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ADVANCE SHEET HEADNOTE
October 12, 2026

2026 CO 66

No. 26SA142, *People v. Vanpelt*—Suppression of Evidence—Voluntary Statements.

The supreme court holds that the district court erred when it suppressed evidence of the gun taken from Vanpelt prior to his arrest. In coming to this conclusion, the supreme court holds that the officers had reasonable suspicion that Vanpelt had committed the crime of driving under the influence and did not violate the Fourth Amendment or the Colorado Constitution when the officers seized Vanpelt's firearm while he was unconscious out of concern for officer safety. The supreme court further holds that Vanpelt's statements to the officers were voluntary because the officers' conduct did not overbear Vanpelt's will. The supreme court declines to exercise jurisdiction over the issue of the precluded in-court identification because Vanpelt did not properly raise this issue.

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

2026 CO 66

Supreme Court Case No. 26SA142
Interlocutory Appeal from the District Court
Larimer County District Court Case No. 24CR1075
Honorable Sarah B. Cure, Judge

Plaintiff-Appellant:

The People of the State of Colorado,

v.

Defendant-Appellee:

Justin Winter Vanpelt.

Order Reversed in Part and Appeal Dismissed in Part

en banc

October 12, 2026

Attorneys for Plaintiff-Appellant:

Gordon P. McLaughlin, District Attorney, Eighth Judicial District
Russell B. Connelly, Deputy District Attorney
Fort Collins, Colorado

Attorneys for Defendant-Appellee:

Megan A. Ring, Public Defender
Matthew Morriss, Deputy Public Defender
Fort Collins, Colorado

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

JUSTICE BOATRIGHT delivered the Opinion of the Court.

¶1 The People bring this interlocutory appeal challenging the district court's suppression of certain evidence prior to Justin Winter Vanpelt's trial for two separate shooting incidents that occurred after he fled from the police. The People first challenge the court's suppression of evidence of a firearm that police seized from Vanpelt prior to his arrest. The People also challenge the district court's order precluding a potential in-court identification by a witness at trial. Finally, while the People concede that Vanpelt was not properly advised of his *Miranda* rights during a custodial interrogation, they challenge the district court's finding that Vanpelt's statements were involuntary.

¶2 To begin, we decline to address the People's challenge regarding the potential identification as it is not reviewable under C.A.R. 4.1(a). As to the issues properly before us, we hold that the district court erred by suppressing evidence of the firearm because officers seized the firearm for their safety and thus did not violate the Fourth Amendment. We further hold that Vanpelt's statements during the interrogation were voluntary because officers' conduct did not overbear Vanpelt's will.

¶3 Thus, we reverse the district court's suppression of the firearm, reverse the court's determination that Vanpelt's statements during the interrogation were involuntary, and dismiss the People's appeal as to the identification issue.

I. Facts and Procedural History¹

¶4 On the afternoon of July 21, 2024, officers pulled over a Toyota Sequoia with no license plates and a mismatched hood and “rear tailgate” near a gas station in Loveland, Colorado. As one of the officers exited his vehicle, the Sequoia drove off. A Jeep Wrangler caught up with the Sequoia, and the Jeep’s driver took pictures of the Sequoia’s driver. The driver of the Sequoia then fired a handgun at the Jeep, with the bullet striking the Jeep’s front bumper.

¶5 Less than an hour later, another shooting involving a vehicle occurred in the area: Someone fired a handgun at a Ford Explorer, striking its rear right tire. The driver of the Ford Explorer, Lance Black, reported the incident to Dacono police, describing the vehicle as a silver Toyota Land Cruiser or 4Runner with no license plates; he also described the driver.

¶6 Loveland police identified Vanpelt as the suspect in the first incident, and a warrant was issued for his arrest. Following communications with Dacono police, Loveland police suspected that Vanpelt was the individual involved in the second incident with Black.

¹ We rely on the district court’s order and other parts of the record, as necessary, such as testimony at the motions hearing. Vanpelt does not contest these facts.

