IN THE SUPREME COURT OF IOWA
Supreme Court No. 21–0756

STATE OF IOWA,
Plaintiff-Appellant,

vs.

GOWUN PARK,
Defendant-Appellee.

APPEAL FROM THE IOWA DISTRICT COURT
FOR DALLAS COUNTY
THE HONORABLE BRAD MCCALL, JUDGE

# APPELLANT'S BRIEF

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## STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

**I. Did the district court err in determining that Park was in custody when officers arrived at her apartment, in response to her 911 call, and asked what happened?**

Authorities

*Berkemer v. McCarty*, 468 U.S. 420 (1984)
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*United States v. Czichray*, 378 F.3d 822 (8th Cir. 2004)
*United States v. Oates*, 560 F.2d 45 (2d Cir. 1977)
*United States v. Panak*, 552 F.3d 462 (6th Cir. 2009)
*United States v. Parker*, 993 F.3d 595 (8th Cir. 2021)
*United States v. Valle Cruz*, 452 F.3d 698 (8th Cir. 2006)
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*State v. White*, 887 N.W.2d 172 (Iowa 2016)
*Van Hoff v. State*, 447 N.W.2d 665 (Iowa Ct. App. 1983)

## II. Did the district court err in determining that Park did not understand her *Miranda* rights and did not knowingly waive them at the beginning of her first interview with detectives, when she subsequently invoked her *Miranda* rights to end the interview?

Authorities

*North Carolina v. Butler*, 441 U.S. 369 (1979)
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*State v. Powell*, No. 13–1147, 2014 WL 4930480 (Iowa Ct. App. Oct. 1, 2014)

## III. Did the district court err in determining that the detectives made impermissible promises of leniency, when they did not imply any *quid pro quo* benefit from confessing or any penalty for not confessing?

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Kuk Cho, *The Unfinished 'Criminal Procedure' Revolution of Post-Democratization South Korea*, 30 Denv. J. Int'l L. & Pol'y 377 (2002)
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Korea Exposé (Jan. 24, 2018), https://koreaexpose.com/stop-attributing-everything-in-east-asia-to-confucianism/

## IV. Did the district court err in determining that Park's statements during her subsequent interviews were inadmissible, when Park re-initiated contact on her own initiative, and when Park's statements indicated that she was not under the misconception that she was somehow immune from arrest or prosecution?

Authorities

*Bobby v. Dixon*, 565 U.S. 23 (2011)
*Edwards v. Arizona*, 451 U.S. 477 (1981)
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*Lamasters v. State*, 821 N.W.2d 856 (Iowa 2012)
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*State v. Zarate*, No. 11–0530, 2012 WL 652449 (Iowa Ct. App. Feb. 29, 2012)

## ROUTING STATEMENT

This appeal can be resolved through the application of settled legal principles. Transfer to the Iowa Court of Appeals is appropriate. *See* Iowa R. App. P. 6.1101(3)(a).

## STATEMENT OF THE CASE

### Nature of the Case & Course of Proceedings

This is the State's interlocutory appeal from a ruling that granted a motion to suppress evidence of all statements made by Gowun Park, the defendant. Park is charged with first-degree murder for killing her husband, Sung Nam. The State is challenging all four components of the ruling that granted Park's motion to suppress all of her statements.

**(I)** Park had called 911 from her apartment to report that Nam was not breathing. Paramedics arrived first; police arrived soon after. Nam was unconscious. Park was having a loud emotional breakdown as paramedics attempted to treat Nam. Two officers engaged Park—they tried to comfort her, steered her away from the room where the paramedics were working, and asked her what had happened. Park told them that she woke up from a nap and found Nam tied up and unresponsive, so she had cut him loose and called 911. She also said that he had tied himself up, and that he had previously been suicidal.

At some point, police began to suspect that Park was not telling the truth about what happened. A detective came to Park's apartment to ask Park some additional questions. Officers also took pictures and began drafting an application for a search warrant for the apartment.

**(II)** The detectives asked Park to come to the police station for an interview. They read a *Miranda* advisory out loud, provided Park with a written *Miranda* waiver form, and asked if Park understood those rights. Park did not sign the advisory, but she indicated that she understood and acted as if she understood. Park made reference to her *Miranda* rights at multiple points during that interview, and she ultimately ended the interview by invoking her right to counsel.

**(III)** During that interview, Park gave additional background: she stated that Nam had been physically abusive on prior occasions, and that he would ask her to tie him to a chair when he was mad (so that he would be unable to hurt her). But she stuck to the same story on this particular incident: Nam had tied himself up, and she woke up from a nap to find Nam bound and unresponsive. The detectives told Park that her story did not align with the physical evidence, and that people would understand if there was more to the story. Park did not budge. At the end, detectives told Park that they knew she was lying.

**(IV)** After the search of Park's apartment was complete, an officer drove Park home. The next morning, Park drove herself back to the police station and asked to speak to the detectives. Nobody had summoned her, and the detectives did not expect her. Park signed a *Miranda* waiver at the beginning of the interview, without hesitation and without asking for any explanation or clarification. Then, she told a different story: she said that she *did* tie Nam to a chair. She said it was at his request, because he was angry and could not control himself. Still, Park maintained that Nam was fine when she fell asleep, and that he was unresponsive when she awoke from her nap. Park stuck to that story during two subsequent interviews, over the next three days. The last of those interviews ended with her arrest for first-degree murder.

Park moved to suppress all evidence of her statements. *See* MTS (10/22/20); App. 4; MTS Brief (10/22/20); App. 6. The State resisted. *See* Resistance (1/29/21); App. 40. After a hearing, the district court granted Park's motion to suppress on four grounds:

**I.** The district court found that Park was effectively in custody for *Miranda* purposes "during the entire time officers were present" and starting "[i]mmediately upon their arrival." Based on that, it granted the motion to suppress all evidence of her statements to police "[b]ecause she was not read her *Miranda* rights before questioning began." *See* Ruling (3/11/21) at 9–11; App. 170–72.

**II.** The district court also found that Park did not understand her *Miranda* rights when detectives read her the advisory at the police station—and because she did not knowingly waive those rights, her statements during that interview were inadmissible. *See* Ruling (3/11/21) at 11–13; App. 172–74.

**III.** It also found that the detectives made impermissible promises of leniency in that interview, by making non-specific statements that they wanted to "help" Park and urging her to tell the truth about whether she hurt Nam in self-defense or as a reaction to physical abuse. The court determined that there were no actual promises of leniency—but it still it found that those statements required it to suppress all evidence of what Park said during that interview, because they "gave Park false hope that if she simply reacted to an abusive situation, she would not be in trouble." *See* Ruling (3/11/21) at 13–17; App. 174–78.

**IV.** Finally, the court held that "the taint from the initial interview clearly carried over to all subsequent interviews conducted by the police officers," so all of Park's subsequent statements were also inadmissible—even after Park initiated another interview, expressly waived her *Miranda* rights, and changed her story. *See* Ruling (3/11/21) at 17–18; App. 178–79.

The State appeals, because all four of those findings are incorrect.

**Statement of Facts**

Around 6:20 p.m. on February 15, 2020, Park called 911 and reported that Nam was not breathing. She gave her address—it was an apartment in West Des Moines, where she and Nam lived together. Paramedics and police hurried to the scene. *See* MTS-Tr. 13:5–15:19.

Exhibit 5 includes video from Officer Molly Sweeden's bodycam. When officers arrived, Nam was unconscious on the floor of a small office room; a team of paramedics was already trying to treat him.

Park was sobbing loudly, while trying to see inside that small room. Officer McCarty guided Park to Officer Sweeden, and he said: "this is Officer Molly, she's going to get some information from you." Then, he started preparing a stretcher for Nam. Officer Sweeden said, "Hi, can I get your name?" Park understood the question and started to respond, then interrupted herself with loud wailing and moved towards the room where Nam was being treated. *See* State's Ex. 5, at 6:52:41–6:53:05.

Officer Sweeden and Officer Hinrichsen put their hands on Park's arms and guided Park away, to let the paramedics work. They walked her to a chair in the apartment's main room (a combination living room and kitchen). Park sat for a moment. Then, she stood up and walked closer to the office. Park was alternating between heavy breathing and loud crying. The officers tried to get Park to calm down. They said that the medics were already doing their best to help Nam, and she could help by telling them what happened. *See* State's Ex. 5, at 6:53:05–6:55:35; MTS-Tr. 16:4–18:17; MTS-Tr. 41:11–45:17.

In response to their first question about what happened, Park said that she had been asleep in the living room, after watching TV. Park said that she woke up, went to the kitchen, and looked into the office to ask Nam if he wanted anything to eat. She said that she saw

Nam on the floor, face-down. She said that she went to look closer and noticed that Nam was not breathing. She said that Nam appeared to have tied himself to a chair, and there was a line around his neck. She said she cut the line with scissors and pressed on Nam's chest, but he was not breathing and would not wake up. Then, she called 911. *See* State's Ex. 5, at 6:54:35–6:55:35.

Park finished giving that initial summary at about 6:55:35. Then, Park looked over towards the office again, and she broke down. She began wailing, squatted down on the floor, and started hitting her own head with open hands. Whenever Park looked towards the office where medics were treating Nam, she wailed again. Officer Sweeden crouched down on the floor next to Park, took hold of Park's hand to stop her from hitting herself, and tried to calm Park down. *See* State's Ex. 5, at 6:55:30–6:56:00. Officer Sweeden tried to get Park to come and sit on a couch in a different part of the main room. Park got up for a moment, but then squatted down again in that same spot; she continued wailing and crying into her hands. Park continued to wail and did not move from that spot. Then, Officer Sweeden asked Park to match her breathing. That helped. *See* State's Ex. 5, at 6:56:00–6:56:49. Officer Hinrichsen asked Park if she had any ID. Park said

that she did. Both officers said, "can we go find it?" Officer Hinrichsen added on, "it'll give you something to do," and she remarked that they were not sure that they had the correct spelling of Park's name. Park went to get her ID—she went into an adjoining bedroom, then into a walk-in closet. The officers followed Park into that bedroom.

