

Appellant-Defendant Ronald Williams appeals following his conviction for Murder, a felony.¹ Specifically, Williams contends that the trial court abused its discretion in admitting his February 13, 2009 recorded statement into evidence over allegations that it was made involuntarily. We affirm.

FACTS AND PROCEDURAL HISTORY

On February 6, 2009, Williams and a companion, Emilio “Loaf” Mitchell, drove to Burton Avenue in Indianapolis to confront Kevin Ballard because Ballard allegedly owed Mitchell money for marijuana. Williams drove his vehicle parallel to Ballard’s vehicle, and Mitchell fired six shots into Ballard’s vehicle, killing him. Mitchell subsequently disposed of the gun he used to shoot Ballard.

In the early morning hours of February 13, 2009, Williams was arrested following a domestic incident involving his girlfriend, Cecciula Harris. Williams was placed in a police interview room. Later that day, Williams was interviewed by homicide detectives about other active cases. At 11:36 a.m., Williams signed an “Advice of Rights/Waiver of Rights” form. State’s Ex. 45. The “Advice of Rights” form signed by Williams provided as follows:

1. You have the right to remain silent.
2. Anything you say can be used as evidence against you in court.
3. You have the right to talk to a lawyer for advice before we ask you any questions and to have him with you during questioning.
4. If you cannot afford a lawyer, one will be appointed for you before any questioning.
5. If you decide to answer questions now without a lawyer, you will have the right to stop answering questions at any time. You also have the right to stop answering questions at any time until you talk to a lawyer.

¹ Ind. Code § 35-42-1-1 (2008).

State's Ex. 45. At 12:30 p.m., Williams also signed a "Permission to Search (Not in Custody)" form that granted detectives permission to search his residence and to seize any items that the detectives deemed as evidence or pertinent to their investigation. State's Ex. 49. Williams went with Sergeant Mark Prater to the west side of Indianapolis to look for a weapon at approximately 1:55 p.m., and later returned to the police station with a gun that was never connected to the instant crime.

Upon returning to the police station, Sergeant Prater and Detective Christopher Lappin again advised Williams of his rights before conducting an unrecorded "pre-interview." Tr. p. 23. Williams subsequently gave a formal recorded statement ("February 13, 2009 recorded statement") beginning at 4:16 p.m. At the beginning of this statement, Williams was again advised of his rights, and Williams acknowledged that he had been advised of his rights, understood his rights, and had waived these rights, both in writing and verbally. Williams admitted that he drove Mitchell to Burton Avenue where Mitchell shot and killed Ballard after Ballard failed to pay Mitchell money that he owed to Mitchell for drugs. At the end of his statement, Williams asserted that his statement was truthful, voluntary, and made of his own free will. Williams stated that there was nothing discussed during the preliminary interview that was not discussed during the formal interview, and denied that his statement was induced by promises, threats, or coercion.

Deputy Prosecutor Denise Robinson visited Williams in jail on February 17, 2009, with Detective Jesse Beavers and Investigator Steve Rust. During this meeting, Deputy

Prosecutor Robinson introduced herself and confirmed that Williams was cooperating in the case against Mitchell and Frank Williams. Deputy Prosecutor Robinson confirmed that Williams told the truth in his February 13, 2009 recorded statement and notified Williams that he would be charged with murder and conspiracy to commit murder. Deputy Prosecutor Robinson suggested that Williams should retain counsel quickly so that future communication could be made through his counsel.

On February 18, 2009, the State charged Williams with murder and Class A felony conspiracy to commit murder. Williams waived his right to a jury trial and filed a motion to suppress his February 13, 2009 tape-recorded statement to police on September 20, 2010. That same day, the trial court conducted a hearing, at the conclusion of which it denied Williams's motion to suppress. Following a bench trial, the trial court found Williams guilty of murder and not guilty of conspiracy to commit murder. On October 13, 2010, the trial court sentenced Williams to a term of fifty-five years. This appeal follows.

