MEMORANDUM DECISION

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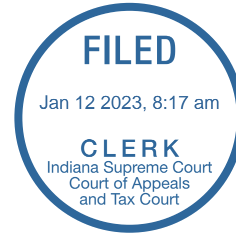

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IN THE COURT OF APPEALS OF INDIANA

Jamilia Shenese Hodge,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

January 12, 2023

Court of Appeals Case No. 22A-CR-1210

Appeal from the Lake Superior Court

The Honorable Salvador Vasquez, Judge

Trial Court Cause No. 45G01-1705-MR-5

Brown, Judge.

[1] Jamilia Shenese Hodge appeals her conviction for murder and argues the trial court erred in admitting her statements made during a police interrogation. We affirm.

Facts and Procedural History

[2] On the morning of May 4, 2017, 911 received a phone call and dispatched an officer for a death investigation. When Gary Police Patrolman Phillip Cook arrived and observed Hodge, she was "calm, cool, and collected." Transcript Volume IV at 120. He found E., a twenty-month-old infant, dead in her crib, and he noted unusual signs based on E.'s condition and determined the death was not natural. The Lake County coroner determined E.'s cause of death to be asphyxia due to suffocation complicated with blunt force trauma to the head. After speaking with Hodge, she, her boyfriend, Fred Grant, and Grant's brother, Brian Boyd, were transported to the police station and provided separate statements. On May 4, 2017, detectives placed Hodge in an interview room from approximately 4:00 p.m. until 10:30 p.m. and questioned her. At the beginning of the interview, Detective Jeremy Ogden of the City of Gary Police Department asked Hodge if she could read and write and gave her a document, titled "STATEMENT OF CONSTITUTIONAL RIGHTS AND WAIVER," which included an advisement of rights and a section titled "Waiver," stating "I understand what my rights are, and I am willing to answer questions." Exhibits Volume I at 91. After instructing Hodge to read the first two lines aloud, Hodge began reading, and Detective Ogden stated that she could read the rest silently. Once she stopped reading the document, Detective

Ogden stated: "So I am Detective Sergeant Jeremy Ogden and that is Detective Ed Gonzalez, uh, and we're both with Lake County Metro, and uh, that's you. It's 3:59 [p.m.] on [May 4, 2017] is when this has occurred. I'll need your signature there if you understand your rights and are willing to talk to me." State's Exhibit 51A at 00:13:21-00:13:43. Hodge signed the document. Throughout the May 4th interview, Hodge retained her purse, she was left alone to sign paperwork approximately twenty minutes into the interview, and she received multiple breaks and received water and food.

[3] On May 5th, detectives brought Hodge back in for a second interview at which Detective Ogden began filling out another form advising Hodge of her rights, and he stated:

> All right, so, this is gonna be where you'll sign, and it's [May 5, 2017]. And I already know that you can read because you read for me out loud last night, and it's the same form that we did last night. You can go ahead and read it again though if you like and then you'll sign there.

State's Exhibit 51B at 00:03:54. Hodge read and signed the document after clarifying that she should write her age and date of birth, and Detective Ogden filled in her address on the form. Throughout the second interview, Hodge received multiple breaks and received food.

[4] At some point on May 5th, Detective Gonzalez began exhorting Hodge to tell him what happened, tell the truth to correct the wrong done to E., that she would set an example for her daughter, and her daughter deserved to know the

truth. Hodge whispered, "I don't have nothing to say." *Id.* at 03:47:41-43. Detective Gonzalez replied: "You're wrong. You do have something to say. Because I keep asking you 'let's correct this wrong,' and you keep acknowledging it. And you keep agreeing and saying, 'yes.'" *Id.* at 03:47:45-54. Hodge responded: "And I didn't acknowledged it [sic], but ya'll keep telling me it's not the truth, so I don't know what else to do." *Id.* at 03:47:54. A little after the fourth hour and a break which had occurred approximately thirty minutes prior, the following exchange occurred:

> Detective Gonzalez: What did you put over her face then? Your hand? Yes, look at me. Your hand? Jamilia, your hand?
>
> Detective Ogden (interjecting): Talk to us Jamilia, we're human.
>
> Detective Gonzalez: Yes? (unintelligible)

Id. at 4:08:24-4:08:45. Their exchange continued:

> Detective Gonzalez: Was it your hand?
>
> Detective Ogden: Yes.
>
> Detective Gonzalez: Was it your hand?
>
> Hodge: Oh my god. (crying) Oh. Oh.
>
> Detective Gonzalez: It was your hand? Look at me please. Was it your hand that you put over her mouth. Yes. Yes.
>
> Hodge: Yes.
>
> Detective Gonzalez: Thank you. Now tell me, tell me the rest. Tell me the rest.
>
> Hodge: That was just it.

