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ADVANCE SHEET HEADNOTE  
March 9, 2026

2026 CO 15

**No. 25SA169, *People v. Torres* – Fourth Amendment – *Miranda v. Arizona*, 384 U.S. 436 (1966) – Invocation – Voluntary Waiver – Voluntary Statements**

In this interlocutory appeal, the supreme court holds that the district court erred when it suppressed statements made by the defendant, Angelo Joseph Torres. The supreme court concludes that (1) Torres did not clearly invoke his right to remain silent such that a reasonable officer under the circumstances would understand that Torres was asserting his right to cut off questioning pursuant to *Miranda v. Arizona*, 384 U.S. 436, 439 (1966); (2) he voluntarily waived his right to remain silent based on the totality of the circumstances; and (3) his statements were voluntary. Accordingly, the supreme court reverses the district court's order suppressing Torres's statements and remands the case for further proceedings.

The Supreme Court of the State of Colorado  
2 East 14th Avenue • Denver, Colorado 80203

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2026 CO 15

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**Supreme Court Case No. 25SA169**  
*Interlocutory Appeal from the District Court*  
Boulder County District Court Case No. 23CR75  
Honorable Dea M. Lindsey, Judge

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**Plaintiff-Appellant:**

The People of the State of Colorado,

v.

**Defendant-Appellee:**

Angelo Joseph Torres.

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**Order Reversed**

*en banc*

March 9, 2026

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**JUSTICE BERKENKOTTER** delivered the Opinion of the Court, in which **CHIEF JUSTICE MÁRQUEZ, JUSTICE HOOD, JUSTICE GABRIEL, and JUSTICE SAMOUR** joined.  
**JUSTICE BOATRIGHT**, joined by **JUSTICE BLANCO**, concurring in part and dissenting in part.

JUSTICE BERKENKOTTER delivered the Opinion of the Court.

¶1 In this interlocutory appeal, the People seek review of a district court’s order suppressing statements made by the defendant, Angelo Joseph Torres. The district court issued its suppression order after finding that (1) law enforcement did not scrupulously honor Torres’s unambiguous invocation of his right to remain silent as required by *Miranda v. Arizona*, 384 U.S. 436, 439 (1966); (2) Torres’s later waiver of his right to remain silent was not voluntary; and (3) Torres’s statements were the product of police coercion.

¶2 Because we conclude that the district court erred, we reverse its order suppressing Torres’s statements and remand the case for further proceedings consistent with this opinion.

### **I. Facts and Procedural History**

¶3 After learning that he had an outstanding warrant, Torres voluntarily turned himself into the Longmont Police Department, where an officer placed him in handcuffs. About four minutes after Torres was brought into an interview room, Detective Daniel Kilian—wearing civilian clothes and a baseball cap—uncuffed Torres and initiated some small talk about boxing. During their interaction, which was recorded, Torres sat on a two-person sofa across from Detective Kilian, who sat in an armchair.

¶4 After Detective Kilian read Torres his *Miranda* rights, Torres confirmed he understood them. The following exchange then occurred:

Det. Kilian: Having these rights in mind, do you wish to talk to us now?

Torres: Nah, I just don't know why I am doing this. Like—

Det. Kilian: So—

Torres: So, I don't even know what the warrant's for. My probation officer called me. Well, I called her 'cause I just got out of a [sic] therapy, a meeting with my therapist, and she said talk to the police, there's a rumor going around, yada, yada. So, I called my probation officer and she said there's a warrant for my arrest.

Det. Kilian: So basically, you're, you're asking, you're asking a bunch of questions that I really can't talk about unless you waive your rights and want to talk, and part of your rights is you can stop talking at any time. Like we can be having a conversation and you could be like, I don't want to talk anymore and end it. Or you can say no, I don't want to talk right now at all, and then we just ship you up to Boulder.

Torres: And then I get my bond hearing tomorrow?

Det. Kilian: I'm not sure how that works. Uh, I'm just saying I think there's some things that you'd probably like to hear that I had to say. Um, I know you have a baby boy on the way.

Torres: Yeah.

Det. Kilian: Um, and so, there's some questions I'd like to, to ask you. Uh, and, at that point, if you don't want to answer them, you can say no, and you can say, ask me another question and I can ask another question, and you can say no. Or

you can just say no, I'm really done with that. It's really up to you.

Torres: Like, what's all the questions about though?

Det. Kilian: You have to initially waive so I can ask you, and then you can say no, we're not answering anything. You know what I'm saying?

Torres: Yeah, well, I don't even know what the warrant is even for.

Det. Kilian: Right.

Torres: So, that's the thing.

Det. Kilian: Felony menacing.

Torres: Like, I'm already going to court for a felony, for a felony menacing charge.

Det. Kilian: That's in, that's in Boulder though, right?

Torres: Yes.

Det. Kilian: Okay. So really, I'm just going to ask you again, do you wish to talk to us now?