¶7 Three days after these incidents, Loveland police asked Black to participate in a photo array, where he identified Vanpelt. Two days later, Black participated in a second photo array with Dacono police, where he again identified Vanpelt.

¶8 That same day, officers conducted a welfare check in response to a report of a man slumped over his motorcycle in a parking lot. Arriving at the scene, officers found Vanpelt unconscious on his motorcycle, with his hands on the handlebars and his head hanging down. They saw a firearm holstered on his leg. Officers approached and removed the firearm, waking Vanpelt. They then transported him to the Las Animas County Jail, where officers identified him as Vanpelt and discovered an active warrant for his arrest.²

¶9 After Vanpelt's arrest, Loveland detectives interviewed him at the Las Animas County Jail. The ensuing interview lasted around seventy-five minutes, during which Vanpelt made several inculpatory statements and wrote a letter of apology to the victims of the Loveland shooting.

¶10 The People charged Vanpelt with attempted first degree murder, vehicular eluding, two counts of illegal discharge of a firearm, possession of a weapon by a previous offender, and three crime of violence sentence enhancers. Vanpelt pleaded not guilty and, as relevant here, moved to suppress the following

² The record does not indicate why Vanpelt was ultimately apprehended.

evidence: (1) the seized gun, arguing that officers lacked reasonable suspicion to contact him or probable cause to seize his firearm; (2) Black's out-of-court identifications of him and any subsequent in-court identification, arguing that this was or would be the result of impermissibly suggestive photo arrays; and (3) Vanpelt's statements to law enforcement during his interrogation at the Las Animas County Jail, arguing that these statements were made in violation of *Miranda* and his other constitutional rights.

¶11 After a suppression hearing, the district court (1) suppressed evidence of the gun; (2) declined to suppress Black's identification at the first photo array, but agreed that Black's out-of-court identification at the second photo array should not be admitted, and otherwise prohibited any in-court identification by Black; and (3) suppressed Vanpelt's statements made to law enforcement during the interrogation, finding them to be involuntary.

¶12 The People filed this interlocutory appeal.

II. Analysis

¶13 The People now argue that the district court erred in (1) suppressing evidence of the gun taken from Vanpelt when he was arrested, (2) precluding Black's in-court identification of Vanpelt, and (3) finding that Vanpelt's statements to police officers and the letter he wrote were involuntary. We first address our

jurisdiction, then our standard of review, and then we take up two of the three issues raised by Vanpelt.

A. Jurisdiction

¶14 Under C.A.R. 4.1(a), we may consider an interlocutory appeal by the People to review three types of rulings adverse to the prosecution: “(1) the suppression of evidence obtained via an unlawful search and seizure pursuant to Crim. P. 41(e); (2) the suppression of an involuntary confession or admission pursuant to Crim. P. 41(g); and (3) the suppression of improperly ordered or insufficiently supported nontestimonial identification *pursuant to Crim. P. 41.1(i).*” *People v. Smith*, 254 P.3d 1158, 1160 (Colo. 2011) (emphasis added). Crim. P. 41.1(i) provides that “[a] person aggrieved by an order issued under [Rule 41.1] may file a motion to suppress nontestimonial identification *seized pursuant to such order* and the said motion shall be granted if there were insufficient grounds for the issuance or the order was improperly issued.” (Emphasis added.) Here, Vanpelt did not move to suppress pursuant to Rule 41.1(i) because he was not yet “aggrieved by an order issued under [Rule 41.1]” to obtain nontestimonial identification. As a result, C.A.R. 4.1 does not apply. Importantly, “[w]e will not exercise jurisdiction under C.A.R. 4.1(a) outside of these ‘extremely narrow’ circumstances.” *Smith*, 254 P.3d at 1160 (quoting *People v. Null*, 233 P.3d 670, 674 (Colo. 2010)).