Park gave her ID to Officer Hinrichsen. Officer Sweeden stood in the doorway and intercepted Park as she tried to walk out into the main room of the apartment—she said "Can we sit right here? I need to get some more information from you, okay?" As Officer Sweeden said that, she gestured towards the bed. Park did not sit down, but she stood relatively still. She answered some questions about Nam's recent activity, medical history, and mental health history (including a prior suicide attempt). *See* State's Ex. 5, at 6:56:49–7:02:45.

Officer Hinrichsen said that attempting to gather information from other people at the scene was their typical role in most calls for medical emergencies, after paramedics arrived—"just to get the basic information of why this person was unconscious, what happened." *See* MTS-Tr. 42:16–43:3. She also agreed that they typically "help make sure that it's not chaotic" in situations that involve bystanders with heightened or unstable emotions. *See* MTS-Tr. 43:13–45:17.

Officer Sweeden said that she was not personally suspicious of Park until later on, when she heard about "ligature marks on [Nam's] hands and feet." *See* MTS-Tr. 28:25–29:16. She said that Park did not have difficulty comprehending or answering questions in English, apart from her intermittent crying. *See* MTS-Tr. 34:23–35:11. They did not let Park use her iPhone, because it was in the room with Nam and it seemed to have evidentiary value—but they tried to help Park contact someone through other means (including offering to let her use Facebook, or use their phones to call contacts from her iWatch or from her computer). *See* MTS-Tr. 35:18–36:20; MTS-Tr. 50:21–51:12.

Only Officer Sweeden's body-cam footage was admitted at the hearing on the motion to suppress. That meant there was a gap in the footage when Officer Sweeden left to get a digital camera from their patrol vehicle. During that time, paramedics loaded Nam onto the stretcher and wheeled him out of the apartment. Officer Hinrichsen said that Park "was allowed to see him when he was on his way out of the apartment," which explains why Park was in the main room of the apartment when Officer Sweeden returned. *See* MTS-Tr. 48:14–21; *cf.* Ruling (3/11/21) at 10 & n.49; App. 171. The officers did not let Park drive herself to the hospital, because "[s]he was just so emotional that

we didn't want to risk her getting into a car accident on the way." *See* MTS-Tr. 51:13–52:1. They also "still didn't have enough information of what happened to [Nam] to really let [Park] leave without getting more information." *See* MTS-Tr. 52:2–6; *accord* MTS-Tr. 58:16–59:11. Officer Hinrichsen "thought it was a suicide at the time," but she also recognized that she "did not know what happened"—which was why they needed to investigate. *See* MTS-Tr. 53:14–55:13. She explained:

> Well, we had no idea what happened. We didn't know if this was . . . an allergic reaction or if he had some sort of condition that had led to him being unresponsive. We had no idea if, you know, if it was a suicide or a crime or — we had no idea. She was the only one present there at the scene, so she was the only one that was able to give us any information as to what happened.
>
> And obviously initially when the medics are trying to treat him and save his life, you know, the more information they have, the better they can come up with a treatment plan. So we were trying to gather that information the best we can.

MTS-Tr. 80:2–17. After paramedics took Nam to the hospital, Park was relatively free to move about the apartment, except for the room where Nam had been found. *See* MTS-Tr. 60:5–10. There was a laptop in the living room; Park could use it, but she chose not to. *See* MTS-Tr. 81:3–9; State's Ex. 5, 7:20:00–7:21:50. Later, detectives arrived to ask Park additional questions, and they eventually transported Park to the West Des Moines police station for an interview.

In its ruling on Park's motion to suppress, the district court found that Park was in custody, from the moment that officers arrived in response to Park's 911 call and asked Park what had happened.

> Based on the nature of the questioning of Park, the officers' refusal to allow her to move about within the interior of the condo, the repeated denial of her requests to go to the hospital or place calls on her phone to arrange a ride to the hospital and the implication something "weird" was going on, the Court concludes Park was "in custody" despite the fact she remained in her own condo. While she was certainly not under arrest, there was significant restraint on her freedom of movement. Because she was not read her *Miranda* rights before questioning began, statements made by Park, whether inculpatory or exculpatory, must be suppressed.

*See* Ruling (3/11/21) at 9–11; App. 170–72.

Additional facts will be discussed when relevant.

## ARGUMENT

### I. The district court erred in suppressing evidence of statements Park made while she was in her apartment.

#### Preservation of Error

Error was fully preserved when the district court granted the motion to suppress and found that Park was in custody, for purposes of *Miranda*, from the moment that officers followed paramedics into her apartment and asked her what happened to Nam. *See* Ruling (3/11/21) at 9–11; App. 170–72; Resistance (1/29/21) at 7–9; App. 46–48; *Lamasters v. State*, 821 N.W.2d 856, 864 (Iowa 2012).

#### Standard of Review

Review of the district court's ruling on claim alleging violation of constitutional rights is de novo. *See, e.g*, *State v. Palmer*, 791 N.W.2d 840, 844 (Iowa 2010).

#### Merits

"*Miranda* warnings are not required unless there is both custody and interrogation." *See State v. Miranda*, 672 N.W.2d 753, 759 (Iowa 2003) (quoting *State v. Countryman*, 572 N.W.2d 553, 557 (Iowa 1997)). In this context, custody means that "a suspect's freedom of action is curtailed to a degree associated with formal arrest." *See id.* (quoting *Berkemer v. McCarty*, 468 U.S. 420, 440 (1984)).

Iowa courts apply an objective test: a person is in custody, for *Miranda* purposes, when "a reasonable person in [his] position would understand himself to be in custody." *See id.* (quoting *Countryman*, 572 N.W.2d at 558); *State v. Bogan*, 774 N.W.2d 676, 680 (Iowa 2006) ("A custody determination depends on objective circumstances, not the subjective belief of the officers or the defendant."). Iowa precedent on custody for purposes of *Miranda* identifies four factors to consider:

> (1) the language used to summon the individual;
> (2) the purpose, place, and manner of interrogation;
> (3) the extent to which the defendant is confronted with evidence of [their] guilt; and
> (4) whether the defendant is free to leave the place of questioning.

*Miranda*, 672 N.W.2d at 759 (quoting *Countryman*, 572 N.W.2d at 558). Iowa courts will consider the totality of the circumstances, but "[t]he general rule is that in-home interrogations are not custodial for purposes of *Miranda*." *See id.* at 759–60 (quoting *State v. Evans*, 495 N.W.2d 760, 762 (Iowa 1993)). Here, the district court found Park was in custody, from the moment that officers arrived at her apartment and asked her what happened to Nam. *See* Ruling (3/11/21) at 9–11; App. 170–72. That is incorrect. Even later on, when police developed reasonable suspicion and detained Park, she *still* was not in custody.

### A. Park was not in custody when officers responded to her 911 call and asked her what happened.

Park called 911. Paramedics and police officers responded. Paramedics rendered aid to Nam; police officers attempted to calm Park down and ask her what happened. *See* State's Ex. 5, at 6:52:41–6:55:35; MTS-Tr. 41:11–45:17. In order for the district court's ruling to be correct, *that* must be a custodial interrogation. But it was not. The State will start with the four-factor analysis, outlined above.

**(1)** The language that police used in this initial interaction was not accusatory. Officer Sweeden and Officer Hinrichsen were trying to comfort Park as they asked her what had happened. *See* State's Ex. 5, at 6:52:41–7:00:00. Even as they guided Park away from the room where paramedics were treating Nam, they were polite and helpful—not accusatory in the least. Moreover, police did not summon Park. She summoned them, by calling 911. *See, e.g.*, *United States v. Parker*, 993 F.3d 595, 602 (8th Cir. 2021) (determining that encounter was not custodial when defendant "called 911 to report that E.M. needed medical assistance" and noting "it is reasonable to expect that officers would talk to individuals at the apartment" when they arrived). Any reasonable person in Park's situation would understand that police were there to respond to the emergency that she called them about.

**(2)** The "purpose, place, and manner of questioning" also weigh against finding custody. At first, the purpose of questioning was to calm Park down and gather any information that could help paramedics who were trying to save Nam. Here, *Tyler* is analogous:

> [T]he purpose of the questioning was to ascertain what had happened, as opposed to getting Tyler to confess to a murder. Importantly, the special agents' intentions manifested in the manner of their questioning, as they repeatedly informed Tyler that they were only trying to gather information.

*State v. Tyler*, 867 N.W.2d 136, 174 (Iowa 2015). Officer Sweeden and Officer Hinrichsen did just that. *See* State's Ex. 5, at 6:52:41–7:04:07; MTS-Tr. 42:16–43:3. The district court did not make findings on the manner of that questioning. *See* Ruling (3/11/21) at 9–11; App. 170–72. The video shows that Officer Sweeden and Officer Hinrichsen were patient and helpful, not accusatory. They asked open-ended questions, let Park say what she had to say, and sought clarifications as needed.