Detective Gonzalez: Okay.

Hodge: I don't know the rest.

Detective Gonzalez: Where was it at? Look at me. Where was it at? Was it in your bedroom? Was it in the crib? Was it in the crib? Yes? Look at me. Was it in the crib? I need you to say it. I need to hear you.

Hodge: Yes.

Detective Gonzalez: Was it in the crib? And then was it the night before last? Was it the night? Correct? Okay.

Hodge: Yes.

Detective Gonzalez: Thank you. How long? Okay, we're doing good. How long did you keep your hand on her?

Hodge: I don't know.

Detective Gonzalez: Okay. Was it one hand or both hands? Be honest with me.

Hodge: One.

Detective Gonzalez: Could it have been two? Maybe? Look at me. Could it have been two hands?

Hodge: Maybe.

Detective Gonzalez: So maybe two hands? Which hand did you put on her face?

Hodge: The right one.

Detective Gonzalez: Your right hand? What did you do with your left hand? Did you put it on her chest? Did you lean over in the crib? Jamilia. What did you do with your left hand? It's okay. It's okay. What did you do with your left hand?

Hodge: Put it on her chest.

Detective Gonzalez: Okay. Did you push down?

Hodge: A little.

Detective Gonzalez: A little. With both hands?

Hodge: Yes.

Detective Gonzalez: Okay. Look at me. You're doing good. How long did you hold it there for? Be honest with me, please. Be honest with us.

Hodge: I don't, I don't know.

Detective Gonzalez: What was she doing when you did that? Look at me. What was she doing? She was crying? Jamilia. What was she doing?

Hodge: Crying.

Detective Gonzalez: She was struggling? Jamilia. What else was she doing? What were, where were her arms? Look at me. Where were her arms?

Hodge: I don't know.

Detective Gonzalez: You don't remember. Were her feet, was she trying to kick her feet? Was she moving her feet?

Hodge: A little.

Detective Gonzalez: A little? And how long after you pushing, you puttin' pressure down on her, how long after that did her feet stop moving?

Hodge: I don't know.

Detective Gonzalez: Could it have been five seconds, ten seconds, twenty seconds?

> Hodge: Maybe five or ten seconds.
>
> Detective Gonzalez: Maybe five or ten seconds after you put pressure down she stopped moving? So what did you do next? What did you do next?
>
> Hodge: I don't know.
>
> Detective Gonzalez: You don't know? Where were the other kids in the room?
>
> Hodge: In their beds.
>
> Detective Gonzalez: Did they see it?
>
> Hodge: No.

Id. at 4:08:24-4:15:26. Detective Gonzalez next requested that Hodge demonstrate "how [she] put [her] hands over [E.'s] face." *Id.* at 4:15:33. Hodge become unresponsive to Detective Gonzalez's questions, such as "[d]id you realize what you had done at that point," "[w]hen did it set in," and "when did you realize that she stopped breathing?" *Id.* at 4:16:20-40. Hodge then stated that none of her confession had been true, and she had "just told what ya'll wanted me to say." *Id.* at 4:17:04. Detective Gonzalez later asked for how long she thought about calling 911, and Hodge responded, "[a] few minutes." *Id.* at 4:36:50-55. Hodge once again became silent for the next questions, but ultimately began responding to questions including the direction in which E.'s head was facing that morning and whether E. had been on her stomach. The following exchange occurred:

Detective Gonzalez: Was she on her back when you did this?

Hodge: Yeah.

Detective Gonzalez: How did she get back on her belly? Did you roll her over?

Hodge: Yeah.

* * * * *

Detective Gonzalez: You rolled her over because you knew she was gone?

Hodge: Yes.

Detective Gonzalez: And you were hoping that it would just be like she had been on her belly and passed away.

Hodge: Yes.

* * * * *

Detective Gonzalez: You were frustrated?

Hodge: Yes.