Torres: Well I, I just, I thought I was just turning myself in, so I could get a bond hearing tomorrow and potentially get out.

Det. Kilian: There's some additional charges that are going to be put on you. Uh, and those are the ones I want to talk to you about.

Torres: Alright.

Det. Kilian: So you do wish to talk right now?

Torres: Yeah sure.

Det. Kilian: And you know you can just stop at any time?

Torres: Yeah.

¶5 Torres then signed a *Miranda* advisement form waiving his rights. As soon as Torres handed Detective Kilian the signed form, the following discussion occurred:

Det. Kilian: And you're agreeing to be questioned without any kind of promises or anything, right?

Torres: Yeah.

Det. Kilian: Okay.

Torres: I already know I'm going to jail, like I just want to know what's going on.

¶6 Detective Kilian informed Torres that his questions involved a situation with Mario Perez Moreno, who was the subject of an ongoing narcotics and sex trafficking investigation by the Longmont Police Department. Detective Kilian then explained that Torres faced a potential conspiracy charge, which would put him "maybe getting out in time to see [his] son's prom." During the nearly two-hour-long interrogation that followed, Detective Kilian questioned Torres about his involvement with cocaine, firearms, and gang-related activity.

¶7 Detective Kilian then stated:

[I]t's up to you whether you want to talk to me about everything. If you talk to me about everything, then I, I put it on record that you voluntary [sic] told me this. I talk to the DA, [Torres's] been fully cooperative, he explained from A to Z without problems, and it's in their hands as far as how it goes.

¶8 He continued:

What I tell people all the time on the street is the judge is going to look at you in one of two ways. Either there's evidence you were truthful about it or there's evidence and you said, no, no, no, no, no, and how does that look for your character?

¶9 Torres subsequently made a number of inculpatory statements during the interrogation.

¶10 Five months later, a Boulder County Grand Jury issued an indictment charging Torres with five counts, including distribution of a controlled substance to a minor, schedule I or II; human trafficking for sexual servitude; contributing to the delinquency of a minor; possession with intent to manufacture or distribute a controlled substance, schedule I or II; and possession of a weapon by a previous offender.

¶11 Torres moved to suppress the statements he made during the interrogation. He argued that he had initially declined to speak with Detective Kilian but that his will was eventually overcome. The district court granted the motion to suppress. As pertinent here, it determined that (1) law enforcement did not scrupulously honor Torres's unambiguous invocation of his right to remain silent as required by *Miranda*, 384 U.S. at 439; (2) Torres's later waiver of his right to remain silent was not voluntary; and (3) Torres's statements were the product of police coercion.

¶12 The district court found that Torres clearly articulated his right to remain silent when he responded, "Nah, I just don't know why I am doing this . . . . I don't even know what the warrant's for." The court explained, "A reasonable officer

would have understood, and the [c]ourt finds that Detective Kilian did understand, that [Torres] asserted his *Miranda* right to cease questioning.”

¶13 With respect to its conclusion that Torres’s subsequent waiver of his *Miranda* rights was not voluntary, the court found that Detective Kilian did not immediately cease the initial interrogation; he remained in the room and continued to make statements to Torres about the effects of his invocation; he failed to provide Torres with a fresh set of *Miranda* warnings; and his statement about Torres’s unborn son and his refusal to provide additional information about the charges were coercive.

¶14 Turning to the issue of whether Torres’s statements were voluntary, the court made the following findings:

- (1) Torres was in custody, unable to leave, and unaware of the pending charges and investigation pending against him;
- (2) Torres was given a *Miranda* warning, understood his right to remain silent, and declined to waive his *Miranda* rights;
- (3) Torres appeared to be in a “calm mental state,” and he had some familiarity with law enforcement and the criminal justice system;
- (4) Detective Kilian’s statements regarding Torres’s unborn child, his unwillingness to provide additional information unless Torres waived his *Miranda* rights, speculations about how the court would view Torres at sentencing, and the range of prison time potentially facing Torres’s codefendant, Moreno, amounted to implied threats and ultimately coerced Torres into waiving his *Miranda* rights;

- (5) Detective Kilian’s method and style of interrogation were coercive; and
- (6) Detective Kilian’s statements to Torres about the district attorney’s potential involvement and how a judge would view his case were forms of psychological coercion intended to elicit information.

¶15 Based on these findings, the district court concluded that Torres’s comments were not voluntary, and thus were inadmissible at trial, because “Detective Kilian’s statements and behavior were sufficient to overbear [Torres’s] will.” The court, accordingly, granted Torres’s motion to suppress.

¶16 The People then appealed.

## **II. Jurisdiction and Standard of Review**

¶17 Pursuant to section 16-12-102(2), C.R.S. (2025), and C.A.R. 4.1(a), the prosecution may seek relief from a district court’s suppression order by filing an interlocutory appeal with this court. *People v. Nkongolo*, 2025 CO 20, ¶ 12, 579 P.3d 83, 87.

