COURT OF APPEALS
DECISION
DATED AND FILED

October 25, 2007

David R. Schanker
Clerk of Court of Appeals

Appeal No. 2006AP345-CR **Cir. Ct. No. 2004CF5152**

STATE OF WISCONSIN **IN COURT OF APPEALS**
DISTRICT I

STATE OF WISCONSIN,

PLAINTIFF-RESPONDENT,

V.

LEONARD L. PARKER,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Milwaukee County: KAREN E. CHRISTENSON, Judge. *Affirmed*.

Before Dykman, Vergeront and Lundsten, JJ.

¶1 PER CURIAM. Leonard Parker appeals a judgment of conviction. The issues relate to suppression of Parker's inculpatory statement. We affirm.

¶2 Parker was convicted of several felonies after trial. Before trial, he moved to suppress statements he made to police. The only ground alleged in the motion was that Parker's request for an attorney during interrogation was not complied with. After conducting an evidentiary hearing, the circuit court denied the motion.

¶3 On appeal, Parker first argues that his statements should have been suppressed because they were involuntary due to coercive police tactics and his own vulnerability. The State asserts, and Parker does not dispute, that this argument is made for the first time on appeal. We need not address issues raised for the first time on appeal, *see* ***Wirth v. Ehly***, 93 Wis. 2d 433, 443-44, 287 N.W.2d 140 (1980), and we reject Parker's argument for this reason. Furthermore, even if we chose to resolve the issue, we would not grant Parker the relief he seeks.

¶4 There does not appear to be any significant dispute about the historical facts as to this issue, and the parties agree that the remaining question, whether those facts show that the statements were involuntary, is one of constitutional fact that we review *de novo*. ***State v. Franklin***, 228 Wis. 2d 408, 413, 596 N.W.2d 855 (Ct. App. 1999). Parker's argument relies on facts such as his own limited legal experience and intelligence, his youthful age of twenty, his likely lack of sleep, the length of the interrogation, and the manner of questioning. Without attempting to set forth the detailed facts here, we are satisfied that the conditions of Parker's interrogation were less onerous than circumstances of other interrogations that have been held to produce voluntary statements. *See*, *e.g.*, ***State v. Agnello***, 2004 WI App 2, ¶¶11-22, 269 Wis. 2d 260, 674 N.W.2d 594 (Ct. App. 2003).

¶5 Parker also argues that his statements should have been suppressed because they were taken in violation of his right to counsel and, more specifically, after he had invoked his right to counsel and requested an attorney. At the evidentiary hearing, Parker testified that he requested an attorney, while at least four police officers testified that he did not. In addition, Parker admitted having signed a statement acknowledging his right to counsel and waiving it. The court found that Parker's testimony was not credible, in light of the other evidence. We accept the findings of historical fact unless they are clearly erroneous. ***State v. Jennings***, 2002 WI 44, ¶20, 252 Wis. 2d 228, 647 N.W.2d 142. The court's finding that Parker did not request an attorney was not clearly erroneous. That finding conclusively resolves the issue against Parker.

¶6 Parker also relies in part on the fact that the State did not present any audio or video recording of his statement. Parker argues that, by failing to present the "best evidence" that might be available, the State failed to meet its burden of proving that the statement was properly taken. He cites no authority that compels this conclusion. He relies in part on a recent case in which the supreme court used its supervisory authority to require that, to be admissible, custodial interrogations of juveniles must be recorded. ***State v. Jerrell C.J.***, 2005 WI 105, ¶¶58-59, 283 Wis. 2d 145, 699 N.W.2d 110. However, that conclusion was clearly limited to juveniles, and any argument to expand the scope of that requirement is better addressed to the supreme court.

By the Court.—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5. (2005-06).