¶15 Additionally, the People must certify both that the appeal is not taken for purposes of delay and that the suppressed evidence is a substantial part of the proof against the defendant. C.A.R. 4.1(a); § 16-12-102(2), C.R.S. (2025).³

¶16 Here, the suppression of the evidence of both the gun and the statements made to law enforcement officers are reviewable under C.A.R. 4.1(a). But the out-of-court and in-court identification issue is not covered. Crim. P. 41.1(c) narrowly authorizes court orders permitting identifications when the police lack probable cause for an arrest. Such an order was not used in this case, and Vanpelt did not file his motion under Crim. P. 41.1(i). Therefore, C.A.R. 4.1 does not encompass this issue. Accordingly, we dismiss the portion of the appeal challenging the district court's order precluding an in-court identification of Vanpelt, and we address only the matters of the suppression of the firearm and Vanpelt's statements to officers during his interrogation.

B. Standard of Review

¶17 "A trial court's order suppressing evidence presents a mixed question of fact and law." *People v. Dacus*, 2024 CO 51, ¶ 23, 559 P.3d 198, 203. The trial court's findings of fact "are entitled to deference," but we "may give different weight to

³ The People have so certified.

those facts and may reach a different conclusion in light of the legal standard.”
Bernal v. People, 44 P.3d 184, 190 (Colo. 2002).

¶18 Where, as here, the statements sought to be suppressed are recorded, and there are no disputed facts outside of that recording, we find ourselves in “‘a similar position as the trial court’” and accordingly conduct an “independent review of the audio or video recording to determine whether the statements were properly suppressed.” *People v. Kutlak*, 2016 CO 1, ¶ 13, 364 P.3d 199, 203 (quoting *People v. Madrid*, 179 P.3d 1010, 1014 (Colo. 2008)).

C. Whether the District Court Erred in Suppressing Evidence of the Gun Taken from Vanpelt Prior to His Arrest

1. Additional Facts

¶19 Vanpelt’s arrest stemmed from a phone call reporting that a man was slumped over a motorcycle in a parking lot. When Officer Ellis arrived, he saw Vanpelt unconscious on his motorcycle, with his hands on the handlebars and his head hanging between his arms. Officer Ellis suspected that Vanpelt was under the influence of alcohol or drugs or otherwise experiencing a medical episode because it did not look like he was intentionally asleep. In particular, Officer Ellis testified that, in his experience, those who fall asleep intentionally “generally find a position of comfort” such as “rolling up . . . a sweater” or “dismounting the motorcycle.”

¶20 As officers approached, they observed that Vanpelt had a firearm holstered to his leg. Officer Gutierrez removed the firearm because the officers were unsure what Vanpelt's state of mind would be when he awoke, especially given his potential intoxication. Vanpelt woke up when the gun was removed. After speaking with Vanpelt, officers transported him to the Las Animas County Jail.

¶21 Vanpelt later moved to suppress evidence of the gun, arguing that it was the fruit of an illegal seizure.⁴ The district court granted Vanpelt's motion. Although the court found that the officers had grounds to *approach* Vanpelt because they were conducting a welfare check, it further found that the officers had no grounds to *search* Vanpelt or *seize* his firearm because they had no reasonable suspicion of a crime. The court noted that although Officer Ellis suspected that Vanpelt might have been intoxicated, Officer Ellis also admitted that Vanpelt "may just be asleep" and that "there were no signs of use of drugs or alcohol."⁵

⁴ The People represent that Vanpelt's gun was matched to the projectile recovered from the bumper of the first victim's vehicle, the Jeep, in Loveland.

⁵ The court also found that the seizure was not justified by a "community caretaking" exception to the Fourth Amendment's warrant requirement because officers did not act per a specific policy authorizing "disarming an otherwise law-abiding individual." However, the People did not raise this argument, and the Supreme Court rejected a specific community caretaking exception to the warrant requirement in *Caniglia v. Strom*, 593 U.S. 194, 198 (2021).