The place of questioning was the apartment—Park's home. As a general rule, "in-home interrogations are not custodial." *See Miranda*, 672 N.W.2d at 759–60 (quoting *Evans*, 495 N.W.2d at 762). Unlike the defendant in *Miranda*, Park was not suddenly awoken from sleep, extracted from her bedroom, and put in handcuffs. *See id.* at 759–60; *accord State v. Underwood*, No. 12–2319, 2014 WL 467576, at *4–6

(Iowa Ct. App. Feb. 5, 2014) (distinguishing *Miranda* where "police did not direct Underwood's movement around the apartment or place him in handcuffs," and noting that "[h]andcuffing was the critical fact indicating [the defendant in *Miranda*] was not free to leave"). While paramedics were working to help Nam, officers kept Park clear of that area to give them space to work and to avoid upsetting Park further. Later, when Officer Hinrichsen was taking pictures of the apartment, Officer Sweeden requested that Park stay in the bedroom with her until Officer Hinrichsen was done taking pictures of the main room. *See* State's Ex 5, at 7:10:29–7:16:25. But her movement within the bedroom was not constrained at all, nor was she constrained while she was in the main room. *See, e.g.*, State's Ex. 5, at 7:16:26–7:28:20.

**(3)** On whether Park was confronted with evidence of her guilt, the district court identified "two separate occasions" where Detective Morgan told her "there is something weird going on here." *See* Ruling (3/11/21) at 11; App. 172. That came later; the State will discuss it in the next section. During the initial interaction, Officer Sweeden and Officer Hinrichsen did not confront Park with evidence of her guilt. They just received her explanation and asked clarifying questions. *See* State's Ex. 5, at 6:52:41–7:04:07. Just before Park's first interaction

with Detective Morgan, Officer Hinrichsen took some pictures of Park's hands—but even then, she indicated that she believed Park's explanations for that injury. *See* State's Ex. 5, at 7:28:30–7:30:45; *accord Countryman*, 572 N.W.2d at 558 (finding interview was not custodial, in part because interviewer offered "a sympathetic ear" and "was not confrontational or aggressive in her questioning").

**(4)** On whether Park was free to leave, the district court stated that "Park repeatedly asked to go to the hospital to be with [Nam]." *See* Ruling (3/11/21) at 10–11; App. 171–72. Again, that came later—all of Park's requests to leave came after Nam was taken to the hospital, which was sometime during the two-minute gap in bodycam footage in this record. *See* State's Ex. 5, at 7:05:00–7:07:30; Ruling (3/11/21) at 10 & n.49; App. 171. Responses to those requests cannot establish that Park was in custody *earlier*, during the initial interaction, when officers were responding to Park's 911 call. Even after Nam was taken to the hospital, Officer Sweeden and Officer Hinrichsen gave responses and suggestions that indicated that they were trying to help Park find a way to contact a friend who could take her there, without using the cell phone or office computer that were part of the incident scene that they needed to preserve. *See* State's Ex. 5, at 7:19:05–7:25:07.

The district court ruled that Park was in custody because there was "significant restraint on [Park's] freedom of movement" that had occurred "during the entire time officers were present." *See* Ruling (3/11/21) at 10–11; App. 171–72. But that restraint was not tantamount to custody or arrest. Officers kept Park away from the medics to let them work without interruption. They guided Park away from the office when she kept looking inside and agitating herself; they steered Park towards a chair, which she declined. *See* State's Ex. 5, at 6:52:41–6:53:35. They touched her to steady her and calm her down when she seemed to need it. They prevented her from driving because it seemed profoundly unsafe, in her agitated state. They asked her to stay in the bedroom during a brief period, because they needed to take pictures of the apartment to document the scene. And they stopped her from accessing items in the office (including her cell phone), because they needed to preserve key evidence. But none of these are the kinds of restraints on movement that are associated with arrest or custody, or even investigative detention. *See, e.g.*, *Parker*, 993 F.3d at 602 (quoting *United States v. Valle Cruz*, 452 F.3d 698, 706 (8th Cir. 2006)) (noting that "just kinda stay here" would "mean something more on the order of 'be patient while we finish up here,' not 'you are being detained.'").

Park was definitely not in custody during the early stages of this encounter in her apartment, when officers responded to her 911 call and asked her what happened. Whatever else happens, this Court should reverse the ruling that suppressed Park's statements from her first interactions with Officer Sweeden and Officer Hinrichsen.

### B. Even when officers had reasonable suspicion to detain Park as part of their investigation, she was still not in custody for *Miranda* purposes.

Detective Morgan arrived at the apartment at 7:29. *See* State's Ex. 5, at 7:29:10–7:29:22. Detective Morgan had already been told that Nam "had ligature marks on his wrists and ankles as well as around his neck, and he had abrasions and lacerations to his face." *See* MTS-Tr. 81:14–20. Then, at 7:33, Detective Morgan began asking Park what happened. *See* MTS-Tr. 81:21–82:1; State's Ex. 5, at 7:33:15–7:53:28. Detective Morgan developed reasonable suspicion at some point before or during that questioning—that was when he made two remarks that essentially amounted to "there is something weird going on here." *See* State's Ex. 5, at 7:33:15–7:33:25; State's Ex. 5, at 7:42:00–7:42:20; *accord* Ruling (3/11/21) at 11; App. 172. At 7:53, Detective Morgan told Park that they wanted to ask her questions at the police station while they took more pictures of the apartment. Park asked if she

could go to the hospital instead. Detective Morgan told her that she would be unable to see Nam there (because treatment was ongoing, to the best of their knowledge at that point), and he repeated that they wanted her to come to the police station. They started giving Park directions for how to drive to the station, but then they offered to drive her there instead. *See* State's Ex. 5, at 7:53:27–7:57:51. Then, Detective Morgan took a call and left the apartment. In the meantime, Sergeant McCarty and Detective Countryman asked Park a few more questions about her background, about Nam, and about the timeline leading up to her 911 call. *See* State's Ex. 5, at 7:57:52–8:09:03. Park's last statement in response to that questioning was made around 8:09.

When Detective Morgan returned, he asked Park to follow Sergeant McCarty to his car and ride with them to the police station. Park asked if she could "get changed," but Detective Morgan told her that "everything in here is potentially evidence, so everything's gotta stay the way it is." *See* State's Ex. 5, at 8:09:00–8:10:15. But they still offered to retrieve clothing for her, and they brought her the coat that she described. *See* State's Ex. 5, at 8:10:10–8:11:25; State's Ex. 5, at 8:12:28–8:13:00 (retrieving specific coat at Park's request). Then, they escorted Park out of the apartment, to Sergeant McCarty's vehicle.

The State conceded that Park was in custody when she was transported to the police station. *See* Resistance (1/29/21) at 9–10; App. 48–49; *cf. State v. Bradford*, 620 N.W.2d 503, 507 (Iowa 2000) (quoting *Centanni v. Eight Unknown Officers*, 15 F.3d 587, 590–91 (6th Cir. 1994)) (explaining general rule that "there is no such thing as a '*Terry* transportation'"). But up until that point, Park was not in custody—she had not been arrested, and she was not restrained to a degree that a reasonable person would associate with custodial arrest. While some of these additional facts impact the four-factor analysis, they still do not tip the balance towards establishing custody.

**(1)** Initially, Park summoned the police with her 911 call. After Nam was taken to the hospital, police stayed to continue investigating the same incident that prompted Park to summon them. This was still "general on-the-scene questioning." *See Van Hoff v. State*, 447 N.W.2d 665, 672 (Iowa Ct. App. 1983) (citing *State v. Brown*, 176 N.W.2d 180, 182 (Iowa 1970)*; accord Miranda v. Arizona*, 384 U.S. 436, 477–78 (1966). Additionally, this factor typically weighs against custody when investigative questioning happens at the defendant's residence. *See, e.g.*, *State v. Decanini–Hernandez*, 19–2120, 2021 WL 610103, at *7 (Iowa Ct. App. Feb. 17, 2021); *Underwood*, 2014 WL 467576, at *4.

**(2)** The purpose of the questioning was still mostly the same: to find out what had happened to Nam. Again, that is a purpose that weighs against finding custody. *See Tyler*, 867 N.W.2d at 174. There were suspicions that Park was hiding something, but these questions were aimed at uncovering those details—not at eliciting a confession. The manner of the questioning aligned with that purpose: it was still "direct, non-confrontational, investigative in nature, and not coercive or threatening." *See State v. Davis*, No. 08–1942, 2009 WL 4116322, at *5 (Iowa Ct. App. Nov. 25, 2009); *accord Decanini–Hernandez*, 19–2120, 2021 WL 610103, at *7 (finding "[t]he 'purpose' of officers' inquiries was to investigate—to determine the facts surrounding the reported hog barn shooting—not to confront," and "the 'manner' of the officers' inquiries was conversational"). Finally, the place of the questioning was still the same: Park's residence. This case does not involve the kind of restraint and confrontation that would transform these conversations in Park's residence into custodial interrogations. *See Miranda*, 672 N.W.2d at 760 (cautioning that finding of custody was based on unique facts showing "[t]his was not the run-of-the-mill interview at a suspect's home"); *accord State v. Ryan*, No. 17–2031, 2019 WL 2524119, at *4 n.2 (Iowa Ct. App. June 19, 2019) (discussing

and distinguishing *Miranda*, and finding Ryan was not in custody even though he had been handcuffed for officer safety); *Underwood*, 2014 WL 467576, at *4 (quoting *United States v. Panak*, 552 F.3d 462, 465–66 (6th Cir. 2009)); *United States v. Czichray*, 378 F.3d 822, 826 (8th Cir. 2004) (quoting and collecting Eighth Circuit cases and explaining that "[w]hen a person is questioned on his own turf, . . . the surroundings are not indicative of the type of inherently coercive setting that normally accompanies a custodial interrogation."). Taken together, the purpose, place, and manner of this exchange would not have led a reasonable person to believe that they were in custody.

