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IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT INDEPENDENCE

STATE OF MISSOURI,	)	
	)	
Plaintiff,	)	
	)	Case No. 0916-CR03704-01
vs.	)	
	)	Division 17
JEFFREY S. SAUERBRY,	)	
	)	
Defendant.	)	

JUDGMENT

Now on this \_\_\_\_\_ day of Nov., 2011 the Court takes up for consideration Defendant’s Motion to Suppress Statements filed on September 29, 2011 together with the State’s Motion in Opposition thereto filed on October 11, 2011. A hearing was held on October 27, 2011. The State was represented by Assistant Prosecuting Attorneys Alison Dunning and Megan Wiese. The Defendant appeared in person and by counsel, Leon Munday. After the presentation of evidence, including the testimony of four Independence Missouri Police Department detectives, as well as the briefs and arguments of counsel and due consideration of the same, the Court finds as follows:

Regarding the July 8, 1998 interviews:

1. Defendant was interviewed in two separate interviews by members of the Independence Missouri Police Department (IPD) on July 8, 1998. The first interview commenced in the morning and continued until the afternoon and will be referred to as Interview 1. The second interview commenced in the evening and will be referred to as Interview 2.
2. At the beginning of Interview 1, Defendant was advised of his rights pursuant to *Miranda* in the presence of a detective and voluntarily, knowingly and intelligently waived his rights. Defendant signed a Warning of Rights form, introduced as State’s Exhibit 2.

3. In the course of Interview 1, a detective credibly reported that Defendant stated “I’d like to talk to an attorney first, can I call one?” The Court finds this to be 2 utterances; the first is an unequivocal demand for counsel and the second was a request to call one. The detectives were therefore not permitted to engage in further interrogation absent a reinitiation of the interview by Defendant.

4. Defendant was provided a phone book and access to a phone by one of the detectives who remained in the room with Defendant while he made two phone calls. Defendant concluded the calls and asked the detective what was happening with “his case”. The Court finds that Defendant himself reinitiated the conversation with the detective and that it was not the result of improper continued interrogation by the detective. Defendant was re-advised of his *Miranda* rights and voluntarily, knowingly and intelligently waived his rights and continued to speak with the detectives. Interview 1 concluded sometime in the afternoon when detectives escorted Defendant to a holding cell.

5. Defendant was recontacted later that evening to be interviewed after the discovery of a gun and a knife in his room. Interview 2 began by Defendant being readvised of his *Miranda* rights and voluntarily, knowingly and intelligently waiving his rights. Defendant told the detective during this interview that “he needed to have a lawyer with him to give me a statement about what happened.” This statement by Defendant was an unequivocal invocation of his 5<sup>th</sup> Amendment right to counsel and the questioning should have ceased. However, several detectives continued to ask Defendant questions. This further questioning was improper.

6. The statements made before Defendant stated that “he needed to have a lawyer with him to give me a statement about what happened” in Interview 2 were freely, voluntarily and

knowingly given with full knowledge of the nature of his statements and the consequences of giving those statements.

Regarding the July 24, 2009 interview:

7. The State stipulates to Defendant's motion.

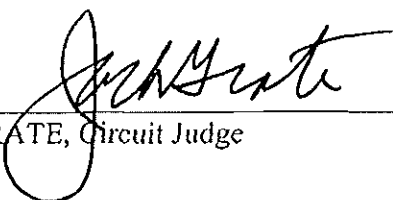
Accordingly,

IT IS HEREBY ORDERED that Defendant's Motion to Suppress Statements is denied in part and granted in part as to the statement of July 8, 1998. All statements made by Defendant to detectives after the Defendant stated that "he needed to have a lawyer with him to give me a statement about what happened" during Interview 2 are suppressed and Defendant's motion is GRANTED as to all statements after this comment. Defendant's motion is DENIED as to all statements made before that comment.

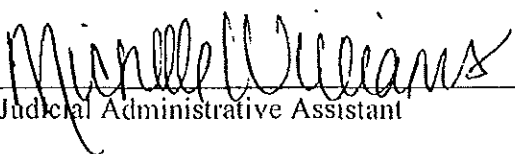
IT IS FURTHER ORDERED that Defendant's Motion to Suppress is GRANTED as to Defendant's statements to detectives on July 24, 2009.

IT IS SO ORDERED.

11/3/11  
Date

  
\_\_\_\_\_  
JACK GRATE, Circuit Judge

cc:  
Alison Dunning-881-4426  
Leon Munday-889-2999

  
\_\_\_\_\_  
Judicial Administrative Assistant