2. Analysis

¶22 Both the United States and Colorado Constitutions protect individuals against unreasonable searches and seizures by government officials. U.S. Const. amend. IV; Colo. Const. art. II, § 7. While “police must, whenever practicable, obtain advance judicial approval of searches and seizures” with a warrant, *Terry v. Ohio*, 392 U.S. 1, 20 (1968), there are certain exceptions to the warrant requirement, see *People v. Brunsting*, 2013 CO 55, ¶ 19, 307 P.3d 1073, 1078–79. As relevant here, if officers have reasonable suspicion of a crime, they may conduct an investigatory stop, during which they can carry out a protective search and remove any weapons so long as they reasonably suspect that their safety requires it. *People v. Martinez*, 801 P.2d 542, 544 (Colo. 1990) (citing *Terry*, 392 U.S. at 29–31). To determine whether officers had reasonable suspicion, courts assess the “specific and articulable facts” and the “rational inferences from [those] facts.” *People v. Wells*, 676 P.2d 698, 701 (Colo. 1984) (quoting *People v. Thomas*, 660 P.2d 1272, 1274 (Colo. 1983)).

¶23 Here, the “specific and articulable facts” — Vanpelt’s unusual slumped-over appearance on his motorcycle — and the “rational inferences from [those] facts” — that Vanpelt was intoxicated on a vehicle — supported reasonable

suspicion of driving under the influence.⁶ Additionally, the officers' concern for their safety was reasonable, justifying their seizure of Vanpelt's firearm. The officers faced an armed, unconscious, and thus unpredictable individual. It was reasonable for them to fear that he might wake and use his firearm in a startled state.

¶24 Thus, we hold that the officers did not violate the Fourth Amendment or the Colorado Constitution by seizing Vanpelt's firearm for officer safety.⁷ We accordingly reverse the district court's suppression of evidence of the firearm.

**D. Whether the District Court Erred in Finding that
Vanpelt's Statements and the Letter He Wrote Were
Involuntary**

1. Additional Facts

¶25 Following Vanpelt's arrest, Sergeant Cortina and Detective Mu interviewed Vanpelt in an interrogation room while he was in custody at the Las Animas County Jail. The interview lasted approximately seventy-five minutes. At the

⁶ While it is true, as the district court noted, that Vanpelt *could have* just been asleep or otherwise experiencing a medical episode, reasonable suspicion "may exist even where innocent explanations are offered." *People v. Reyes-Valenzuela*, 2017 CO 31, ¶ 14, 392 P.3d 520, 523 (quoting *People v. Castaneda*, 249 P.3d 1119, 1122 (Colo. 2011)).

⁷ Below, Vanpelt argued that it was problematic for this initial temporary seizure of his firearm to convert into a permanent one after his arrest. But because the district court determined that the initial seizure was improper, it did not reach this issue. We thus limit our analysis to the initial seizure.

beginning of the interview, Sergeant Cortina introduced himself and Detective Mu and gave the following *Miranda* advisement:

You do have the right to remain silent. Anything you say can and will be used against you in a court of law. You have the right to the presence of an attorney, to have that attorney present prior to any questioning, if you so desire. If you cannot afford to hire an attorney, one will be appointed to you, free, by the court, prior to any questioning.

Vanpelt then confirmed that he understood these rights and was willing to waive them to speak with officers.

¶26 About ten minutes into the interview, Sergeant Cortina began to ask about Vanpelt's involvement in the Loveland shooting:

Cortina: Are you that person who is randomly shooting at people? —

Vanpelt: No —

. . . .

Cortina: We weren't there, right? But we know you were there I want to show you a picture That's you driving with a cigarette in your mouth That was the picture that the lady in the car with her husband, after the police officer tried to stop you, they decided to follow you . . . and evidently, they took a picture of you and then . . . you popped a round off at them and that's what we don't understand. Is it because they took a picture of you? Or because they pissed you off because they were following you, or something else that we're not even aware of? . . . Nobody is hurt, I want you to know that,

nobody got shot, okay, so I think that's important for you to know —

Vanpelt: Oh absolutely, that changes the whole —

Cortina: It does. The bullet went into their bumper, just so you know that But we did recover that bullet.