**(3)** The district court emphasized that Detective Morgan made at least two statements that boiled down to "there is something weird going on here." *See* Ruling (3/11/21) at 11; App. 172. But even those statements were not confrontational or accusatory. He did not make those statements to browbeat Park or to elicit any response from her. Rather, he made the first of those statements to explain why he was still asking her questions, instead of taking her to the hospital. *See* State's Ex. 5, at 7:33:15–7:33:58. He made that second statement to explain why they were not allowing her to retrieve her iPhone. *See* State's Ex. 5, at 7:42:00–7:42:20. Beyond those, the only statement

that could conceivably be viewed as "confrontational" or "accusatory" was when Detective Morgan asked Park about the injury to her hand, and then noted that her explanation did not make sense. *See* State's Ex. 5, at 7:39:17–7:40:02 ("I've done CPR before, but I've never hurt my hand like that."). But he did not dwell on Park's injury; he quickly changed the subject. *See* State's Ex. 5, at 7:39:17–7:40:20. Even if that qualified as an accusation or confrontation, it did not color the rest of the discussion at Park's apartment, over the next 30 minutes.

The district court apparently concluded that Detective Morgan's comments about "something weird going on here" would signal to Park that she was suspected of committing a crime. But that kind of implied or inferred accusation does not weigh in favor of custody on this factor, as the Iowa Supreme Court noted in *State v. Smith*:

> Another factor which we examine is the extent to which the defendant is confronted with evidence of his guilt. Here, the facts again point us to a finding the defendants were not in custody. The officers questioning the defendants made it clear to them that their stories did not match and used this fact as a tool with which to urge the defendants to provide more information; however, no particular evidence was discussed or disclosed to the defendants. The officers merely did what they could to persuade the defendants to tell the truth.

*State v. Smith*, 546 N.W.2d 916, 925 (Iowa 1996). Even mentioning a fact as the focal point of investigative questioning is not enough. *See*

*State v. Page*, No. 16–1404, 2017 WL 4049495, at *2 (Iowa Ct. App. Sept. 13, 2017) and *State v. Plager*, No. 03–0619, 2004 WL 144122, at *2 (Iowa Ct. App. Jan. 28, 2004) (both explaining that questions about suspicion did not turn traffic stops into custodial interrogation); *accord In re E.G.*, 194 A.3d 57, 65 (N.H. 2018) (noting that an officer "detained and briefly questioned the boys regarding his suspicions," and finding that was "consistent with the scope and purpose of a valid investigatory stop, which does not require *Miranda* warnings"). This was far from the "forceful verbal pressure" used in *State v. Schlitter*—which was *still* "not significant" on this third factor, because Schlitter was only confronted with evidence of his guilt that was "circumstantial and speculative in nature." *See State v. Schlitter*, 881 N.W.2d 380, 396–97 (Iowa 2016); *accord State v. Osborn*, No. 16–1066, 2018 WL 4922938, at *5 (Iowa Ct. App. Oct. 10, 2018) (noting this factor did not weigh in favor of custody, because "at the time of the interview, the police did not possess evidence of Osborn's guilt" and the officer "did not presume that Osborn was guilty"). The district court was incorrect to treat Detective Morgan's two statements that there was "something weird going on" as weighing in favor of finding that Park was in custody, on this factor. *See* Ruling (3/11/21) at 11; App. 172.

**(4)** As for whether Park would believe she was free to leave, Detective Morgan did tell Park that they wanted to ask her questions about what happened, before she could go to the hospital (regardless of whether she was able to contact someone to take her). *See* State's Ex. 5, at 7:53:27–7:57:51. But even after that, Park was only detained; she was not in custody until they transported her to the police station.

In resisting discretionary review, Park argued that "[t]he State attempts to avoid the ultimate question: was [Park] deprived of her freedom in any significant way?" *See* Resistance (6/11/21) at 4–5; App. 211–12. That inquiry matters, but it is not the ultimate question. Rather, the ultimate question is whether Park's freedom was limited to a degree where a reasonable person in her situation would believe she was under arrest or in custody. An investigative detention under *Terry* is a limitation on freedom—a person is detained if they are not free to leave. *See, e.g.*, *State v. White*, 887 N.W.2d 172, 176 (Iowa 2016). That limitation on movement accompanies all investigative detention, by definition, and it has practical and legal significance. But even so, police may typically question suspects during investigative detentions without implicating *Miranda*, as long as the suspect's freedom is not limited to a degree that is typically associated with custody or arrest.

During a traffic stop, a motorist's freedom is curtailed in a practically and legally significant way—and yet, "[t]he temporary detention of a motorist in an ordinary traffic stop is not considered 'in custody' for purposes of *Miranda*." *See State v. Scott*, 518 N.W.2d 347, 350 (Iowa 1994); *Berkemer*, 468 U.S. at 437–39. And officers can ask questions during those investigative detentions—"the right to interrogate during a 'stop' is the essence of *Terry* and its progeny." *See Scott*, 518 N.W.2d at 350 (quoting *United States v. Oates*, 560 F.2d 45, 63 (2d Cir. 1977)).

This illustrates that "the freedom-of-movement test identifies only a necessary and not a sufficient condition for *Miranda* custody." *See Decanini-Hernandez*, 2021 WL 610103, at *8 (quoting *Maryland v. Shatzer*, 559 U.S. 98, 112 (2010)). Here, even when Park's freedom of movement was limited, it was only limited to a degree that would be associated with an investigative detention—it was not limited to a degree that a reasonable person would associate with custody.

In order to tell the difference between detention and custody, Iowa courts "weigh the degree of physical restraint imposed during the interrogation." *See Countryman*, 572 N.W.2d at 558. Here, Park was prevented from accessing items that could be evidence—but this was a "minimal restriction" that made sense under the circumstances.

*See Smith*, 546 N.W.2d at 925 (finding that officers accompanying defendants on trips to restroom was not a limit on their movement that rose to level of custody, because it was "a minimal restriction on their actions merited by the dangers inherent in the circumstances"). Moreover, officers had *explained that* to Park—so she would know that those limitations did not mean she was being taken into custody. *See* State's Ex. 5, at 7:19:05–7:25:07. And Park was otherwise free to move around as she wished, while she talked with Detective Morgan and other officers. When Detective Morgan started talking with Park, he asked her: "Why don't you have a seat in that chair?" But Park said that she preferred to stand, and she paced around as she talked. *See* State's Ex. 5, at 7:33:44–7:34:20. When she mentioned the champagne that she drank before she fell asleep, she pointed towards its location and started to walk to it. Detective Morgan put out his arm to stop her, and he said "stay here, don't touch anything." But he did not restrain Park's movement, beyond that. *See* State's Ex. 5, at 7:42:35–7:43:43. Park continued to move around during the ensuing conversation, to demonstrate what she saw and to talk to different officers. Eventually, she crouched and sat down on the floor, of her own accord. *See* State's Ex. 5, at 7:57:00–7:58:10. Her movement was mostly unimpeded.

The district court found that officers "further restricted [Park's] ability to move about" just before leaving for the police station, and "didn't even allow her to get socks before insisting that she put on her boots." *See* Ruling (3/11/21) at 11; App. 172. But that happened *after* Park's last statement in response to questions at the apartment, so it cannot help establish a *Miranda* violation during the questioning that happened earlier. *See* State's Ex. 5, at 8:09:00–8:13:00.[1]

Park was not handcuffed, nor was she physically restrained in any way that could signify custody. *See, e.g.*, *Decanini–Hernandez*, 2021 WL 610103, at *8 (finding lack of custody, in part because the defendant had "free use of his hands" and was "free to move about the driveway and adjoining area as he chatted with officers"); *accord Parker*, 993 F.3d at 602 (noting that "Parker paced throughout the apartment while paramedics attended to E.M." which "show[ed] he possessed virtually unrestrained freedom of movement," even though officer gave directions to ensure he was not "in the way of paramedics" or other officers). This final factor does not weigh in favor of custody.

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[1] Park could have changed her clothes, earlier on—but she was singularly focused on getting her iPhone from the incident scene. *See* State's Ex. 5, at 7:15:25–7:22:17. It would be incorrect to say that Park was never allowed to change clothes, once officers arrived.

The bodycam footage shows that Park was not restrained to a degree that could overcome the general rule that questioning in the suspect's own residence is not a custodial interrogation—even near the end, when the encounter had become an investigative detention. Thus, her statements were admissible, and the district court erred in ruling otherwise. This Court should reverse that ruling.

## II. The district court erred in finding that Park did not knowingly waive her *Miranda* rights during her first interview at the police station.

### Preservation of Error

Error was preserved by the district court's ruling that rejected the State's resistance and found that Park did not knowingly waive her *Miranda* rights. *See* Ruling (3/11/21) at 11–13; App. 172–74; Resistance (1/29/21) at 9–12; App. 48–51; *Lamasters*, 821 N.W.2d at 864.

### Standard of Review

Again, review is de novo. *See Palmer*, 791 N.W.2d at 844.

### Merits

Around 8:15, Officer McCarty drove Park to the police station. When they arrived, Park sat in the lobby, unrestrained. At about 9:01, Detective Hatcher and Detective Morgan led her to an interview room. The record contains Detective Hatcher's bodycam footage, along with a transcript of this interview. *See* State's Ex. 5; Def's Ex. B; App. 69.

