

IN THE SUPREME COURT OF THE STATE OF NEVADA

THE STATE OF NEVADA,

Appellant,

vs.

MAMUN MURSHED,

Respondent.

No. 34770

**FILED**

**NOV 19 1999**

JANETTE M. BLOOM  
CLERK OF SUPREME COURT  
BY *J. Bloom*  
CHIEF DEPUTY CLERK

ORDER DISMISSING APPEAL

This is an appeal from an order of the district court granting respondent's motion to suppress evidence. The state argues that videotape evidence of the police questioning should not have been suppressed because no custodial interrogation took place. We disagree.

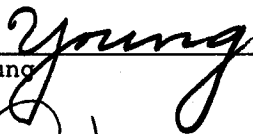
This court considers the totality of the circumstances in determining whether a criminal defendant was in custody during police questioning. *Alward v. State*, 112 Nev. 141, 154, 912 P.2d 243, 252 (1996). "Important considerations include the following: (1) the site of the interrogation, (2) whether the investigation has focused on the subject, (3) whether the objective indicia of arrest are present, and (4) the length and form of questioning." *Id.* at 154-55, 912 P.2d at 252.

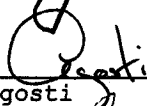
As to the first factor, after being transported in a police vehicle, respondent was questioned at the police station. Second, respondent was the only subject in the investigation. Third, the detective told respondent that he was making the questioning last longer than it needed to by "making it more difficult than it is." The detective persisted with questioning despite respondent's expression that he did not want to talk about the matter any longer. Fourth, the questioning lasted for nearly two hours and consisted primarily

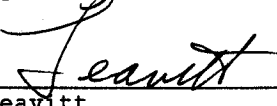
of repeated accusatory statements rather than questions. Taking these factors into account, we conclude that the interrogation was custodial. By failing to advise respondent of his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966), prior to this interrogation, the police violated respondent's constitutional rights. Therefore, the district court properly granted respondent's motion to suppress the police interview.

The district court, however, reasoned only that respondent's constitutional rights were violated "[b]ecause the defendant was questioned at the police station without having first been advised of his constitutional rights." While this reasoning is not entirely reflective of the analysis above, we conclude that the district court reached the correct result. See *Franco v. State*, 109 Nev. 1229, 1241, 866 P.2d 247, 255 (1993). Therefore, having reviewed the points and authorities filed by the state in support of this appeal, we conclude that the state has not shown good cause why this appeal should be entertained. See NRS 177.015(2). Accordingly, we

ORDER this appeal dismissed.

  
\_\_\_\_\_, J.  
Young

  
\_\_\_\_\_, J.  
Agosti

  
\_\_\_\_\_, J.  
Leavitt

cc: Hon. Steven R. Kosach, District Judge  
Attorney General  
Washoe County District Attorney  
Kenneth J. McKenna  
Washoe County Clerk