Vanpelt: And I got attempted murder for that?

Cortina: Well, and that's what I need to know is, did they —

Vanpelt: And that can't change now, can it?

Cortina: Absolutely it can change. That just depends on what your theory and what your story is as to why this occurred. What provoked you to actually, "I'm going to take a shot at this person?"

Vanpelt: I know you gave me your word to tell the truth and everything . . . and I so appreciate that and I will too, but my reluctance is this right now . . . because this could possibly be the rest of my life I would love to just . . . tell you everything right now, but I don't want to f*****g incriminate myself —

¶27 Sergeant Cortina then urged Vanpelt to take accountability, suggesting that doing so would look good in front of a judge, at which point Vanpelt confessed:

Cortina: [Y]ou know as well as I do, a judge looks at a person a lot differently who stands up and takes responsibility for their actions, than not This is a no-brainer In this case, you know, it's not the best scenario for you. But, I'm just trying to figure out, did they threaten you, these people?

Vanpelt: Uh yeah, actually, that really is what happened But I never, I never fired at

them It was supposed to be a “leave me alone” type thing. It scared me

Cortina: But you fired at their car?

Vanpelt: Yeah It was dumb as hell It was, it was very, very f*****g irresponsible But I just wanted to be left alone It’s just ‘cause I was having a bad day fighting with my girl She gets me so irritated I’m the one that needs to control my actions, you know?

¶28 Later in the interview, the following exchange occurred in which Vanpelt made incriminating statements:

Cortina: Was this the first time you’ve ever done anything like this?

Vanpelt: Yeah absolutely, absolutely.

Cortina: Um, are you sorry for it?

Vanpelt: Oh man, you have no idea.

. . . .

Cortina: So, should they be worried that you do know who they are and that you are going to be going after them?

. . . .

Vanpelt: No, not at all I thought about trying to find out who they were and writing a letter, calling or something, just saying, like, I apologize

. . . .

Cortina: You know what though, you know what I think I can do for you? . . . [Y]ou mentioned it yourself If you want to write them a letter apologizing to make them feel better . . . , I’ll give you that opportunity, and I will make sure that

they get that letter They're scared to death, dude—

Vanpelt: Yeah, I'll do that immediately

¶29 After some back and forth, where Vanpelt hesitated to respond to Sergeant Cortina's questions, Sergeant Cortina renewed his suggestion that Vanpelt write an apology letter to the Loveland victims.

Cortina: Why don't we do this, okay? . . . We'll give you a piece of paper . . . and then we'll see if we can get those handcuffs off you. If you want to write an apology or something to them to let them know that they don't have to sleep with one eye open, that their children are safe, that you're not going to be coming to their house or anything of that nature, I think that will go a long way. I would appreciate that—

Vanpelt: Yeah, me too.

Cortina: And I think that would be very suggestive [sic] for you.

Vanpelt: It's a confession too.

Cortina: Well, we've already spoken, we're past that kind of thing. This is about being remorseful, bro.

. . . .

Vanpelt: *Will you come to court with me or talk to that judge personally?*

Cortina: *I will be there, absolutely.*

Vanpelt: And, I mean, if you guys agree to that, that you would come and, you know, you know, speak on my behalf—if you feel like I deserve it If you

feel like I'm just a piece of s**t running around shooting at people —

Cortina: I don't feel that, and I don't know you bro, and I don't have anything against you. And I can tell you this. There's no secrets here. This is a jail. Look, there's a camera. Everything's recorded in here But *yeah, absolutely we'll be in court, absolutely* And what you say and how you're presenting yourself, it is all going to be very documented I mean, it's there, you can't edit that, you know.

(Emphases added.)