Detective Hatcher told Park that they wanted to talk to her to find out what happened. He informed her that they always had to read people their *Miranda* rights before interviews in that room. Then, at 9:05, Detective Morgan read this advisory to Park:

> **DETECTIVE MORGAN**: You're not under arrest right now, at all. We need to talk to you, just to understand what happened to your husband, okay? So I'm going to read you your rights, just so you understand them. You have a right to remain silent. Anything I say — I'm sorry, anything *you* say can and will be used against you in a court of law. You have a right to call — consult a lawyer before any questioning, and have that lawyer present with you for any questionings, if you wish. If you cannot afford to hire an attorney, one will be appointed to represent you before any questioning, if you wish, okay. You can decide at any time not to answer any questions or make any statements, okay. Do you understand that?
>
> **PARK**: Um, meaning, um —
>
> **DETECTIVE MORGAN**: We want to talk to you about what just happened.
>
> **PARK**: —uh, — I'm not so sure what I just saw.
>
> **DETECTIVE MORGAN**: Okay, well, here — you can read this over, too. [He puts a written advisory on the table] This is it, in writing. So if you have questions about it, you can look it over —
>
> **PARK**: Can we talk after I find out [about] my husband?"

*See* State's Ex. 5, at 9:05:16–9:06:40. The detectives replied that they wanted to find out what happened, because it might help in treating Nam or steering their investigation. Park seemed to understand what the officers were saying; she repeatedly said "okay." They continued:

> **DETECTIVE HATCHER**: [W]e are kind of in a crunch to figure out what happened. . . . These are your rights. We want to make sure you understand your rights. . . Before we can ask you questions, we want to make sure you understand your rights, and — you're willing to talk to us.
>
> **PARK**: So, if I don't even want to talk to you right now, then can I talk to you later?
>
> **DETECTIVE MORGAN**: Well, we want to talk to you right now. . . If you don't want to talk to us right now, that's fine, you can tell me you don't want to talk to me, but you're still going to stay here at the station until we figure out what's going on. Okay?

*See* State's Ex. 5, at 9:06:40–9:08:39. At first, Park said that she had already told the officers everything she knew. Detective Morgan said that he still wanted to hear more details, and then he said:

> **DETECTIVE MORGAN**: . . . So, I wanna ask you a bunch of questions, but I need you to understand your rights, that's why I read them to you, okay, and this is it in writing. Did you understand when I read them to you?
>
> **PARK**: [After pausing and looking at advisory] Yes.

*See* State's Ex. 5, at 9:08:40–9:09:29. Detective Morgan repeated that "it's entirely up to you, if you want to talk to us." He asked Park to sign the *Miranda* advisory form, to indicate that she understood. But Park hesitated and did not sign it. Detective Hatcher circled back:

> **DETECTIVE HATCHER**: You understand your rights?
>
> **PARK**: Uh . . . I'm not so sure.

Detective Morgan tried to figure out what that meant. He asked if Park would prefer to speak to someone in Korean. Park deflected and

replied: “I’m not so sure, I’m not so sure about my condition, like . . .” and trailed off. *See* State’s Ex. 5, at 9:09:29–9:10:19. But they knew that Park could read and speak English, because she said she taught undergraduate economics classes at Simpson College, in English. *See* State’s Ex. 5, at 9:10:20–9:10:31. Detective Hatcher pointed to the form and said: “So — do you understand that you have rights?” Park looked down at the written advisory and appeared to read it again, as she nodded and said “okay.” But she did not pick up the pen to sign it. *See* State’s Ex. 5, at 9:10:32–9:10:45. While Park looked at the form, Detective Morgan said “If you don’t want to sign it, that’s fine — that’s your choice. But we’d still like to talk to you.” He asked her to describe what she and Nam did after they went out for breakfast, that morning. Park said “okay” to herself, took a deep breath and a drink of water, and then said, “Okay, I can do this.” Detective Morgan assured Park they would be patient, and she should take her time and “just relax.” Park said “okay, thank you.” She seemed to murmur that the situation was “too much.” But Park took another deep breath, and then started giving a timeline of events. *See* State’s Ex. 5, at 9:10:45–9:13:04. Park spoke with an accent, but she spoke fluent English. When detectives asked her questions, she could answer rapidly and appropriately.

Park mentioned her *Miranda* rights at various points. *See*, *e.g.*, State's Ex. 5, at 9:35:06–9:35:57; State's Ex. 5, at 12:14:40–12:15:20. Park ultimately invoked her right to counsel to end the interview, just after 2:00 a.m. *See* State's Ex. 5, at 2:01:30–2:05:13.

The district court found that it was "unclear whether Park understood these rights," so she did not knowingly waive them. *See* Ruling (3/11/21) at 11–13; App. 172–74. That is incorrect. It is true that Park did not actually sign the *Miranda* waiver, and did not expressly waive her *Miranda* rights. But an express waiver of *Miranda* rights "is not inevitably either necessary or sufficient to establish waiver." *See North Carolina v. Butler*, 441 U.S. 369, 373 (1979). If a person understands their *Miranda* rights, she can waive them by conduct—often by participating in an interview and declining to invoke them. Park understood her *Miranda* rights, so her implied waiver was valid.

The district court repeatedly emphasized the fact that Park said "I'm not so sure" when Detective Hatcher asked if she understood her *Miranda* rights. *See* Ruling (3/11/21) at 11–13; App. 172–74. If taken out of context, that exchange looks bad. But the surrounding context establishes that Park *did* understand her rights—she was just hesitant to answer questions (but also hesitant to *decline* to answer questions).

*See* State's Ex. 5, at 9:08:40–9:09:29. She responded to the initial *Miranda* advisory with "I'm not so sure *what I saw*." *See* State's Ex. 5, at 9:05:16–9:06:40. And after that, she responded to the offer to get a Korean translator with "I'm not so sure *about my condition*." State's Ex. 5, at 9:09:29–9:10:19. Park did not specify any part of the *Miranda* advisory that she did not understand, and she did not ask any clarifying questions about her rights. That was because she already understood her rights. She said as much to Detective Morgan, when she confirmed that she *did* understand the advisory that he read to her. *See* State's Ex. 5, at 9:08:40–9:09:29. Park's statements that she was "not so sure" about various other things were not a sign of "a lack of understanding . . . as much as [they were] an attempt to simply be evasive." *See State v. Mann*, 512 N.W.2d 528, 534 (Iowa 1994).

The district court watched this footage and assumed that Park did not understand English. *See* Ruling (3/11/21) at 12; App. 173. But Park was fluent in English; she was teaching undergraduate economics classes in English; she had earned a PhD while studying economics at American schools; and she had lived in the U.S. for over 20 years. *See* State's Ex. 5, at 8:00:33–8:01:16; State's Ex. 5, at 9:10:20–9:10:31; State's Ex. 5, at 9:26:55–9:30:54. And Park had understood English

throughout all of her interactions with police, that evening. In that, this case is like *Hajtic*, where the video footage showed that Hajtic "clearly understood the questions asked," and the finding that he understood the advisory in English was "bolstered" by evidence that he "had been in this country for six years" and held down a job. *See State v. Hajtic*, 724 N.W.2d 449, 454–56 (Iowa 2006); *accord Park v. Commonwealth*, No. 2006–SC–0050–MR, 2006 WL 2987031, at *2 (Ky. Oct. 19, 2006) (noting suspect's statement "reflected a command of the English language"). And Park knew how to ask for a definition if she did not know a word in English, like "autopsy." *See* State's Ex. 5, at 12:08:05–12:09:34. Park asked no such questions regarding either the written *Miranda* advisory, or Detective Morgan's spoken advisory.

Moreover, Park referenced and invoked her *Miranda* rights, which shows that she understood them. When Detective Morgan asked Park to sketch out how Nam was positioned, this exchange followed:

> **PARK**: Should I — should I wait for the lawyer? Because—
> **DETECTIVE MORGAN**: That's up to you.
> **PARK**: —this is based on what I remember.
> **DETECTIVE MORGAN**: Well, that's — all we're asking is what you remember. It's just you and him in there, so I don't know anything beyond what you tell us.
> **PARK**: Okay. Okay, so it was . . . [drawing and explaining].

*See* State's Ex. 5, at 9:35:06–9:35:57. This illustrates two things. First, Park was aware that she could decline to say anything until she talked to a lawyer. Second, the detectives continued to make it clear that it was *Park's choice* whether to speak with them. Although Park could not go home (given the ongoing search of her apartment), she was repeatedly told that she could decide not to answer questions.

The district court noted that Park referenced and invoked her *Miranda* rights—but it failed to recognize that as evidence that she understood that she had those rights. She referenced her right to remain silent, straight off the written form, at about 12:14 a.m. *See* Ruling (3/11/21) at 16 n.74; App. 177; State's Ex. 5, at 12:14:40–12:15:20. That is conclusive evidence that Park could understand what that form said—and it was the same one that she read at 9:05. Moreover, at 2:00 a.m., when the detectives returned after a break, Park told them: (1) "You told me I can remain silent"; (2) "I don't feel comfortable talking to you anymore," and (3) "can I talk to [a] lawyer?" *See* Ruling (3/11/21) at 16; App. 177; State's Ex. 5, at 2:01:30–2:05:13.[2]

[2] The district court stated that detectives "continued to talk to her, and ask questions, for the next four minutes" after Park asked for a lawyer. *See* Ruling (3/11/21) at 16; App. 177. However, they were not interrogating her; they were executing a search warrant for her phone and for pictures of her injuries. *See* State's Ex. 5, at 2:05:07–2:08:52.