Detective Gonzalez: So what are you saying to yourself?

Hodge: Just wanted her to be quiet.

* * * * *

Detective Gonzalez: How much pressure do you think you put down on her?

Hodge: Not a lot.

Detective Ogden: Show me. Show me on my hand, okay? On my hand. With one hand you did it? Hmm? Just with one hand or with both?

Hodge: One?

Detective Ogden: You tell us.

* * * * *

Detective Ogden: Which way? Was it just one hand or was it with both? (Hodge places her other hand on Detective Ogden's). It was with both. It was with both. It's okay, it doesn't change anything. It doesn't change anything. Okay. Were you angry? Were you tired?

* * * * *

Detective Ogden: Did you tell anyone what happened?

Hodge: No.

* * * * *

Detective Ogden: When you woke up first thing in the morning, did you feel bad?

Hodge: Yes.

* * * * *

Detective Ogden: What did you think when you went and looked at her?

Hodge: That I made a horrible mistake.

* * * * *

Detective Gonzalez: Did anybody force you to say what you've just told us? Be honest, please.

Hodge: I wasn't forced, but I didn't have a choice.

Detective Gonzalez: You had a choice.

Hodge: No, I did not.

Detective Gonzalez: You did. And you made the right choice.

Id. at 4:39:40-4:48:22.

[5] On May 6, 2017, the State charged Hodge with Count I, murder; Count II, aggravated battery as a level 1 felony; Count III, neglect of a dependent resulting in death as a level 1 felony; and Count IV, battery resulting in death to a person less than fourteen years old as a level 2 felony.[1]

[6] Hodge filed a Motion to Suppress and Exclude Evidence disputing the voluntariness of her statement to police, and after a hearing, the court denied her motion.

[7] In March 2022, after a jury trial, the jury found Hodge guilty as charged. The court entered judgment on Count I. The court sentenced Hodge to fifty-five years with five years suspended to probation.

Discussion

[8] Hodge argues that Detectives failed to adequately advise her of her rights under *Miranda*. She asserts that they continued to question her after she invoked her right to remain silent by stating "I don't have nothing to say." Appellant's Brief at 20 (quoting State's Exhibit 51B at 3:47:41-44). She also argues her statements occurred after hours of intense interrogation, were not voluntary,

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[1] The State also charged Hodge with Count V, battery resulting in serious bodily injury to a person less than fourteen years old as a level 3 felony, but the State later moved to dismiss the charge, and the court granted the motion.

and violated the Fifth Amendment of the United States Constitution and Article 1, Section 14 of the Indiana Constitution. She contends the detectives coerced her into making a confession. She points to the length of time she was interviewed and asserts the detectives lied when they told her they had DNA evidence, they had matched the shape of her hand to E.'s face, Grant and Boyd said they saw her enter E.'s room, she would not be charged for murder if she just explained what happened, and she would see her daughter, A., the next day if she talked.

[9] In *Miranda v. Arizona*, the United States Supreme Court held that the "prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination." 384 U.S. 436, 444, 86 S. Ct. 1602, 1612 (1966). Prior to any custodial interrogation, "the person must be 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." *Id.* Statements elicited in violation of *Miranda* generally are inadmissible in a criminal trial. *Loving v. State*, 647 N.E.2d 1123, 1125 (Ind. 1995). "A waiver of *Miranda* rights occurs when the defendant, after being advised of those rights and acknowledging that he understands them, proceeds to make a statement without taking advantage of those rights." *Treadway v. State*, 924 N.E.2d 621, 635 (Ind. 2010).

[10] In addition to the required *Miranda* advisement, a defendant's self-incriminating statement must also be voluntarily given. *Crain v. State*, 736 N.E.2d 1223, 1230 (Ind. 2000) (citing *Gregory v. State*, 540 N.E.2d 585, 592 (Ind. 1989); *Dickerson v. United States*, 530 U.S. 428, 120 S. Ct. 2326, 2336, 147 L.Ed.2d 405 (2000) ("The requirement that *Miranda* warnings be given does not, of course, dispense with the voluntariness inquiry.")).

[11] The Indiana Supreme Court has observed:

> [T]he Fourteenth Amendment forbids the use of involuntary confessions not only because of the probable unreliability of confessions that are obtained in a manner deemed coercive, but also because of the "strongly felt attitude of our society that important human values are sacrificed where an agency of the government, in the course of securing a conviction, wrings a confession out of an accused against his will."

