

NOTICE

This is a summary disposition issued under Alaska Appellate Rule 214(a). Summary disposition decisions of this Court do not create legal precedent and are not available in a publicly accessible electronic database. See Alaska Appellate Rule 214(d).

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

MICHAEL J. MILLS,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-12671

Trial Court No. 3PA-14-03806 CR

SUMMARY DISPOSITION

No. 0075 — October 2, 2019

Appeal from the Superior Court, Third Judicial District, Palmer,
Kari C. Kristiansen, Judge.

Appearances: Olena Kalytiak Davis, Attorney at Law, under contract with the Office of Public Advocacy, Anchorage, for the Appellant. Ann B. Black, Assistant Attorney General, Office of Criminal Appeals, Anchorage, and Jahna Lindemuth, Attorney General, Juneau, for the Appellee.

Before: Allard, Chief Judge, and Wollenberg and Harbison, Judges.

Michael J. Mills was convicted, following a jury trial, of felony driving under the influence.¹ Prior to trial, Mills moved to suppress statements that he made to the trooper who conducted the initial stop. Mills argued that his statements should be suppressed because the trooper subjected him to custodial interrogation without providing the required warnings under *Miranda v. Arizona*.² Following an evidentiary hearing, the superior court denied the motion to suppress, finding that the trooper's questioning did not rise to the level of custodial interrogation and *Miranda* warnings were therefore not required. Mills challenges this ruling on appeal, renewing his claim that he was subjected to custodial interrogation under *Miranda*.

Whether a defendant is subjected to custodial interrogation under *Miranda* is a mixed question of fact and law.³ On appeal, this Court accepts the trial court's factual findings regarding the circumstances of the interrogation unless they are clearly erroneous, and we then independently determine whether the defendant was in custody based on the totality of the circumstances.⁴ An interrogation is "custodial" under *Miranda* if there is "restraint on freedom of movement of the degree associated with a

¹ AS 28.35.030(n).

² *Miranda v. Arizona*, 384 U.S. 436, 444 (1966) (requiring exclusion of statements made by a suspect during custodial interrogation unless the suspect is first warned "that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed").

³ *State v. Smith*, 38 P.3d 1149, 1153 (Alaska 2002).

⁴ *Shay v. State*, 258 P.3d 902, 905 (Alaska App. 2011).

formal arrest,”⁵ such as when the suspect “is detained under circumstances substantially more coercive than the typical traffic stop.”⁶

Here, the superior court found that the trooper’s questioning was consistent with that of a typical traffic or investigative stop, and was primarily directed at determining whether Mills had driven while intoxicated and whether Mills was safe to drive. We have reviewed the record, and we conclude that these findings are well supported.

On appeal, Mills points to no circumstances that differentiate his case from a typical investigative stop. Thus, viewed under the totality of the circumstances, we conclude that this was a routine investigative stop that did not rise to the level of custodial interrogation under *Miranda*.⁷

The judgment of the superior court is AFFIRMED.

⁵ *Kalmakoff v. State*, 257 P.3d 108, 121 (Alaska 2011) (quoting *State v. Smith*, 38 P.3d 1149, 1154 (Alaska 2002)).

⁶ *Blake v. State*, 763 P.2d 511, 515 (Alaska App. 1988).

⁷ *See, e.g., Shay*, 258 P.3d at 905-06 (suspect who was questioned after high-speed chase and told to “have a seat” on bumper of patrol vehicle was not subjected to custodial interrogation for purposes of *Miranda*); *McCollum v. State*, 808 P.2d 268, 269 (Alaska App. 1991) (suspect not “in custody” for purposes of *Miranda* even though suspect was questioned in trooper’s vehicle); *Charles v. State*, 2012 WL 4465198, at *3 (Alaska App. Sept. 26, 2012) (unpublished) (officer’s accusatory statements to suspect that he thought suspect was lying were not, by themselves, enough to establish *Miranda* custody); *Parker v. State*, 2004 WL 1475383, at *1, *4 (Alaska App. June 30, 2004) (unpublished) (suspect not “in custody” for purposes of *Miranda* during initial DUI investigation).