There is no reason to think that Park did not grasp those concepts at the start of her interview, too. *See State v. Powell*, No. 13–1147, 2014 WL 4930480, at *8 (Iowa Ct. App. Oct. 1, 2014) ("Powell's statement at the end of the interview that he should have asked to speak to an attorney 'from the start' shows he understood his rights.").

One last point: when Park came back for another interview on the following morning—on her own initiative—she signed a *Miranda* waiver with no hesitation and without asking any questions at all. *See* State's Ex. 5 (Feb. 16 footage). She already knew her *Miranda* rights, and she knew that returning for a voluntary interview meant waiving those particular rights. *Cf. State v. King*, 492 N.W.2d 211, 215 (Iowa Ct. App. 1992) (holding intoxication did not preclude knowing and voluntary waiver when suspect told officers that they "did not have to read the form because [he] already knew the *Miranda* warning").

This record was replete with evidence that Park understood her *Miranda* rights. She made a valid decision to waive those rights by speaking with detectives. She knew that she could invoke her rights to end the interview, and she eventually did so. The district court erred in finding that Park did not knowingly waive her *Miranda* rights for this first interview, and this Court should reverse that ruling.

## III. The district court erred in granting suppression on Park's claim that the detectives made impermissible promises of leniency during that first interview.

### Preservation of Error

Error was preserved by the district court's ruling that detectives made impermissible promises of leniency, over the State's resistance. *See* Ruling (3/11/21) at 13–17; App. 174–78; Resistance (1/29/21) at 12–17; App. 51–56; *Lamasters*, 821 N.W.2d at 864.

### Standard of Review

Appellate review of a ruling "on promises of leniency under the common-law evidentiary test is for corrections of errors at law." *See State v. Howard*, 825 N.W.2d 32, 39 (Iowa 2012).

### Merits

An express promise of leniency tells the suspect that confessing will earn a particular benefit. *See, e.g.*, *State v. Hodges*, 326 N.W.2d 345, 347 (Iowa 1982) ("[Officer] told the defendant that if he would give a statement to the police 'there would be a much better chance of him receiving a lesser offense than first degree murder.'"); *accord State v. Kase*, 344 N.W.2d 223, 226 (Iowa 1984); *State v. Mullin*, 85 N.W.2d 598, 600 (Iowa 1957). The district court recognized that the detectives did not make "an express promise of leniency," and "did not specify any advantage to be gained from making a confession."

*See* Ruling (3/11/21) at 16; App. 177. Still, it concluded that all of Park's statements during that interview were inadmissible because the detectives made implied promises of leniency which, "viewed in the context in which they were made, gave Park false hope that if she simply reacted to an abusive situation, she would not be in trouble." *See id.* at 16–17; App. 177–78. Based on that, it found that all of Park's statements during that first interview should be suppressed (and it imputed that taint to all of Park's subsequent statements, too). *See id.* at 17–18; App. 178–79. That ruling is incorrect in at least two ways.

### A. There were no implied promises of leniency. Officers may use the word "help" to describe the interview itself, as an opportunity for a suspect to minimize their exposure by telling the truth.

An implied promise of leniency is a collection of statements that "indicates leniency in exchange for defendant's confession" without an express quid pro quo. *See Howard*, 825 N.W.2d at 41 (quoting *State v. McCoy*, 692 N.W.2d 6, 41 (Iowa 2005)). But officers "can tell a suspect that it is better to tell the truth without crossing the line." *See McCoy*, 692 N.W.2d at 28. An implied promise of leniency is made if a reasonable person would infer a connection between statements that encourage a suspect to confess and statements about possible rewards or penalties. *See, e.g.*, *State v. Polk*, 812 N.W.2d 670, 676

(Iowa 2012); *Howard*, 825 N.W.2d at 41. Park compares this case to *Howard*, *Polk*, *Madsen*, and *McCoy*, and she argues that these two detectives made promises of leniency that were "as bad, or worse." *See* Resistance (6/11/21) at 14–15; App. 221–22. She is wrong.

- In *Howard*, the officer "strategically planted in Howard's mind the idea that he would receive treatment, and nothing more, if he confessed" to abusing the victim. *See Howard*, 825 N.W.2d at 41. In that context, "help" clearly referred to treatment for pedophilia. *See id.* at 36–38.
- In *Polk*, the officer "crossed the line by combining statements that county attorneys 'are much more likely to work with an individual that is cooperating' with suggestions Polk would not see his kids 'for a long time' unless he confessed." *See Polk*, 812 N.W.2d at 675–76. *Polk* held that mentioning a lengthy term of imprisonment as the *alternative* to cooperation gave rise to an implied promise of leniency. *See id.*
- In *Madsen*, the officer "implicitly conveyed the message that by confessing Madsen could avoid public charges against him" and "could avoid newspaper publicity that would humiliate him in the community." *See State v. Madsen*, 813 N.W.2d 714, 726–27 (Iowa 2012).
- In *McCoy*, the officer repeatedly told McCoy that "if he didn't pull the trigger he would not be in any trouble" for participating in the murder. *See McCoy*, 692 N.W.2d at 28.

Here, the challenged statements did not identify benefits to be given or external consequences to be avoided by confessing. Instead, they urged Park to tell the truth, and told Park that they wanted to help her by finding the truth. And when Park described domestic abuse, they projected empathy: they assured Park that any abuse was not her fault,

that she was safe, and that "people would understand" if Nam had been hurt as a result of Park acting to protect herself from abuse, or if she hurt him by accident. *See, e.g.*, State's Ex. 5, at 10:19:14–10:20:00; *id.* at 10:21:50–10:24:32; *id.* at 10:52:18–10:58:58; *accord* MTS Brief (10/22/20) at 22–23; App. 27–28 (listing statements that Park alleged were impermissible promises of leniency). Those kinds of statements are permissible. *See, e.g.*, *State v. Jennett*, 574 N.W.2d 361, 366 (Iowa Ct. App. 1997) (noting "empathy or understanding for the suspect does not amount to improper inducement or coercion," and statements that "the interviewer would not think badly of him or judge him" were not promises of leniency); *State v. Wilson*, No. 16–0555, 2017 WL 936125, at *3 (Iowa Ct. App. Mar. 8, 2017) (rejecting approach that "would be tantamount to restraining an interviewer from expressing empathy").

The detectives did say that they were trying to "help" Park, and they urged Park to tell them specific things *if* those things were true. *See, e.g.*, State's Ex. 5, at 12:01:42–12:05:11. But that is permissible.

> We acknowledge Investigator Prochaska stated, "We're not going to be any bit of any help to you," if Foy did not tell the truth, and "[w]e're just here simply for your benefit." However, the investigators did not explain how they were going to "help" Foy, or what "benefit," they could provide him. As the district court observed, the interview did "not contain any clear inducements or inducements that could be reasonably inferred by the language used."

*State v. Foy*, No. 10–1549, 2011 WL 2695308 at *3 (Iowa Ct. App. July 13, 2011) (quoting *Mullin*, 85 N.W.2d at 601). Here, the detectives did not identify consequences of either confessing or not confessing—they only told Park that certain explanations would be understandable or reasonable. Officers may convey that they empathize with a suspect, understand the situation, and are trying to "help"—those statements do not qualify as promises of leniency if they are "not combined with any advantage to be gained, as they were in *Polk* or in *Howard*." *See Mablin v. State*, No. 18–1612, 2019 WL 4297860, at *11–12 (Iowa Ct. App. Sept. 11, 2019); *accord State v. Bunker*, No. 13–0600, 2014 WL 957432 at *2 (Iowa Ct. App. Mar. 12, 2014) (noting that the detective "omitted any reference to how Bunker would be helped" by admission, so *Howard*, *Madsen*, *Polk*, and *McCoy* were all distinguishable).

The district court's ruling and Park's argument revolve around challenges to use of the word "help." *See* MTS Ruling (3/11/21) at 15–17; App. 166–68. The premise is that Park would understand those offers to "help" as promises of leniency, offered in exchange for saying what the detectives wanted to hear. Park asks: "What would the offers of 'help' and 'protection' mean, if not that the officers would help her avoid criminal consequences?" *See* Resistance (6/11/21) at 11–14; App. 218.

The answer is logical and intuitive: they were offering Park a chance to tell the truth about how Nam died. If she did not intentionally kill him, any truthful explanation would "help" and "protect" her by raising an alternative to the inference that she *did* intentionally kill him—which had only grown stronger, as Park kept repeating her implausible claim that Nam died after tying himself up. *See, e.g.*, *State v. McGuire*, 572 N.W.2d 545, 547 (Iowa 1997) (quoting *State v. Odem*, 322 N.W.2d 43, 47 (Iowa 1982)) ("[A] false story told by a defendant to explain or deny a material fact against him is by itself an indication of guilt."); *State v. Gibbs*, 941 N.W.2d 888, 892, 900 (Iowa 2020) (noting that Gibbs undermined his justification defense at trial by denying that he was the shooter, in pre-arrest interviews with police). That was why the detectives repeatedly emphasized the critical facts that indicated that Nam did not tie himself up, as they urged Park to tell them the truth about tying him up and explain why she did it, "if that's the case." *See, e.g.*, State's Ex. 5, at 12:06:35–12:11:29. This was more than subtext:

> **PARK**: You think I killed my husband?
>
> **DETECTIVE MORGAN**: I don't — I don't know. You know, what I'm saying is: I don't want people to think you did, if you didn't. Ok, that's why we want the truth.

State's Ex. 5, at 11:33:40–11:33:55. Every challenged statement that referred to "help" was delivering that same permissible message.