¶18 Our review of a district court’s suppression order presents a mixed question of fact and law. *Id.* at ¶ 13, 579 P.3d at 87. We ordinarily defer to the district court’s factual findings where they are supported by sufficient evidence in the record but review the legal effect of those findings de novo. *Id.* Where, however, as here, the challenged statements are audio and video recorded, and there are no disputed facts outside the recording controlling suppression, we are in a similar position to

the district court. *People v. Taylor*, 2018 CO 35, ¶ 7, 415 P.3d 821, 824. Thus, “we may undertake an independent review of the recording to determine whether the evidence was properly suppressed in light of the controlling law.” *Id.*

### III. Analysis

¶19 We begin our analysis by discussing the law regarding a suspect’s Fifth Amendment right against self-incrimination and the Supreme Court’s protection of that right in *Miranda*, 384 U.S. at 444. Next, we identify the legal standards that courts must apply when assessing the validity of a *Miranda* waiver and the voluntariness of a suspect’s statements. Along the way, we apply these principles to the merits of the case before us.

#### A. Torres Did Not Clearly Invoke His Right to Remain Silent

¶20 Both the United States and Colorado constitutions protect those suspected of crimes from compelled self-incrimination. U.S. Const. amend. V; Colo. Const. art. II, § 18. Consequently, law enforcement officers who subject a suspect to custodial interrogation must employ certain procedural safeguards, which include informing an accused person of their right to remain silent as well as their right to counsel during the interrogation. *Miranda*, 384 U.S. at 444, 469. And they must do so before they initiate the questioning. *Id.* at 470.

¶21 If a suspect knowingly and voluntarily waives their *Miranda* rights, officers may proceed with the interrogation. *Id.* at 479. However, if the suspect invokes

their right to remain silent or their right to counsel, officers must scrupulously honor their invocation of that right. *See id.* A suspect need not use “special or ritualistic phrases” to invoke their right to remain silent. *People v. Arroya*, 988 P.2d 1124, 1132 (Colo. 1999). Nonetheless, a suspect must clearly articulate that right so a reasonable police officer under the circumstances would understand that the suspect is asserting their *Miranda* right to cut off questioning. *Id.* at 1131.

¶22 Notably, the law does not require an officer to clarify a suspect’s ambiguous invocation of their right to remain silent, even though we have indicated that it is often “prudent police practice to do so.” *Id.* at 1133. This means that officers may continue questioning if a suspect’s request is ambiguous or equivocal. *Id.* at 1131; *see also Davis v. United States*, 512 U.S. 452, 461–62 (1994); *People v. Kutlak*, 2016 CO 1, ¶ 23, 364 P.3d 199, 206.

¶23 We have previously explained that an ambiguous communication is one that gives rise to “opposing inferences.” *People v. Cerda*, 2024 CO 49, ¶ 27, 559 P.3d 206, 212 (quoting *Arroya*, 988 P.2d at 1136 (Kourlis, J., concurring in part and dissenting in part)). The word “no” alone, however, “holds no opposing inferences.” *Id.*

¶24 To determine if a suspect has clearly articulated their right to remain silent, a court should consider the defendant’s words, the plain meaning of those words,

and the totality of the circumstances surrounding the statement to assess their words in context. *Arroya*, 988 P.2d at 1132. A district court should examine:

the words spoken by the defendant and the interrogating officer, the officer's response to the suspect's words, the speech patterns of the suspect, the content of the interrogation, the demeanor and tone of the interrogating officer, the suspect's behavior during questioning, the point at which the suspect invoked the right to remain silent, and who was present during the interrogation.

*Id.* In addition, a court may also consider “[w]hether an officer’s subsequent questions were an attempt to clarify a suspect’s wishes.” *Id.*

¶25 As our case law emphasizes, the factors listed here are not exhaustive. *Id.* at 1133. A district court may consider other relevant factors so long as the focus is on the totality of the circumstances. *Id.* What’s more, a district court need not make specific findings with respect to each of these factors. *Id.* And, as we have observed, no single factor is controlling. *Id.*

¶26 Relying on this legal framework, we turn to examine the district court’s decision to grant Torres’s motion to suppress. As a threshold matter, we agree with the district court that Torres was in custody and that he was subject to an interrogation. *Miranda’s* safeguards thus apply.

¶27 The People argue that Torres did not invoke his right to remain silent because his initial response to Detective Kilian was ambiguous. Based on our independent review of the video recording, we agree. Under the totality of the

circumstances, Torres did not clearly articulate his right to remain silent such that a reasonable officer would understand the need to cease questioning.

¶28 Several circumstances weigh in favor of this conclusion. First, we look to the words used by Torres and Detective Kilian. After advising Torres of his rights from a pre-printed *Miranda* form, Detective Kilian directly asked Torres whether he “wish[ed] to talk.” Torres responded “[n]ah” and—without skipping a beat—immediately sought information about why he was there, emphasizing that he didn’t “even know what the warrant’s for.” When Detective Kilian attempted to speak, he got one word out (“[s]o”) before Torres spoke over him, seeking still more information.

