

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Respondent,

v.

ISAAC PERDOMO-PAZ,

Appellant.

DOCKET NUMBER WD76129

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: July 14, 2015

APPEAL FROM

The Circuit Court of Clay County, Missouri
The Honorable Anthony Rex Gabbert, Judge

JUDGES

Special Division: Pfeiffer, P.J., Witt, J., and Fischer, Sp. J.

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
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Attorneys for Respondent,

Rosemary E. Percival, Assistant Public Defender
Kansas City, MO

Attorney for Appellant.



MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI,)
)
) **Respondent,**)
v.) **OPINION FILED:**
) **July 14, 2015**
ISAAC PERDOMO-PAZ,)
)
) **Appellant.**)

WD76129

Clay County

Before Special Division Judges: Mark D. Pfeiffer, Presiding Judge, Gary D. Witt, Judge, and Zel M. Fischer, Special Judge

Isaac Perdomo-Paz (“Perdomo-Paz”) appeals from the judgment of the Circuit Court of Clay County, Missouri (“trial court”), upon his conviction by a jury of two counts of murder in the first degree, one count of murder in the second degree, and three counts of armed criminal action (“ACA”). He was sentenced by the trial court to life imprisonment without the possibility of parole on each of the first-degree murder counts, life imprisonment on the second-degree murder count, and fifty years imprisonment on each of the ACA counts, all sentences to run consecutively. On appeal, Perdomo-Paz asserts five points.

AFFIRMED.

Special Division holds:

1. In Perdomo-Paz’s first and second points, he alleges that the trial court erred in overruling his motion to suppress and admitting at trial, in violation of his Fifth Amendment right to remain silent, his statement made to law enforcement while in custody.

Perdomo-Paz contends that he unequivocally asserted his right to remain silent but the detectives continued to question him. Perdomo-Paz’s response, “not for real, man, no, *but* . . .” to the detective’s question whether he was “fine” with talking about a homicide was not a clear and unequivocal assertion of the right to remain silent.

2. Perdomo-Paz asserts that he did not submit to questioning voluntarily, and the detectives used coercive tactics throughout the interrogation. None of the factors identified by Perdomo-Paz establish that he was deprived of his free choice to admit, deny, or refuse to answer the detective's questions or that his will was overborne when he made the statement. To the contrary, after approximately three hours of questioning, Perdomo-Paz never admitted wrongdoing, maintaining throughout the interrogation that he was not at the scene of the homicides.

3. In Perdomo-Paz's third point, he alleges that the trial court erred in overruling his motion to suppress and allowing testimony at trial about his detention and arrest and in allowing testimony and evidence about his statement to police because his detention was not a consensual encounter; the stop exceeded its proper scope; and the police did not have probable cause to arrest him. The officers conducted a *Terry* stop when a check of the license plate of the vehicle in which Perdomo-Paz was a passenger revealed that the car's registered owner had outstanding warrants. After a vehicle is lawfully stopped, an officer's request for identification is not violative of the Fourth Amendment. Based upon the facts and circumstances within the officers' knowledge—evasive self-identification responses, flight (after being instructed by the officers not to move from the scene), and physically struggling with the officer who apprehended him—the officers could reasonably conclude that Perdomo-Paz had engaged or was engaging in criminal activity.

4. In Perdomo-Paz's fourth point, he argues that the evidence was insufficient to establish that he deliberated before causing the deaths of two of the victims. Deliberation may be inferred where a defendant brooded over his actions before taking them, where he had ample opportunity to terminate the crime, or where the victim sustained multiple wounds. When confronted by one of the victims, Perdomo-Paz questioned him before pointing a gun at him, thus having ample opportunity to terminate the confrontation before shooting. Perdomo-Paz could have stopped his attack, but instead, he turned his gun on the other victim. Both victims sustained multiple gunshot wounds. Perdomo-Paz fled the scene immediately after the shootings without seeking medical attention for the victims, which strengthens the inference that he deliberated.

5. In Perdomo-Paz's fifth point, he asserts that the trial court erred in overruling his motion for parolable sentences on the first-degree murder counts and sentencing him to life without parole on those counts in violation of his Eighth Amendment right to be free from cruel and unusual punishment because he was eighteen years old when the crimes were committed. Missouri has drawn the line between childhood and adulthood for adult criminal responsibility at age seventeen. Perdomo-Paz does not qualify as a juvenile for purposes of the Eighth Amendment.

Opinion by: Mark D. Pfeiffer, Presiding Judge

July 14, 2015

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