The detectives did not make impermissible promises of leniency. Their statements that they (or others) would understand reasonable explanations were attempts to empathize, build rapport, and create a permission structure that would enable Park to tell them what really happened. Their statements that they were trying to "help" or "protect" Park were simply urging her to tell the truth, to help and protect herself. All of that is permissible. The detectives never said anything that could be construed as telling Park "what advantage is to be gained or is likely from making a confession." *See Madsen*, 813 N.W.2d at 727 (quoting *Hodges*, 326 N.W.2d at 349). Nor were their statements "calculated to mislead Park and exert an improper influence over her mind." *See* Ruling (3/11/21) at 17; App. 178. The district court erred in ruling otherwise.

### B. If impermissible promises of leniency were made, only admissions that came *after* those promises should be suppressed.

If there were impermissible promises of leniency, only the statements that came *after* those promises should be suppressed. *See Howard*, 825 N.W.2d at 39–40 (citing *Madsen*, 813 N.W.2d at 727) ("[S]tatements made by the defendant during the interview *before* a promise of leniency are not excluded by the evidentiary rule.")

At 9:59, detectives were asking Park about how Nam was tied up, and they had specifically mentioned that Nam "had marks on his legs, his neck, his *wrists*." *See* State's Ex. 5, at 9:59:09–9:59:54.

> **DETECTIVE MORGAN**: We're trying to understand were his hands together? . . . Were his hands tied to the chair? We don't know. So that's why we're asking you.
>
> **DETECTIVE HATCHER**: We're trying to figure out what's going on, okay? And if this was a bad marriage for you, if you weren't happy or if he wasn't happy. If he was abusive to you or if he's pressuring you to go to Kentucky or do something because he's not happy at his job, tell us now. Because we can't quite figure out what's going on. I mean, to us, if he wasn't happy and he wanted to end his life or whatever, . . . We're just trying to figure out how did he end up in — If he was abusive to you or he hit you or you weren't happy, tell us, we're just trying to figure out — What's going on?
>
> **PARK**: Okay, I can talk about the mark, here [indicating her wrist]. When he's upset, he hit me. He even choke me, sometimes. . . .

From there, Park described specific episodes of abuse; her intent to divorce Nam; the fact that she used zip ties to restrain Nam and stop him from abusing her when he was angry, at his request, as recently as three days earlier (which, according to Park, explained the marks on Nam's wrists); and the fact that she had videos of Nam stating that he had asked her to tie him up. *See* State's Ex. 5, at 9:59:55–10:12:29. Every single statement that Park or the district court described as a promise of leniency came *after* that. *See* Ruling (3/11/21) at 14–17;

App. 175–78; MTS Brief (10/22/20) at 22–24; App. 27–29. Even if the detectives subsequently made promises of leniency, her statements that *preceded* those promises are still admissible. *See Madsen*, 813 N.W.2d at 727. The district court erred in failing to recognize that.

### C. If promises of leniency were made, it would still be incorrect to suppress any statements in which Park denied any involvement in Nam's death.

Most promise-of-leniency cases involve a confession that is offered for the truth of the matter asserted. The theory of relevance is that the defendant's confession ("I did X") helps prove that they did X. If there were any promises of leniency that would have incentivized a false confession, then the confession is not reliable as proof that they actually did X, and the theory of relevance unravels. *See McCoy*, 692 N.W.2d at 27–28; *State v. Quintero*, 480 N.W.2d 50, 52 (Iowa 1992).

This case is different. Park's statements from this interview would not be offered on a theory that they are relevant because they were true—these statements are relevant because they were *false*. *See McGuire*, 572 N.W.2d at 547 (quoting *Odem*, 322 N.W.2d at 47). A bright-line rule of exclusion makes sense when there is a danger of crediting a false confession/admission. But that danger is not present when the defendant's statements are denials rather than admissions,

and when they are relevant to show that a defendant "lied to the police" because the truth would implicate her. *See State v. Leutfaimany*, 585 N.W.2d 200, 206–07 (Iowa 1998); *accord* MTS-Tr. 189:8–190:25.

Even if the detectives made impermissible promises of leniency, the theory of relevance supporting admissibility of these statements would be unaffected. These statements were not a confession that was made in reliance on promises of leniency. Rather, in these statements, Park repeatedly denies any involvement in causing Nam's death (just like her statements that came before the alleged promises of leniency). *See, e.g.*, State's Ex. 5, at 10:13:06–10:16:40. So these statements are not susceptible to any troubling inference that Park only made them to secure an implied benefit or avoid an implied punishment. Moreover, and more importantly, the State's theory is not that these statements are relevant and admissible as proof of the truth of matters asserted in her statements (which could potentially implicate the common-law evidentiary rule that would exclude them as unreliable and irrelevant). Instead, they are relevant because they were *false*—which is a theory of admissibility which sidesteps concerns about reliability altogether. *See, e.g.*, *State v. Crowley*, 309 N.W.2d 523, 524 (Iowa Ct. App. 1981) (finding implausible statement denying all involvement was relevant

"to show precisely the opposite . . . on the theory that consciousness of guilt may be inferred from the attempted evasion, palpable falsehood, or suppression of true facts"). Thus, the common-law evidentiary rule cannot require exclusion of any statements from this first interview.

### D. All of Park's statements were voluntary.

After applying the common-law evidentiary test, Iowa courts must still determine whether the suspect's statements were voluntary under the totality of the circumstances. *See Madsen*, 813 N.W.2d at 726 n.1. Here, it is clear that the alleged promises of leniency did not have much impact. After the statements discussed in sub-section III.B, Park did not make any new admissions for the rest of this interview. Also, she continued to stick to her story that she had "no idea" how Nam came to be tied up. *See* State's Ex. 5, at 10:13:06–10:16:40. So even after every statement that Park and the district court identified, Park's free will was never overborne—she said what she chose to say. *See Tyler*, 867 N.W.2d at 175–77; *Countryman*, 572 N.W.2d at 559.

The district court made two additional findings that, in its view, implicated voluntariness concerns. The State will address them here.

First, the district court observed that the detectives "held off telling Park of [Nam]'s death until well after it occurred," and they

"suggested maybe she would disclose information that would help him" during that period. *See* Ruling (3/11/21) at 13–14; App. 174–75. Even so, deception "does not render a waiver of constitutional rights involuntary as a matter of law unless the deceiving acts amount to a deprivation of due process"—and this particular kind of deception generally does not. *See State v. Hall*, 297 N.W.2d 80, 89 (Iowa 1980) (quoting *State v. Cooper*, 217 N.W.2d 589, 597 (Iowa 1974)); *see also State v. Jacoby*, 260 N.W.2d 828, 832–33 (Iowa 1977). Park knew that Nam was "gravely wounded, if not dead"—she already knew that Nam had not been breathing since before she called 911, and she saw his condition when paramedics took him out of the apartment, over 40 minutes later—so there was "no substantial deceit relating to the gravity of [his] condition." *See Jacoby*, 260 N.W.2d at 832–33.

Second, the district court relied on testimony from an academic cultural expert who said that people from South Korea naturally defer to authority. *See* Ruling (3/11/21) at 11; App. 172. But this was just an extremely broad generality about culture *in Asian countries*. *See* MTS-Tr. 144:12–148:6. Park had lived in the United States for two whole decades. And Park did not seem to feel compelled to defer to authority—she chose not to sign the *Miranda* waiver form, and she

repeatedly lied to police throughout the initial encounter and that first interview (as she admitted, the next day). Park was not acting involuntarily, in thrall to police, bound by a norm that "people in authority are to be respected." *See* Ruling (3/11/21) at 12 (quoting MTS-Tr. 146:4–12).[3] And Park ultimately made a voluntary decision to end the interview. *See* State's Ex. 5, at 2:01:30–2:05:13; *accord State v. Buenaventura*, 660 N.W.2d 38, 46–47 (Iowa 2003) (finding statements were voluntary where defendant "was college educated, employed in the United States, and understood English," and noting the fact that he had "requested an attorney" to end the first interview was strong evidence that *Miranda* waiver was knowing and voluntary).

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[3] Dr. Asay had no particularized expertise on South Korea, or on law enforcement practices in other countries. *See* MTS-Tr. 153:2–17; MTS-Tr. 156:15–23; MTS-Tr. 158:16–25. If she did, she might have known that anyone who is detained in South Korea must be informed of their analogous rights to remain silent and to assistance of counsel. *See* Kuk Cho, *The Unfinished 'Criminal Procedure' Revolution of Post-Democratization South Korea*, 30 DENV. J. INT'L L. & POL'Y 377, 379–80, 383–84 (2002) (describing how high-profile police abuses in the 1980s, before democratization, led to inclusion of "very detailed provisions regarding criminal procedural rights" in 1987 Constitution, and a landmark 1992 decision from the Korean Supreme Court "which is often called the Korean version of *Miranda*"). Overgeneralizations about Asian people are, at best, unhelpful. *Compare* MTS-Tr. 144:12–148:6, *with* Jieun Choi, *Stop Attributing Everything to Confucianism*, KOREA EXPOSÉ (Jan. 24, 2018), https://koreaexpose.com/stop-attributing-everything-in-east-asia-to-confucianism/.

All in all, Park knowingly and voluntarily chose to speak with detectives (until she invoked her right to counsel, which ended the interview), and the detectives did not make impermissible promises of leniency. The district court erred in suppressing Park's statements from this interview, and this Court should reverse that ruling.