¶29 Detective Kilian again reminded Torres of his right to remain silent and explained that he could not answer Torres’s questions unless Torres waived that right. Throughout the next approximately two minutes, this back and forth continued: with Torres asking Detective Kilian questions about why he was there and the charges against him, and Detective Kilian reminding Torres of his right to remain silent and asking if Torres wished to speak with him.

¶30 Second, we look to two somewhat similar cases in which we concluded that a suspect clearly articulated their right to cut off questioning. We note that Torres’s statements here are quite different. In *Cerda*, for example, this court agreed with the district court that the defendant invoked his right to remain silent

when he responded “[n]o” to the officer’s question of whether he wanted to talk with law enforcement. ¶¶ 27, 29, 559 P.3d at 212–13. “There is no nuance nor context to vary the unequivocal meaning of [the defendant’s] single word, monosyllabic response.” *United States v. Rambo*, 365 F.3d 906, 910 (10th Cir. 2004).

¶31 In *People v. Bonilla-Barraza*, 209 P.3d 1090, 1092, 1094 (Colo. 2009), we similarly affirmed the district court’s suppression order because the officer violated the defendant’s constitutional right to remain silent by continuing with the custodial interrogation even though the defendant replied, “Well actually no . . . no,” when asked whether he desired to tell the officer what had happened.

¶32 Unlike the suspects in *Cerda* and *Bonilla-Barraza*, Torres did not simply say “[n]ah” without more. He *immediately* continued, pressing for information and talking over Detective Kilian. Thus, other than the initial word “[n]ah,” there was nothing about Torres’s speech, its cadence, or his demeanor that would lead a reasonable officer to conclude that Torres was asserting his right to cut off questioning. And, notably, here, it was Torres who sought information from Detective Kilian, not the other way around. In sum, by saying “[n]ah,” then immediately continuing to talk, Torres’s communication drew “opposing inferences.” See *Cerda*, ¶ 27, 559 P.3d at 212 (quoting *Arroya*, 988 P.2d at 1136 (Kourlis, J., concurring in part and dissenting in part)).

¶33 Considering the totality of all these circumstances, we conclude that Torres did not clearly invoke his *Miranda* rights.

### **B. Torres’s Waiver of His Right to Remain Silent Was Voluntary**

¶34 We next consider the validity of Torres’s waiver of his right to remain silent. A suspect may, of course, waive their *Miranda* rights and choose to speak with law enforcement. *Miranda*, 384 U.S. at 444. To be valid, however, a waiver must be made voluntarily, knowingly, and intelligently under the totality of the circumstances. *Id.* A waiver is voluntary if “it is ‘the product of a free and deliberate choice rather than intimidation, coercion, or deception.’” *People v. Smiley*, 2023 CO 36, ¶ 16, 530 P.3d 639, 644 (quoting *Moran v. Burbine*, 475 U.S. 412, 421 (1986)).

¶35 A waiver is knowing and intelligent if it is “made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it.” *Id.* (quoting *Moran*, 475 U.S. at 421). The People bear the burden of proving, by a preponderance of the evidence, that the waiver was valid. *Id.* at ¶ 15, 530 P.3d at 644.

¶36 A waiver is involuntary if coercive police activity, whether physical or psychological, “played a significant role in inducing the defendant” to waive their rights. *Id.* at ¶¶ 20–21, 530 P.3d at 645 (quoting *People v. Ferguson*, 227 P.3d 510, 513 (Colo. 2010)). So, if there is no causal connection between the officers’ conduct

and the waiver, “there is simply no basis for concluding that any state actor has deprived a criminal defendant of due process of law.” *Id.* at ¶ 21, 530 P.3d at 645 (quoting *Colorado v. Connelly*, 479 U.S. 157, 164 (1986)).

¶37 When assessing the validity of a *Miranda* waiver, a court may consider a variety of factors, including but not limited to:

the time interval between the initial *Miranda* advisement and any subsequent interrogation; whether and to what extent the interrogating officer reminded the defendant of his or her rights prior to the interrogation by asking if the defendant recalled his or her rights, understood them, or wanted an attorney; the clarity and form of the defendant’s acknowledgement and waiver, if any; the background and experience of the defendant in connection with the criminal justice system; the defendant’s age, experience, education, background, and intelligence; and whether the defendant has any language barrier in understanding the advisement.

*People v. Platt*, 81 P.3d 1060, 1065–66 (Colo. 2004).

¶38 The People argue that the district court erred in concluding that Torres’s waiver was involuntary because its reasoning relied too heavily on the “coercive pressures of the custodial setting” such that it didn’t adequately consider the totality of the circumstances. The People further contend that the district court improperly construed Detective Kilian’s conduct as coercive. We agree that the court erred.