DISCUSSION AND DECISION

Alleging that the investigating detectives and the deputy prosecuting attorney promised that he would not be prosecuted for the victim's murder if he cooperated with the State, Williams asserts that his taped statement was involuntary and inadmissible because it was obtained by a promise of mitigation of punishment. The State argues both that Williams's February 13, 2009 recorded statement was knowing and voluntary and that neither the investigating detectives nor the deputy prosecuting attorney tendered an offer of leniency. In determining the voluntariness of the statement, the trial court must consider the

totality of the circumstances. *Schmitt v. State*, 730 N.E.2d 147, 148 (Ind. 2000). The trial court attempts to insure that a confession was not obtained through inducement, violence, threats or other improper influences so as to overcome the free will of the accused. *Id.* (quotation omitted).

When a defendant challenges the admissibility of his statement, the State must prove the voluntariness of the statement beyond a reasonable doubt. *Carter v. State*, 730 N.E.2d 155, 157 (Ind. 2000); *Schmitt*[], 730 N.E.2d [at] 148 []. When a defendant makes such a challenge, the decision to admit the statement is left to the sound discretion of the trial court. *Horan v. State*, 682 N.E.2d 502, 509 (Ind. 1997). In making its determination, the trial court weighs the evidence to ensure that a confession was not obtained “through inducement, violence, threats or other improper influences so as to overcome the free will of the accused.” *Ellis v. State*, 707 N.E.2d 797, 801 (Ind. 1999) (quoting *Collins v. State*, 509 N.E.2d 827, 830 (Ind. 1987)). A trial court’s finding of voluntariness will be upheld if the record discloses substantial evidence of probative value that supports the trial court’s decision. *Kahlenbeck v. State*, 719 N.E.2d 1213, 1216 (Ind. 1999). This Court will not reweigh the evidence, and conflicting evidence is viewed most favorably to the trial court’s ruling. *Haak v. State*, 695 N.E.2d 944, 948 (Ind. 1998).

Turner v. State, 738 N.E.2d 660, 662 (Ind. 2000).

The trial court determined that Williams voluntarily and intelligently waived his right against self-incrimination when he provided a recorded statement to Detective Christopher Lappin and Sergeant Mark Prater on February 13, 2009, and, upon appeal, we conclude that the evidence demonstrates that Williams voluntarily and intelligently waived his rights. Williams acknowledges that he was informed of his rights to remain silent and to an attorney on three separate occasions and that he signed a waiver of these rights. At the conclusion of his February 13, 2009 recorded statement, Williams asserted that his statement was given truthfully, voluntarily, and of his own free will. Williams now argues, however, that his

February 13, 2009 recorded statement was not voluntary because it was given in response to a promise by Deputy Prosecutor Robinson that he would not be prosecuted for the victim's murder if he cooperated with the State.

A confession is inadmissible if obtained by promises of mitigation or immunity. *Clark v. State*, 808 N.E.2d 1183, 1191 (Ind. 2004). Thus, the critical inquiry here is whether Deputy Prosecutor Robinson promised Williams that he would not be prosecuted if he cooperated with the State. At trial, Deputy Prosecutor Robinson testified that she did not meet with Williams on February 13, 2009, and that she did not make any promises of immunity to Williams. In addition, Detective Lappin and Sergeant Prater testified that to their knowledge, Deputy Prosecutor Robinson did not speak with Williams on February 13, 2009, and that neither Detective Lappin nor Sergeant Prater made any threat or promise of immunity or leniency to Williams. The trial court was not required to credit Williams's self-serving claim over Deputy Prosecutor Robinson's, Detective Lappin's, and Sergeant Prater's testimony. *See generally Kimbrough v. State*, 911 N.E.2d 621, 636 (Ind. Ct. App. 2009) (providing that jury was not required to credit defendant's self-serving version of the events).

Moreover, the fact that Williams signed a waiver of rights weighs in favor of the conclusion that his statement was indeed voluntary. *See Turner*, 738 N.E.2d at 662. In the signed waiver of rights, Williams specifically waived his right to an attorney, and acknowledged that the waiver "has been KNOWINGLY and VOLUNTARILY made by me without any promises or threats having been made to me and further without any pressure or coercion having been used against me." State's Ex. 45. We also find persuasive that

Williams acknowledged the February 13, 2009 recorded statement was given truthfully and voluntarily of his own free will. Williams's contrary claim on appeal amounts to an invitation for this Court to reweigh the evidence, which we decline. *See Turner*, 738 N.E.2d at 662.

The judgment of the trial court is affirmed.

BAKER, J., and MAY, J., concur.