 (affirming the district court's order suppressing only the latter part of an interrogation but adjusting the order to become effective at the fifty-four minute mark rather than the district court's forty-second minute mark).

¶32 Regarding voluntariness, the district court made three findings without support in the record. First, the finding that "Sanders was never given the opportunity to confer with counsel prior to the interrogation" is in my view speculation. Because Sanders drove to the police station after the police left word with his wife that they would like to interview him, he had the opportunity to consult with counsel. The record is silent as to whether Sanders tried to speak with an attorney. Second, the finding that "[a]ll of [Sanders's] statements were

made in the course of an interrogation where detectives asked accusatory questions" is contradicted by phase one of the interrogation, where the questions were non-confrontational and, frankly, Sanders denied committing any improper acts. Third, the finding that "[m]ultiple implied promises were made by detectives, including implying that it was in Mr. Sanders'[s] best interest to answer questions" only applies to the last ten minutes of the interrogation, so it too cannot be retroactively applied to the preceding hour and twenty minutes. Because Sanders at least had the opportunity to consult with counsel, and two of the weightiest factors in favor of the district court's finding only arose in the second phase, the first phase of the interrogation was neither custodial nor involuntary. *See Cardman*, ¶ 23, 445 P.3d at 1080 (holding that an interrogation tends to be voluntary when the interviewee was not in custody, was free to leave, had the opportunity to confer with counsel or anyone else, and the method or style of the interrogation was relaxed).

¶33 Significantly, the district court did not explain why the key factors weighing toward custody and involuntariness that arose in the final ten minutes of the interrogation justified the suppression of the statements made during the first hour and twenty minutes. Therefore, I respectfully dissent. This court should reverse the district court's order because the first hour and twenty minutes of the

interrogation was not custodial, none of the statements made by Sanders were involuntary, and no inculpatory statements were elicited in the closing minutes.