¶30 After a bit of further questioning, the officers presented Vanpelt with a piece of paper to allow him to write a letter:

Cortina: Whatever you write to them, write it from your heart, man.

Vanpelt: So, will you be 100% honest with me now too?

Cortina: About what?

Vanpelt: . . . Do you think I would have been convicted if I didn't confess, if I didn't give you guys more?

Cortina: Bro, I can tell you that I am not a judge, and I'm not a jury, right? . . . What I do is I investigate, collect the facts, *I give my recommendation*, if you want to call it that, or my observations, *to the district attorney*, and I'm going to tell him, "I came in here and spoke to him and he was remorseful, he wanted to make sure the family did not fear for their safety anymore"

(Emphases added.)

¶31 Vanpelt then wrote the letter, which Sergeant Cortina read aloud for the record. While Vanpelt did not explicitly confess in the letter, he stated that he was “apologetic and remorseful.”

¶32 As Vanpelt was asked to date the letter, he returned to the topic of Sergeant Cortina’s support:

Vanpelt: Hey, you made me a promise.

Cortina: *What promise, what promise are you thinking of? –*

. . . .

Vanpelt: *If that, if that you felt like I was that person that you would go to bat for me and help me.*

Cortina: Oh dude . . . all of your honesty and your candor and your . . . manning up and taking responsibility for your actions, dude, that is going to be so duly noted, I’m telling you.

(Emphases added.)

¶33 Prior to trial, Vanpelt moved to suppress “any statements he made to law enforcement in this case,” including (as relevant here) statements he made and the apology letter he wrote during the interrogation.

¶34 The district court found that the sergeant’s *Miranda* advisement was incomplete because it failed to inform Vanpelt that (1) he could invoke his right to remain silent at any time; (2) he could ask for an attorney at any time; (3) his attorney could be present *during* questioning; and (4) Vanpelt could stop the interview at any time. As a result, the court determined that Vanpelt’s statements

to the Loveland police officers during the interrogation, including the apology letter, must be suppressed.

¶35 Furthermore, the court ruled that Vanpelt's statements during the interrogation were involuntary. Specifically, the court found that Sergeant Cortina made "coercive misrepresentation[s]"—namely, "promises" that he would "talk to the judge," give his "recommendation" to the district attorney, and "get" Vanpelt's letter to the judge—which "materially affected [Vanpelt's] ability to choose whether to remain silent." This, the court concluded, combined with Vanpelt's "cognitive delay or comprehension difficulties," rendered Vanpelt's statements involuntary.⁸

2. Analysis

¶36 The People concede that the statements at issue were made in violation of *Miranda* and thus are inadmissible as a part of their case-in-chief. However, the

⁸ In its order, the district court conflated the voluntariness of Vanpelt's *statements* with the voluntariness of his *Miranda waiver*, even though these issues are "analytically distinct." *People v. Smiley*, 2023 CO 36, ¶ 18, 530 P.3d 639, 645 (quoting *People v. Jiminez*, 863 P.2d 981, 984 n.3 (Colo. 1993)). Specifically, after deeming the officers' *Miranda* warnings insufficient, the court alternatively *assumed* the warnings to be adequate and addressed whether Vanpelt nonetheless validly waived his rights. But the court then quoted the factors in *Effland v. People*, 240 P.3d 868, 877–78 (Colo. 2010), discussing the voluntariness of *statements*. Although the basis of the court's ultimate ruling is unclear, it explicitly stated that it found "the statement to be involuntary," so we proceed from the premise that it deemed Vanpelt's statements involuntary.

People argue that the statements were voluntary under the Fourteenth Amendment, meaning they could potentially be used for impeachment. Under Colorado law, “[n]othing in [section 16-3-406] precludes the admission of a voluntary statement to impeach the credibility of the defendant as a witness.” § 16-3-406(5), C.R.S. (2025).

