

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1139

September Term, 2015

FRANK TOLISON VALLE-MATA

v.

STATE OF MARYLAND

Woodward, C.J.,
Nazarian,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: June 2, 2017

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Convicted of first degree rape and first degree burglary following a jury trial in the Circuit Court for Baltimore County, Frank Tolison Valle-Mata, appellant, raises a single question on appeal: Did the court err in denying his motion to suppress his confession to a police detective because the detective, he claims, made an “unambiguously coercive” statement that gave Valle-Mata “an objectively reasonable belief that a confession would spare his family members” from arrest and separation from their children? For the reasons that follow, we affirm.

In reviewing the grant or denial of a motion to suppress, this Court views “the evidence and inferences that may be reasonably drawn therefrom in a light most favorable to the prevailing party on the motion, here the State.” *Lindsey v. State*, 226 Md. App. 253, 262 (2015) (internal citation and quotations omitted), *cert. denied*, 447 Md. 299 (2016). “Furthermore, we extend great deference to the findings of the motions court as to first-level findings of fact and as to the credibility of witnesses, unless those findings are clearly erroneous.” *Id.* (internal citation, quotations, and brackets omitted). “The ultimate determination of whether there was a constitutional violation, however, is an independent determination that is made by the appellate court alone, applying the law to the facts found in each particular case.” *Sinclair v. State*, 444 Md. 16, 27 (2015) (internal citations and quotations omitted).

The testimony at the suppression hearing established that, during questioning, Valle-Mata, who lived in the same apartment building as the victim, initially denied any involvement in the offenses. The detective subsequently made three statements that could be considered inducements. In the detective’s first statement, he stated that Valle-Mata’s

relatives, with whom he lived, “don’t have time to be fooling around to lose their children, and for everybody to be arrested because all of you were gonna be arrested, ok? When you do that, you start to thin[k] about the, the children.” Valle-Mata continued to deny any involvement in the offenses.

In the detective’s second statement, he asked Valle-Mata whether he was religious and believed in God, and urged Valle-Mata to “[d]o what your heart is telling you, what God is telling you for your family and for you,” and “to be honest with” the detective. Valle-Mata subsequently admitted that he was present in the victim’s apartment while his friend, a man named Roberto, “tried to abuse” the victim, and that he, Valle-Mata, then put his finger into the victim’s vagina.

In the detective’s third statement, he told Valle-Mata “some things you’re not telling me clearly,” “you’re a good person,” “I don’t think you’re a criminal, nor crazy, or a monster,” “the best thing is to try to be as honest, to be a man, tell the truth, and try to solve it,” “sometimes I know it’s necessary to get it out off, off your chest,” and “it’s the only way to heal.” Valle-Mata subsequently admitted that he had taken his penis out and attempted to penetrate the victim.

On appeal, Valle-Mata challenges only the detective’s first statement and contends that “[t]here is little doubt that the . . . statement[] would support an objectively reasonable belief that a confession would spare his family members.” The Court of Appeals has stated that there is a “two-part test to determine the voluntariness of a custodial confession in circumstances where a defendant alleges that the police induced his or her confession by making improper promises.” *Winder v. State*, 362 Md. 275, 309 (2001). A “confession

[is] involuntary, and therefore inadmissible, if 1) a police officer or an agent of the police force promises or implies to a suspect that he or she will be given special consideration from a prosecuting authority or some other form of assistance in exchange for the suspect's confession, and 2) the suspect makes a confession in apparent reliance on the police officer's statement." *Id.* Here, we need not determine whether the detective promised or implied to Valle-Mata that he would receive some form of assistance in exchange for his confession, because we are persuaded that he did not rely on the challenged statement in making the confession.

“As to . . . the reliance, or nexus, between the inducement and the statement, to determine whether a suspect relied upon an offer of help from an interrogating authority in making a confession we examine the particular facts and circumstances surrounding the confession.” *Id.* at 312. Here, following the challenged statement, Valle-Mata did not make any inculpatory statement, and continued to deny involvement in the offenses. It was not until after the detective's second statement, which occurred some time after the challenged statement, that Valle-Mata inculpated himself in the offense of first degree burglary, and it was not until after the detective's third statement that Valle-Mata inculpated himself in the offense of first degree rape. We are persuaded that there is no nexus between the challenged statement and Valle-Mata's confession, and hence, the court did not err in denying his motion to suppress.

Assuming, *arguendo*, that the court erred in denying the motion to suppress, we conclude that the error is harmless. The State produced evidence that Valle-Mata's DNA was discovered in the victim's vaginal-cervical area, his thumbprint was discovered on the

victim's apartment door, and keys to the victim's apartment were discovered in his apartment. The State also produced expert testimony that the victim had suffered "some sort of forceful penetration" of her vagina and adjacent areas. Finally, the State produced evidence from which the jury could infer that Valle-Mata had arranged for bills from Comcast to be paid electronically from the victim's bank account, and that he had attempted to withdraw money from that account. We are persuaded that "there is no reasonable possibility that the" admission of Valle-Mata's confession "may have contributed to the rendition of the guilty verdict." *Dorsey v. State*, 276 Md. 638, 659 (1976) (footnote omitted).

**JUDGMENTS OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY AFFIRMED.
COSTS TO BE PAID BY APPELLANT.**