¶39 Here, Detective Kilian confirmed Torres’s identifying information and then read him his *Miranda* rights from a pre-printed advisement form. After engaging in the roughly two minutes of back-and-forth we previously described, Detective

Kilian asked whether Torres understood his rights. Torres replied, "Yeah." Detective Kilian then provided Torres with the same pre-printed *Miranda* form that he used to advise Torres of his rights and asked for his signature. Torres took the form and signed it. Detective Kilian next confirmed that Torres "agree[d] to be questioned without any kind of promises or anything." Torres again replied, "Yeah."

¶40 Leading up to this exchange, Detective Kilian repeatedly reminded Torres of his right to remain silent. These statements favor a finding of voluntariness:

So basically, you're, you're asking, you're asking a bunch of questions that I really can't talk about unless you waive your rights and want to talk, and part of your rights is you can stop talking at any time. Like we can be having a conversation and you could be like, I don't want to talk anymore and end it. Or you can say no, I don't want to talk right now at all, and then we just ship you up to Boulder.

....

[T]here's some questions I'd like to, to ask you. Uh, and, at that point, if you don't want to answer them, you can say no, and you can say, ask me another question and I can ask you another question, and you can say no. Or you can just say no, I'm really done with that. It's really up to you.

....

You have to initially waive so I can ask you, and then you can say no, we're not answering anything. You know what I'm saying?

....

Okay. So really, I'm just going to ask you again, do you wish to talk to us now?

....

And you know you can just stop [the questioning] at any time?

¶41 The district court also found that Detective Kilian’s unwillingness to provide additional information about the nature of the investigation unless Torres waived his *Miranda* rights was coercive. We disagree. “Officers are not required ‘to tell a suspect all the facts and circumstances which might affect the suspect’s decision whether to waive his rights.’” *Smiley*, ¶ 24, 530 P.3d at 645 (quoting *People v. Humphrey*, 132 P.3d 352, 356 (Colo. 2006)). Additionally, because it is generally not coercive for officers to withhold information about the subject matter of the investigation, it was not coercive for Detective Kilian to reference “additional charges” without further clarification. *See id.*, 530 P.3d at 646.

¶42 None of the other circumstances surrounding the interrogation, including Torres’s relaxed body language, his familiarity with the criminal justice system, the layout of the interrogation room, Torres’s mental and emotional state, and Detective Kilian’s appearance and tone, suggest that Torres’s waiver of his right to remain silent was not voluntary. On this record, we conclude that Torres voluntarily waived his right to remain silent.

### C. Torres's Statements Were Voluntary

¶43 Finally, we consider whether Torres's statements were voluntary, and thus admissible at trial. The district court concluded they were not because "Detective Kilian's statements and behavior were sufficient to overbear [Torres's] will."

¶44 The Due Process Clause of the United States and Colorado constitutions "prevent[] admission of involuntary statements into evidence." *People v. Coke*, 2020 CO 28, ¶ 17, 461 P.3d 508, 513 (quoting *People v. Medina*, 25 P.3d 1216, 1221 (Colo. 2001)). Therefore, a suspect's statement must be voluntary to be admissible. *Nkongolo*, ¶ 15, 579 P.3d at 87. Voluntariness in this context is "factually related" but "'analytically distinct'" from the question of whether a *Miranda* waiver is voluntary. *Smiley*, ¶ 18, 530 P.3d at 645 (quoting *People v. Jiminez*, 863 P.2d 981, 984 n.3 (Colo. 1993)).

¶45 A statement is voluntary if it is the "product of an essentially free and unconstrained choice." *Nkongolo*, ¶ 16, 579 P.3d at 88 (quoting *People v. Ramadan*, 2013 CO 68, ¶ 19, 314 P.3d 836, 842). In contrast, an involuntary statement "is made after an 'individual's will has been overborne.'" *Cerda*, ¶ 37, 559 P.3d at 214 (quoting *People v. Valdez*, 969 P.2d 208, 211 (Colo. 1998)). An involuntary statement has three attributes: (1) some form of *governmental* coercion, (2) actual coercive state conduct, and (3) coercive conduct that played a "significant role" in inducing

the defendant's statement. *Nkongolo*, ¶¶ 17–19, 579 P.3d at 88 (quoting *People in Int. of Z.T.T.*, 2017 CO 48, ¶ 12, 394 P.3d 700, 703).