¶37 Under the Fourteenth Amendment, however, a defendant’s inculpatory statements are inadmissible *for any purpose* if they were involuntary. *See, e.g., People v. Raffaelli*, 647 P.2d 230, 234 (Colo. 1982) (“A defendant’s confession is admissible in evidence only if it is voluntary. This rule has its source in the due process clause of the United States Constitution. Our state constitution requires no less.” (citations omitted)). At a suppression hearing, if the defendant makes a *prima facie* showing that their statements were involuntary, the People then bear the burden of establishing by a preponderance of the evidence that the statements were voluntary. *People v. McIntyre*, 2014 CO 39, ¶ 15, 325 P.3d 583, 587; *see also Raffaelli*, 647 P.2d at 235–36.

¶38 Central to the voluntariness question is whether the officer’s behavior served to “overbear the defendant’s will to resist,” which itself involves a two-step inquiry: (1) whether the police conduct was coercive, and (2) whether this coercive conduct “played a significant role in inducing the statements.” *People v. Ramadan*, 2013 CO 68, ¶ 20, 314 P.3d 836, 842. In answering these questions, courts evaluate

the totality of the circumstances “surrounding and inhering in the interrogation,” looking not only at the “nature of the police conduct” but also at the “defendant’s ability to resist coercive pressures.” *Id.* This analysis is aided by a nonexhaustive list of factors:

- (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”; and
- (7) “the defendant’s mental and physical condition immediately prior to and during the interrogation, as well as his educational background, employment status, and prior experience with law enforcement and the criminal justice system.”

People v. Gennings, 808 P.2d 839, 844 (Colo. 1991); see also *Ramadon*, ¶ 20, 314 P.3d at 842 (quoting *People v. Medina*, 25 P.3d 1216, 1222–23 (Colo. 2001) (dividing the seven *Gennings* factors into thirteen)).

¶39 It is undisputed that (1) Vanpelt was in custody; (2) the officers' *Miranda* warnings were inadequate, meaning any waiver was invalid; (3) Vanpelt did not have the opportunity to confer with counsel or anyone else before the interrogation; and (4) the statements at issue were made during the course of the interrogation. Thus, the first four *Gennings* factors weigh toward involuntariness.

¶40 However, the fifth *Gennings* factor—whether police made “any overt or implied threat or promise,” 808 P.2d at 844—weighs strongly in favor of voluntariness. The district court characterized Sergeant Cortina's responses to Vanpelt's plea for the officers to speak with the judge to constitute not only promises but “a coercive misrepresentation.” We disagree. Contrary to the district court's findings, Sergeant Cortina did *not* promise to speak to the judge; he simply confirmed that he would be in court. Similarly, although Sergeant Cortina indicated that he would deliver Vanpelt's apology letter to *the victims*, he said nothing about giving it to *the judge*. And while Sergeant Cortina stated that he would give his “recommendation” (which he quickly qualified as his “observations”) to the district attorney, his remarks did not “impliedly promise leniency,” *People v. Torres*, 2026 CO 15, ¶ 46, 584 P.3d 578, 589, nor immunity, *see McIntyre*, ¶ 34, 325 P.3d at 591.⁹

⁹ Even if we concluded that this were coercive, it cannot be applied retroactively; a promise has to actually induce the statements made, and most of the inculpatory