Bond v. State, 9 N.E.3d 134, 137 (Ind. 2014) (quoting *Jackson v. Denno*, 378 U.S. 368, 385-386, 84 S. Ct. 1774 (1964) (quoting *Blackburn v. Alabama*, 361 U.S. 199, 206-207, 80 S. Ct. 274 (1960))). Article 1, Section 14 of the Indiana Constitution provides that "[n]o person, in any criminal prosecution, shall be compelled to testify against himself." In determining whether a confession was voluntary, we examine the totality of the circumstances as presented by the record and are guided by several factors including police coercion; the length, location, and continuity of the interrogation; and the defendant's maturity, education, physical condition, and mental health. *Bond*, 9 N.E.3d at 137 (citing *Miller v. State*, 770 N.E.2d 763, 767-768 (Ind. 2002)). "The critical

inquiry is whether the defendant's statements were induced by violence, threats, promises or other improper influence." *Id.* (citing *Ringo v. State*, 736 N.E.2d 1209, 1212-1213 (Ind. 2000)).

[12] When a defendant challenges the voluntariness of his or her confession under the U.S. Constitution, the State must prove the statement was voluntarily given by a preponderance of the evidence. *Bond*, 9 N.E.3d at 137 (citing *Pruitt v. State*, 834 N.E.2d 90, 114 (Ind. 2005)). "However, the Indiana Constitution requires the state to prove 'beyond a reasonable doubt that the defendant voluntarily waived his rights, and that the defendant's confession was voluntarily given.'" *Pruitt v. State*, 834 N.E.2d 90, 114-115 (Ind. 2005) (quoting *Miller*, 770 N.E.2d at 767 (quoting *Schmitt v. State*, 730 N.E.2d 147, 148 (Ind. 2000))).

[13] The record reveals that, on May 4th, Detective Ogden asked Hodge if she could read and write and she answered affirmatively. He gave her a document, titled "STATEMENT OF CONSTITUTIONAL RIGHTS AND WAIVER," which included an advisement of her rights under *Miranda* and a section titled "Waiver," stating "I understand what my rights are, and I am willing to answer questions." Exhibits Volume I at 91. After telling Hodge to read the first two lines aloud, Hodge began reading. Detective Ogden then stated that she could read the rest silently. After she finished reading the document, Detective Ogden stated: "I'll need your signature there if you understand your rights and are willing to talk to me." State's Exhibit 51A at 00:13:21-00:13:43. On May 5th, Detective Ogden stated that he already knew she could read because she

had read the previous day, "and it's the same form that we did last night. You can go ahead and read it again though if you like, and then you'll sign there." State's Exhibit 51B at 00:04:06-00:04:12. Hodge signed the waiver form both times. The record supports the conclusion that Hodge was advised of, and voluntarily waived, her *Miranda* rights.

[14] To the extent Hodge cites *State v. Keller*, 845 N.E.2d 154 (Ind. Ct. App. 2006), we find that case distinguishable. The relevant facts of that case follow:

> Keller was arrested and taken to Sheriff's Department headquarters, where Sergeant Gullion and Detective Scott Scheid performed a videotaped interview approximately three hours in duration. As it began, Keller was informed that he was under arrest for the drugs. Detective Scheid asked Keller's age, to which Keller responded twenty-one. Detective Scheid then began the process of advising Keller of his rights, indicating that he would do so "real quick" to "get this out of the way." State's Exhibit 2 at pg. 1. He asked whether Keller could read and write, and Keller responded affirmatively. Detective Scheid, sitting across from Keller, slid a piece of paper in front of Keller and described it as an advice of rights form. He explained to Keller: "I need you to read that, okay and then initial each one of those if you understand, okay." *Id.*
>
> * * * * *
>
> The videotape shows Keller, who was smoking a cigarette, glance quickly over the form before turning away to flick ashes into an ashtray. Returning his attention to the form, Keller looks it over again briefly before signing it. Sergeant Gullion, sitting to Keller's left, asks if Keller has read the form, to which Keller nods affirmatively, saying "Yeah." *Id.* Sergeant Gullion also asks if Keller understands the form, but it is unclear whether Keller responds. Detective Scheid then reminds Keller to initial

> each statement of advice on the form. Keller briefly reviews the statements and writes his initials beside each. When Detective Scheid notices that Keller has signed in the wrong place, he directs Keller to resign in the proper location. Following completion of the advice of rights form, Keller is questioned concerning Cook's death. He eventually makes incriminating statements, implicating both himself and another individual.