¶46 Coercive police conduct includes physical abuse, threats, and other “subtle forms of psychological coercion.” *People v. Gennings*, 808 P.2d 839, 843–44 (Colo. 1991). Officers who deliberately exploit a person's weakness (e.g., their mental condition); threaten a suspect's custody over their child, *Medina*, 25 P.3d at 1225–26, or immigration status, see *Ramadon*, ¶ 23, 314 P.3d at 843; or impliedly promise leniency, see *id.*, may, in light of the totality of the circumstances, be engaged in coercive police conduct. “A finding that police took advantage of a defendant's confused mental state can [also] lead to a conclusion that the defendant's statements were made involuntarily.” *Valdez*, 969 P.2d at 212. It is typically not coercive, however, for officers to share the possible consequences that “may result from [a suspect's] decision to speak or to remain silent” or to encourage a suspect to be honest. *Nkongolo*, ¶ 30, 579 P.3d at 89.

¶47 In addition, determining whether a suspect's statement is voluntary requires a nuanced evaluation of the totality of the circumstances, including the “significant details surrounding and inhering in the interrogation.” *Ramadon*, ¶ 20, 314 P.3d at 842. The following nonexhaustive list of factors guides our review:

- (1) whether the defendant was in custody or was free to leave and was aware of his situation;

- (2) whether *Miranda* warnings were given prior to any interrogation and whether the defendant understood and waived his *Miranda* rights;
- (3) whether the defendant had the opportunity to confer with counsel or anyone else prior to the interrogation;
- (4) whether the challenged statement was made during the course of an interrogation or instead was volunteered;
- (5) whether any overt or implied threat or promise was directed to the defendant;
- (6) the method and style employed by the interrogator in questioning the defendant and the length and place of the interrogation;
- (7) the defendant's mental and physical condition immediately prior to and during the interrogation; and
- (8) the defendant's educational background, employment status, and prior experience with law enforcement and the criminal justice system.

*Gennings*, 808 P.2d at 844.

¶48 As mentioned above, coercive conduct alone is insufficient to render a defendant's statements involuntary. *Valdez*, 969 P.2d at 211. A causal connection must exist between the state actor's coercive conduct and the defendant's involuntary statement. *See id.*

¶49 The People argue that Detective Kilian used "run-of-the-mill interrogation tactics" to encourage Torres to speak with him about the charges he was investigating. Those tactics, according to the People, were not coercive and did not render Torres's statements involuntary and therefore inadmissible. We agree.

¶50 As we already explained, the district court considered six different circumstances in deciding that Detective Kilian's statements and conduct coerced Torres's statements, thus rendering them involuntary and inadmissible at trial.

¶51 First, the court found that Torres was in custody, unable to leave, and unaware of the reason for his arrest or why Detective Kilian wanted to question him. Second, the court found that Torres "declined to waive his *Miranda* rights." Third, Torres appeared to be in a calm mental state throughout the interrogation, and he demonstrated some familiarity with law enforcement and the criminal justice system. Fourth, Detective Kilian made implied threats and psychologically coerced Torres by making statements about Torres's unborn son, declining to answer Torres's questions absent a waiver of his right to remain silent, and commenting on the potential range of imprisonment that Torres might face. Fifth, the district court described Detective Kilian's "method and style" of interrogation as coercive. Sixth, the district court found that Detective Kilian's statements about what he would tell the district attorney's office and how a judge would view Torres were a form of psychological coercion to elicit information from Torres.

¶52 In sum, the district court found "that Detective Kilian's statements about the threat of a long prison sentence, misinformation about what a judge considers during sentencing, statements about [Torres's] unborn son, and the threat of not seeing his son until his prom, were sufficient to overcome [Torres's] will."

¶53 Our review of the record leads us to a different conclusion. Specifically, we disagree with the district court that Detective Kilian made multiple implied threats that induced Torres to speak. Detective Kilian’s reference to the possibility that Torres might not be released from prison until his unborn son’s prom is evocative, to be sure, but it does not amount to psychological coercion. Detective Kilian’s comment “accurately explain[ed]” the possible consequences of his cooperation versus his silence. *Nkongolo*, ¶ 30, 579 P.3d at 90 (citing *United States v. Perez*, 127 F.4th 146, 173 (10th Cir. 2025)). And notably, Detective Kilian’s remarks were very unlike those of the detective in *Medina*, who caused the suspect to believe that his child would be removed from the family if the suspect didn’t confess. 25 P.3d at 1219.

¶54 We are also unpersuaded that Detective Kilian’s statements to Torres about the district attorney’s office and how a judge would view him were forms of psychological coercion. Detective Kilian stated:

[I]t’s up to you whether you want to talk to me about everything. If you talk to me about everything, then I, I put it on record that you voluntary [sic] told me this. I talk to the DA, [Torres’s] been fully cooperative, he explained from A to Z without problems, and it’s in their hands as far as how it goes.

He continued:

What I tell people all the time on the street is the judge is going to look at you in one of two ways. Either there’s evidence you were truthful about it or there’s evidence and you said, no, no, no, no, no, and how does that look for your character?

¶55 These statements encouraged Torres to be truthful, which is “well-established . . . as noncoercive conduct.” *Nkongolo*, ¶ 30, 579 P.3d at 90 (omission in original) (quoting *United States v. Pena*, 115 F.4th 1254, 1263 (10th Cir. 2024)).