## IV. The district court erred in finding that all of Park's statements in subsequent interviews were tainted.

### Preservation of Error

Error was preserved by the district court's ruling that none of Park's statements in subsequent interviews were admissible, over the State's resistance. *See* Ruling (3/11/21) at 17–18; App. 178; Resistance (1/29/21) at 17–19; App. 56–58; *Lamasters*, 821 N.W.2d at 864.

### Standard of Review

Again, review is de novo. *See Palmer*, 791 N.W.2d at 844.

### Merits

When Park invoked her right to counsel, the detectives stopped the interview. Once the search of Park's apartment was complete, she was able to return home. The detectives were upfront: Park's narrative did not match the physical evidence; they were certain she was lying; and they would keep investigating until they uncovered the truth. *See* State's Ex. 5, at 2:06:03–2:06:30.

The next day, Park came back of her own accord, unexpectedly. She told detectives that she understood her *Miranda* rights, and she signed a waiver. Then, she told them that she *had* tied Nam up, with his consent, to prevent him from abusing her while he was angry. She still said that Nam was alive when she went to sleep, and that he had been suicidal at various points. *See* State's Ex. 5 (footage from Feb. 16). Park was interviewed twice more, after that. Then, she was arrested.

The district court ruled that none of Park's statements during her subsequent interviews were admissible—partly because of "the implied promises and assurances" during the first interview, and partly because "Park clearly articulated her desire to remain silent and to consult with counsel" at the end of the first interview. *See* Ruling (3/11/21) at 18; App. 179. That ruling is incorrect.

### A. Park voluntarily reinitiated contact with police and expressly waived her *Miranda* rights, before that second interview.

The district court's ruling cited *Palmer* for the proposition that it would be "inappropriate for the authorities to reinitiate contact with Park" after she invoked her *Miranda* rights. *See id.* at 18 (citing *Palmer*, 791 N.W.2d at 848). But *Palmer* establishes that police may *grant the suspect's request* for another interview, in that situation.

> The next day, Palmer asked to speak to someone about a number of issues. . . . Before initiating the second interview, Holder read Palmer the *Miranda* warning. Palmer orally and in writing acknowledged that he understood his rights. Palmer also agreed to waive his rights, sign the waiver form, and speak with Holder. . . .
>
> [. . .]
>
> The second interview by the same officer about the same crime occurred at Palmer's request. The second interview was not a product of repeated police efforts to wear down Palmer's resistance to talk about the incident or to induce him to abandon his earlier invocation of his right to remain silent. The mere fact the second interview was by the same officer concerning the same crime does not overcome the other circumstances that lead us to find Holder scrupulously honored Palmer's right to remain silent after Palmer invoked his right to remain silent during the first interview.

*Palmer*, 791 N.W.2d at 848–49; *accord Edwards v. Arizona*, 451 U.S. 477, 484–85 (1981) (holding that suspect who invokes right to counsel cannot be re-interviewed without counsel, "unless the accused himself initiates further communication, exchanges, or conversations with the police"); *State v. Newsom*, 414 N.W.2d 354, 359 (Iowa 1987) (same). And Park's unequivocal waiver of her *Miranda* rights and the content of her statements show "a willingness and a desire for a generalized discussion about the investigation." *See Oregon v. Bradshaw*, 462 U.S. 1039, 1045–46 (1983); *see generally* State's Ex. 5 (Feb. 16).[4]

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[4] Park's apparent familiarity with her *Miranda* rights further undercuts the claim that she did not understand them, earlier on.

The district court applied a "cat out of the bag" analysis. *See* Ruling (3/11/21) at 13–14; App. 174–75 (quoting *United States v. Bayer*, 331 U.S. 532, 540–41 (1947)). But that approach only applies when the initial statements were *involuntary*. Otherwise, *Elstad* applies:

> Far from establishing a rigid rule, we direct courts to avoid one; there is no warrant for presuming coercive effect where the suspect's initial inculpatory statement, though technically in violation of *Miranda*, was voluntary. The relevant inquiry is whether, in fact, the second statement was also voluntarily made. . . . No further purpose is served by imputing "taint" to subsequent statements obtained pursuant to a voluntary and knowing waiver.

*Oregon v. Elstad*, 470 U.S. 298, 318 (1985). This matters because a finding that Park did not knowingly waive her *Miranda* rights for that first interview would only "taint" subsequent statements if it rendered them *involuntary*. Any "cat out of the bag" effect could be relevant in that analysis, but it would not be determinative. *See Irving v. State*, 533 N.W.2d 538, 542 (Iowa 1995) (quoting *Elstad*, 470 U.S. at 318) ("[A] suspect who has once responded to unwarned yet uncoercive questioning is not thereby disabled from waiving his rights and confessing after he has been given the requisite *Miranda* warnings."). This is especially true when the defendant did not confess during the first interview, and when the defendant re-initiates contact after a break of more than four hours—and opens with new admissions. *See*

*Bobby v. Dixon*, 565 U.S. 23, 31–32 (2011) (per curiam). Moreover, the video footage of Park's second interview is powerful evidence that her statements were voluntary—she came back because she "want[ed] to talk" about "everything." *See* State's Ex. 5, at 10:57:21–11:17:13.

Even before analyzing voluntariness, the district court ruled that Park "clearly invoked her *Miranda* rights" at the end of the first interview. *See* Ruling (3/11/21) at 18; App. 179. If Park could clearly invoke her *Miranda* rights, then she knowingly waived those rights during the preceding portions of that interview. *See Buenaventura*, 660 N.W.2d at 46–47; *Powell*, 2014 WL 4930480, at *8. Thus, there was no *Miranda* violation that could taint the next interview, anyway. But if there was, it would not taint any subsequent statements, because Park re-initiated contact and made those later statements voluntarily.

### B. If there were impermissible promises of leniency during the first interview, they did not taint any of Park's subsequent statements.

Again, there were no promises of leniency. But if there were, the question would be whether any intervening circumstance "insulate[d] defendant from the psychological consequences of the promises made to her that she would not be prosecuted." *See Kase*, 344 N.W.2d at 226; *accord State v. Zarate*, No. 11–0530, 2012 WL 652449, at *8–9

(Iowa Ct. App. Feb. 29, 2012); *State v. Chamberlain*, 297 S.E.2d 540, 550 (N.C. 1982) (finding attenuation because problematic statement was "unaccompanied by any express promise or suggestion of leniency, made the day before defendant actually confessed, and was followed by defendant's twice asserting his rights to remain silent and to counsel").

Park argues that her subsequent interviews were tainted by the alleged promises of leniency, because the officers "did not clarify that she was suspected of murder and that her status as an abused woman would not get her out of trouble." *See* Resistance (6/11/21) at 20; App. 227. But at the end of Park's first interview, the detectives told her that they were convinced she was lying, and that their investigation would continue until they found out the truth. *See* State's Ex. 5, at 2:06:03–2:06:30. There was no "open offer" or ongoing promise of leniency. It is apparent from these interviews that she changed her story to fit the incontrovertible physical evidence that the detectives had described, in that first interview—not because she expected that detectives would "help" her if she admitted that she tied Nam up. To the contrary, Park thought she might be arrested after her second interview—she asked the detectives about it, and she did not react with surprise when they gave her an answer that made it clear that was a possibility.

> **PARK**: Do you think I'm gonna be arrested tonight?
>
> **DETECTIVE HATCHER**: I can't say. I'm not gonna say one way or the other because —
>
> **DETECTIVE MORGAN**: That's why we need to go and talk to our supervisor and figure out because obviously you told us different things from yesterday. We just need to tell the rest of the people all the information and then we'll figure out where we go because we don't know yet, alright?
>
> **PARK**: Okay.

State's Ex. 5, at 12:31:19–12:32:06; *see also id.* at 11:40:03–11:41:05 ("If you guys have to arrest me, just arrest me."). This makes it clear that Park is wrong when she argues that "[t]he fact that [she] returned to the station to provide further information is a strong indication that she believed she was not in trouble because [Nam] had abused her." *See* Resistance (6/11/21) at 18–19; App. 225–26. In truth, it is really an indication that she knew that she *was* in trouble, *even after* claiming that Nam had abused her, for precisely the reason that the detectives had repeatedly given: the physical evidence was inconsistent with the story that she had told about waking up to find Nam alone, tied up, and unresponsive (with the apartment's front door locked).

The district court was incorrect to find that the detectives made impermissible promises of leniency. But even if they did, none of the statements from Park's subsequent interviews were tainted, because Park clearly understood that she could be arrested and prosecuted—

even after changing her story to match up with the physical evidence (as much as she could, without confessing to intentional murder). *See* State's Ex. 5 (Feb. 16), at 11:40:03–11:41:05; *id.* at 12:31:19–12:32:06. It was clear that there was no "taint" from the first interview, because Park knew not to expect that her statements would secure favorable treatment or protect her from arrest or prosecution—she did not have any "false hope that if she simply reacted to an abusive situation, she would not be in trouble." *See* Ruling (3/11/21) at 17; App. 178. Thus, even if the detectives made improper promises of leniency during her first interview, Park's statements during her subsequent interviews would still be admissible. The district court erred by ruling that those subsequent statements were all tainted and inadmissible; this Court should reverse that ruling.

## CONCLUSION

The State respectfully requests that this Court vacate the district court's ruling that granted Park's motion to suppress, and remand for further proceedings consistent with that order.

## REQUEST FOR NONORAL SUBMISSION

This case should be set for nonoral submission. In the event argument is scheduled, the State asks to be heard.

Respectfully submitted,

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## CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements and type-volume limitation of Iowa Rs. App. P. 6.903(1)(d) and 6.903(1)(g)(1) or (2) because:

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