Keller, 845 N.E.2d at 158-159 (footnotes omitted). On appeal, we observed that the trial court interpreted the evidence as portraying "that the defendant immediately and instantaneously begins to initial, and does not take any time, whatsoever, to read through the document." *Id.* at 161. We held that the State had not met its burden of establishing that Keller's waiver was based on his knowledge and understanding of his constitutional rights and stated:

> We agree with the trial court that Keller's single prior experience of voluntarily waiving his rights is alone not enough to guarantee his advisement and understanding of those rights in the present context. We also note that the record does not establish the law enforcement officers were aware of or relied upon Keller's past experience with the waiver of his constitutional rights. Furthermore, although Keller made remarks indicating that he understood his statements were self-incriminating, there was no indication that he understood his right to have an attorney present or to stop answering questions at any time. To the contrary, at one point during the questioning, while discussing the protection of Keller's mother, Keller is directly asked, "Who do you think is gonna pay for your lawyer?" Keller's partially inaudible response is that he and/or his mother cannot afford a lawyer. The officer responds "I bet she helps with it," rather than clarifying the contradiction or ascertaining whether Keller understands his constitutional right to the appointment of an attorney.

Id. at 164 (footnote and internal citation omitted).

[15] Unlike in *Keller*, Hodge indicated her ability to read by reading a portion of the form aloud. Further, Detective Ogden stated: "I'll need your signature there *if you understand your rights and are willing to talk to me.*" State's Exhibit 51A at 00:13:21-00:13:43 (emphasis added). We also note that there is no evidence that Hodge ever asked for clarification of her rights or indicated that she did not understand them.

[16] With respect to Hodge's argument that she invoked her right to remain silent, the United States Supreme Court has held that an invocation of the right to remain silent must be unambiguous. *Berghuis v. Thompkins*, 560 U.S. 370, 381, 130 S. Ct. 2250, 2260 (2010). "A person must do more than express reluctance to talk to invoke his right to remain silent." *Clark v. State*, 808 N.E.2d 1183, 1190 (Ind. 2004). If an accused makes a statement concerning the right to counsel that is ambiguous or equivocal or makes no statement, the police are not required to end the interrogation or ask questions to clarify whether the accused wants to invoke her *Miranda* rights. *Berghuis*, 560 U.S. at 381, 130 S. Ct. at 2259-2260. "There is good reason to require an accused who wants to invoke his or her right to remain silent to do so unambiguously." *Id.* at 381, 130 S. Ct. at 2260. "A requirement of an unambiguous invocation of *Miranda* rights results in an objective inquiry that 'avoid[s] difficulties of proof and . . . provide[s] guidance to officers' on how to proceed in the face of ambiguity." *Id.* (quoting *Davis v. United States*, 512 U.S. 452, 458-459, 114 S. Ct. 2350 (1994)). "If an ambiguous act, omission, or statement could require police to end the

interrogation, police would be required to make difficult decisions about an accused's unclear intent and face the consequence of suppression 'if they guess wrong.'" *Id.* at 382, 130 S. Ct. at 2260 (quoting *Davis*, 512 U.S. at 461, 114 S. Ct. 2350). "Suppression of a voluntary confession in these circumstances would place a significant burden on society's interest in prosecuting criminal activity." *Id.*

[17] While Hodge whispered "I don't have nothing to say" at one point, the statement was in reply to Detective Gonzalez asking her what she had to say about E.'s death to set an example for her daughter. State's Exhibit 51B at 3:47:41-45. Further, we cannot say that the statement "I don't have nothing to say" amounted to an unambiguous invocation of the right to remain silent. *See Berghuis*, 560 U.S. at 382, 130 S. Ct. at 2260 ("Thompkins did not say that he wanted to remain silent or that he did not want to talk with the police. Had he made either of these simple, unambiguous statements, he would have invoked his right to cut off questioning. Here he did neither, so he did not invoke his right to remain silent.") (internal citations and quotation marks omitted); *Wilkes v. State*, 917 N.E.2d 675, 682-683 (Ind. 2009) (observing that the defendant's statements of "I don't want to talk about it no more" and "I don't want to think about it" were followed by continued conversing with the detective and holding that the trial court's conclusions that the defendant did not unequivocally assert

his right to remain silent and that his further statements were voluntary were supported by sufficient evidence).[2]