¶56 Moreover, Torres’s lack of awareness about the circumstances underlying the interrogation does not, in our view, weigh in favor of an involuntariness finding. A finding that an officer took advantage of a suspect’s confused mental state may lead to a conclusion that the suspect’s statements were involuntary. *Valdez*, 969 P.2d at 212. But, Torres’s argument is not that he was confused, rather it is that Detective Kilian “baited him” into talking. We are unpersuaded. We understand Detective Kilian’s statements as encouraging Torres to unequivocally invoke or waive his rights, not as baiting him to speak. And, as we already observed, “[o]fficers are not required ‘to tell a suspect all the facts and circumstances which might affect the suspect’s decision whether to waive his rights.’” *Smiley*, ¶ 24, 530 P.3d at 645 (quoting *Humphrey*, 132 P.3d at 356).

¶57 An examination into the other circumstances surrounding the interrogation also does not suggest that Torres’s statements were involuntary. Torres was familiar with the criminal justice system, he voluntarily turned himself into police custody, and he showed absolutely no signs of mental or emotional incapacity or distress at any point during the interrogation. Taken together, these

circumstances, along with Detective Kilian's casual appearance and the conversational tone of the interrogation, weigh heavily toward a finding of voluntariness.

¶58 That is, viewed in the light of the totality of the circumstances, we conclude that Torres's statements were voluntary.

#### **IV. Conclusion**

¶59 Torres did not clearly invoke his right to remain silent. And when he subsequently waived his *Miranda* rights, he did so voluntarily. For these reasons, and because his statements to Detective Kilian were voluntary, we reverse the district court's order suppressing Torres's statements and remand the case for further proceedings consistent with this opinion.

JUSTICE BOATRIGHT, joined by JUSTICE BLANCO, concurring in part and dissenting in part.

¶60 The police told Angelo Joseph Torres that he would not get out of prison until his unborn son's prom, and they would not tell him why unless he agreed to speak with them. But all was not lost. The police also promised that if he cooperated with them, they would put in a good word with the district attorney, and that the judge's impression of his truthful character would help him at sentencing. Only at that point did Torres make inculpatory statements. The majority does not find that conduct sufficiently coercive to render Torres's statements involuntary. Maj. op. ¶ 58.

¶61 I disagree with that conclusion. I agree that Torres did not clearly invoke his right to remain silent and did voluntarily waive his *Miranda* rights. It is my opinion, however, that following his *Miranda* waiver, the subsequent threats and promises together overbore his will to resist speaking with the police, rendering his subsequent inculpatory statements involuntary. Hence, I respectfully concur in part and dissent from the judgment.

¶62 The majority provides a thorough account of the exchange between Torres and the detective. Although I largely repeat the interaction, I emphasize the statements I find problematic. First, the following discussion occurred:

Det. Kilian: Having these rights in mind, do you wish to talk to us now?

Torres: Nah, I just don't know why I am doing this. Like —

Det. Kilian: So —

Torres: So, I don't even know what the warrant's for. My probation officer called me. Well, I called her 'cause I just got out of a [sic] therapy, a meeting with my therapist, and she said talk to the police, there's a rumor going around, yada, yada. So, I called my probation officer and she said there's a warrant for my arrest.

Det. Kilian: So basically, you're, you're asking, *you're asking a bunch of questions that I really can't talk about unless you waive your rights and want to talk*, and part of your rights is you can stop talking at any time. Like we can be having a conversation and you could be like, I don't want to talk anymore and end it. Or you can say no, I don't want to talk right now at all, and then we just ship you up to Boulder.

Torres: And then I get my bond hearing tomorrow?

Det. Kilian: I'm not sure how that works. Uh, I'm just saying I think there's some things that you'd probably like to hear that I had to say. *Um, I know you have a baby boy on the way.*

Torres: Yeah.

....

Torres: Yeah, well, I don't even know what the warrant is even for.

Det. Kilian: Right.

Torres: So, that's the thing.

Det. Kilian: *Felony menacing.*

Torres: Like, I'm already going to court for a felony, for a felony menacing charge.

Det. Kilian: That's in, that's in Boulder though, right?

Torres: Yes.

Det. Kilian: Okay. So really, I'm just going to ask you again, do you wish to talk to us now?

Torres: Well I, I just, I thought I was just turning myself in, so I could get a bond hearing tomorrow and potentially get out.

Det. Kilian: *There's some additional charges that are going to be put on you.* Uh, and those are the ones I want to talk to you about.

*Id.* at ¶ 4 (emphases added).

¶63 The majority next explains that Torres signed his *Miranda* waiver and confirmed that he understood he agreed to questioning without any promises. *Id.* at ¶ 5. Their discussion went on:

Torres: I already know I'm going to jail, like I just want to know what's going on.