[18] With respect to Hodge's argument that her confession was not voluntary, we note that in addition to the required *Miranda* advisement, a defendant's self-incriminating statement must also be voluntarily given. *Crain v. State*, 736 N.E.2d 1223, 1230 (Ind. 2000) (citing *Gregory v. State*, 540 N.E.2d 585, 592 (Ind. 1989); *Dickerson v. United States*, 530 U.S. 428, 120 S. Ct. 2326, 2336 (2000) ("The requirement that *Miranda* warnings be given does not, of course, dispense with the voluntariness inquiry.")).

[19] The Indiana Supreme Court has observed:

> [T]he Fourteenth Amendment forbids the use of involuntary confessions not only because of the probable unreliability of confessions that are obtained in a manner deemed coercive, but also because of the "strongly felt attitude of our society that important human values are sacrificed where an agency of the government, in the course of securing a conviction, wrings a confession out of an accused against his will."

Bond v. State, 9 N.E.3d 134, 137 (Ind. 2014) (quoting *Jackson v. Denno*, 378 U.S. at 385-386, 84 S. Ct. 1774 (quoting *Blackburn v. Alabama*, 361 U.S. at 206-207,

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[2] To the extent Hodge cites *Risinger v. State*, 137 N.E.3d 292 (Ind. Ct. App. 2019), *trans. denied*, we find that case distinguishable. In *Risinger*, the defendant stated "I'm done talking." 137 N.E.3d at 299. The phrase of "I'm done talking" indicated an unambiguous statement that he wanted to remain silent unlike Hodge's whispered statement of "I don't have nothing to say" in response to Detective Gonzalez's questions regarding what she would say to her daughter.

80 S. Ct. 274)). Article 1, Section 14 of the Indiana Constitution provides that "[n]o person, in any criminal prosecution, shall be compelled to testify against himself." In determining whether a confession was voluntary, we examine the totality of the circumstances as presented by the record, and are guided by several factors including police coercion; the length, location, and continuity of the interrogation; and the defendant's maturity, education, physical condition, and mental health. *Bond*, 9 N.E.3d at 137 (citing *Miller*, 770 N.E.2d at 767-768). "The critical inquiry is whether the defendant's statements were induced by violence, threats, promises or other improper influence." *Id.* (citing *Ringo*, 736 N.E.2d at 1212-1213).

[20] When a defendant challenges the voluntariness of his or her confession under the United States Constitution, the State must prove the statement was voluntarily given by a preponderance of the evidence. *Id.* (citing *Pruitt v. State*, 834 N.E.2d 90, 114 (Ind. 2005)). "However, the Indiana Constitution requires the state to prove 'beyond a reasonable doubt that the defendant voluntarily waived his rights, and that the defendant's confession was voluntarily given.'" *Pruitt*, 834 N.E.2d at 114-115 (quoting *Miller*, 770 N.E.2d at 767 (quoting *Schmitt*, 730 N.E.2d at 148 (Ind. 2000))).

[21] The record reveals that Patrolman Cook testified he observed Hodge was "calm, cool, and collected" when he first observed her. Transcript Volume IV at 120. There was no evidence that Hodge, who was thirty-two years old, had intellectual or physical difficulties or disabilities, she was advised of her rights, and there is no claim of intoxication. While Hodge was questioned from 3:59

p.m. until 10:30 p.m. on May 4th, the interview on May 5th did not begin until 6:30 p.m. Hodge's incriminating statements were made approximately four hours and forty minutes into the second interview. Further, multiple breaks occurred during the interviews, and Hodge was offered and provided refreshments. During the May 4th interview, her respective breaks lasted approximately fifteen minutes, eight minutes, two minutes, and eighteen minutes before the interview ended after three hours and ten minutes.[3] During the May 5th interview, her breaks respectively lasted approximately eight minutes and fifty minutes.[4]

[22] As for the detectives' interviewing technique, the detectives testified that they had previously trained in the Reid interviewing technique, the technique is a standard interviewing technique utilized by other law enforcement agencies "across the nation," and Detective Ogden stated that he routinely utilized the technique during interviews.[5] Transcript Volume V at 36.

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[3] On May 4th, Hodge received breaks at approximately one hour and forty-two minutes, two hours and seven minutes, two hours and fifty minutes, and three hours and ten minutes, when she was left alone a final time before eventually being removed from the room. She was offered water approximately two hours and nine minutes into the interview and given food approximately two hours and forty-eight minutes into the interview.

[4] On May 5th, Hodge received breaks at approximately two hours and seventeen minutes and two hours and forty-seven minutes into the interview. She had food brought to her approximately three hours and twenty-two minutes into the interview and had water available to her throughout the entirety of the interview.

[5] "Our court has explained the Reid technique before: 'the first phase of the Reid Technique consists of nonaccusatory questioning. The interview then shifts to the second phase, where the questioner does most of the talking and claims that the investigation clearly shows that the suspect committed the crime. A questioner using the Reid Technique introduces different minimizing themes, in essence excuses or justifications, to make it easier and more comfortable for the suspect to admit to the crime.'" *Shelby v. State*,

[23] As for the alleged deception by the detectives, the Indiana Supreme Court has held that "police deception does not automatically render a confession inadmissible." *Clark v. State*, 808 N.E.2d 1183, 1191 (Ind. 2004). "Rather, it is only one factor to consider in the totality of the circumstances." *Id.* (citing *Miller*, 770 N.E.2d at 767 n.5 (citing *Kahlenbeck v. State*, 719 N.E.2d 1213, 1217 (Ind. 1999))). "Further, if the police have a good faith basis for a statement, even if technically false, it does not rise to the level of deception." *Id.* at 1191-1192 (citing *Ellis v. State*, 707 N.E.2d 797, 801 (Ind. 1999) (police who told defendant that they had his shoeprint at a crime scene had a good faith basis in the statement when there were footprints similar to defendant's size, but had not been conclusively established to be defendant's)).

[24] Here, some of the detectives' statements included "[y]ou don't walk away from this," "[y]ou don't go anywhere," and "[y]ou're dead[,]" but were made in reference to E.'s injuries and that they could not have occurred during a prior visitation. State's Exhibit 51B at 00:48:58-00:49:02. At different times, they made statements such as that Hodge knew "that you and only you are responsible for what happened," she was "not going anywhere," they would "talk for as long needs [sic] to be," they would "stay here with [her] all hours of the night," they were "not gonna go away," they were on her side, they knew "this was an accident," they would "get the help that's needed," and it "should

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986 N.E.2d 345, 365 n.11 (Ind. Ct. App. 2013) (quoting *Malloch v. State*, 980 N.E.2d 887, 893 (Ind. Ct. App. 2012) (internal quotations omitted)).

not be [her] fear" that the detectives would "say 'you're a murderer.'" *Id.* at 1:22:06, 1:22:24, 2:44:59, 4:26:35-4:27:10. The detectives occasionally placed Hodge's hand on the photos of E., requested that she look at the photos, stated they had DNA and forensic evidence establishing Hodge was guilty, and they said "[t]here's no doubt" and "we both know the truth and you know the truth." *Id.* at 1:21:35. We cannot say that the statements by the detectives constituted promises of benefits, threats, or inducements that rendered Hodge's confession involuntary.

[25] Under the totality of the circumstances, we conclude that Hodge's statements were not induced by violence, threats, or other improper influences that overcame her free will. *See Crain*, 736 N.E.2d at 1231 (finding no evidence of violence, threats, promises, or improper influence regarding the defendant's confession); *Light v. State*, 547 N.E.2d 1073, 1079 (Ind. 1989) (holding that evidence substantially supported the trial court's determination that the defendant's statement was voluntary where the defendant alleged mental slowness and there was testimony that he could not read or write, the custodial interrogation lasted only four hours, and police acknowledged lying to the defendant), *reh'g denied*; *Faris v. State*, 901 N.E.2d 1123, 1127 (Ind. Ct. App. 2009) (holding that the defendant's statement was voluntarily given under the circumstances including the length of the interrogation and the detectives' testimony regarding the defendant's demeanor and manner of speaking), *trans. denied*.

[26] For the foregoing reasons, we affirm Hodge's conviction for murder.

[27] Affirmed.

Altice, C.J., and Tavitas, J., concur.