Det. Kilian: So let me say by beginning, um, you're not as involved as Mario, but you're involved. And you know *he got offered between fifteen and twenty-five, and that got taken away, um. We're looking at charging you with conspiracy, which puts you maybe getting out in time to see your son's prom.* Okay? Some serious stuff is coming down, okay? And all I can say is that you're getting the same charges Mario's getting for conspiracy, and it's up to you whether you want to talk to me about everything.

¶64 Detective Kilian then immediately continued:

Det. Kilian: *If you talk to me about everything, then I, I put it on record that you voluntary [sic] told me this. I talk to the DA, [Torres's] been fully cooperative,* he explained from A to Z

without problems, and it's in their hands as far as how it goes.

¶65 And he continued further:

Det. Kilian: What I tell people all the time on the street is *the judge is going to look at you in one of two ways*. Either there's evidence you were truthful about it or there's evidence and you said, no, no, no, no, no, and *how does that look for your character?*

*See id.* at ¶¶ 5–8 (emphases added).

¶66 The majority concludes, based on the totality of the circumstances, that Torres made voluntary inculpatory statements to the police. *Id.* at ¶ 58. I disagree because, to me, the evidence reveals that the detective's behavior was coercive and "played a significant role in inducing" Torres's inculpatory statements, "overbear[ing] [his] will to resist." *People v. Ramadan*, 2013 CO 68, ¶ 20, 314 P.3d 836, 842.

¶67 Determining whether a defendant voluntarily waived his *Miranda* rights and whether a defendant's statements were voluntary are separate and distinct considerations. *See, e.g., People v. Humphrey*, 132 P.3d 352, 360 (Colo. 2006). A voluntary statement is "the product of an essentially free and unconstrained choice." *Ramadan*, ¶ 19, 314 P.3d at 842. In contrast, involuntary statements are "not freely self-determined" because coercive state behavior overpowered the defendant's will. *Id.* at ¶ 20, 314 P.3d at 842. Police coercion includes "subtle forms of psychological coercion." *People v. Gennings*, 808 P.2d 839, 844 (Colo. 1991). It is

important to closely examine the timing of the detective's statements and why he said them. *See id.* (explaining that the totality of the circumstances analysis "refers to the significant details surrounding and inhering in the interrogation").

¶68 When the detective first entered the room and initially asked if he wanted to talk, Torres responded with "[n]ah, I just don't know why I am doing this." Torres expressed confusion and asked questions about what was going on. To which the detective responded that Torres would need to waive his rights for answers. While it is inaccurate that the detective could not tell Torres what the new charges were without a *Miranda* waiver, in my view, this alone does not rise to the level necessary to find his statements involuntary. Even so, common sense dictates that withholding critical and life-changing information unless he agreed to talk would have weighed heavily on Torres. That is exactly why the detective withheld the information.

¶69 The detective then said he knew that Torres had a baby on the way immediately after "just saying" that there were some things Torres would "probably like to hear." Again, the detective's comments while attempting to get Torres to speak with him do not meet the threshold necessary to render Torres's statements involuntary yet. But the comments again had to have raised Torres's level of angst, even more acutely so because the detective tied the critical matter of this information to Torres's unborn son.

¶70 At that point, Torres signed the *Miranda* waiver. After signing, the detective made additional statements. The detective told Torres that the codefendant was offered a deal between fifteen and twenty-five years, which was subsequently revoked, indicating that the charges Torres faced involved a very lengthy prison sentence. He next strongly inferred that Torres potentially faced decades in prison because he “maybe” would “get[] out in time to see [his] son’s prom.” Again, the detective attempted to leverage Torres’s emotions regarding his unborn child. The detective then threw Torres a lifeline when he promised to help Torres if he cooperated. The detective said he would tell the district attorney of Torres’s full cooperation with questioning and that his cooperation would be consequential to the judge ultimately responsible for his sentence. It was then that Torres made inculpatory statements. In my opinion, he did not make them voluntarily.

¶71 I am aware of the eight factors that help a court determine voluntariness. *Gennings*, 808 P.2d at 844. The majority does a good job considering these factors. I, however, reach a different conclusion when weighing them. Frankly, I am particularly concerned about the detective connecting Torres’s unborn son to the interrogation. It served no legal purpose. It certainly did not help make his statements voluntary. The only explanation for intimating that Torres would not get out of prison until his “son’s prom” was to exploit Torres’s emotions. It was purely an emotional ploy. And it worked. At that point, the combination of the

detective's unwillingness to tell Torres why he was in custody, his emotional exploitation regarding Torres's son, and his promise to help with the district attorney, together overcame Torres's will to resist. Torres went from saying "[n]ah" when initially asked if he wanted to speak, to making inculpatory statements in the span of only a few minutes. In my view, the combined coercive threats and promises induced Torres and overpowered his will to resist speaking with the police. Hence, in my opinion, his statements are involuntary.

¶72 Accordingly, I respectfully concur in part and dissent in part.