¶41 Additionally, the sixth *Gennings* factor – addressing “the method and style” of the interrogator and “the length and place of the interrogation,” 808 P.2d at 844 – militates against finding Vanpelt’s statements to be involuntary. Sergeant Cortina did not badger Vanpelt; instead, as the district court observed, he used a “conversational tone” and exhibited a “friendly demeanor.” And while Sergeant Cortina’s cordial posture, along with his implication that Vanpelt taking accountability would look favorable, may have been designed to keep Vanpelt talking, these tactics are well within the bounds of appropriate police conduct. *See Torres*, ¶¶ 54–55, 584 P.3d at 590 (noting that statements encouraging the suspect to be truthful are “well-established . . . as noncoercive conduct” (omission in original) (quoting *People v. Nkongolo*, 2025 CO 20, ¶ 30, 579 P.3d 83, 90)); *People v. Smiley*, 2023 CO 36, ¶ 26, 530 P.3d 639, 646 (observing that “courts have typically held that officers don’t offend the Constitution . . . by attempting to create a false camaraderie with the suspect”); *see also People v. Zadran*, 2013 CO 69M, ¶¶ 15–17, 314 P.3d 830, 834–35 (concluding that stating “I think it would be in your best interest to talk to me” was a “generic statement about the benefits of cooperating with the police” that did not “amount to coercion constituting a due process violation”). Furthermore, while the interrogation lasted seventy-five minutes, this

statements that Vanpelt made during the interrogation were offered *before* any of Sergeant Cortina’s “promises” here.

length (coupled with the investigators' approach) is insufficient to render Vanpelt's statements involuntary. *Compare People v. Liggett*, 2014 CO 72, ¶ 30, 334 P.3d 231, 239 (holding that the defendant's statements were voluntary despite a five and a half hours long interrogation because the investigators did not insult the defendant, use a derogatory tone, nor engage in coercive conduct), *with Ramadan*, ¶¶ 25–26, 28, 314 P.3d at 844 (concluding that the defendant's statements made after fifty-four minutes of interrogation were involuntary because the interrogator's "invocation of violence" and "invocation of deportation [were] coercive").

¶42 Moreover, the bulk of Vanpelt's inculpatory statements took place during the first half of the interview, mitigating any concern that the *length* of the interview coerced Vanpelt's statements.

¶43 Finally, the last *Gennings* factor—which considers Vanpelt's "mental and physical condition" and his "prior experience with law enforcement and the criminal justice system," 808 P.2d at 844¹⁰—also weighs toward finding Vanpelt's statements to be voluntary. The district court expressed concern over Vanpelt's mental status—it noted that he "mutters, changes topics, and has trouble

¹⁰ This factor also contemplates educational background and employment status, *see Gennings*, 808 P.2d at 844, but the district court found that it lacked this information.

focusing” —and inferred from this “some cognitive delay” or “comprehension difficulties.” While exploitation of a defendant’s “confused mental state,” *People v. Valdez*, 969 P.2d 208, 212 (Colo. 1998), or otherwise “fragile mental and emotional condition,” *People v. McIntyre*, 789 P.2d 1108, 1111 (Colo. 1990), can suggest involuntariness, the record does not support such a finding here. In fact, much of the interview points toward Vanpelt’s mental clarity: He was responsive to officer questions and wary of Sergeant Cortina’s attempts to extract a confession from him.

¶44 Additionally, the district court found that Vanpelt has “an extensive criminal history, spanning over [twenty] years.” The district court deemed this troubling because Vanpelt nonetheless “displayed almost no understanding of how the legal system operates.” However, such history weighs in favor of voluntariness, as it speaks to a defendant’s experience in exercising his rights and resisting coercive pressures. In other words, Vanpelt’s extensive background with law enforcement is evidence of his knowledge of the criminal justice system. In fact, Vanpelt demonstrated this experience in the interview itself, repeatedly expressing a reluctance to “incriminate myself” and even stating, “what I’ve seen in the past is that when they’re really wanting to question you. . . it’s because . . . they don’t have much of a case.”

¶45 All told, although Vanpelt was in custody, did not receive proper *Miranda* warnings, and lacked the opportunity to confer with counsel, the police did not threaten him, Sergeant Cortina's method of interrogation was proper, Vanpelt was mentally alert, and he had extensive experience with the criminal justice system. "[T]he fulcrum of the voluntariness question is whether the law enforcement officer overbore the defendant's will." *McIntyre*, ¶ 32, 325 P.3d at 590. Here, the totality of the circumstances does not suggest this to be the case.

¶46 We thus hold that Vanpelt's statements during the interrogation, including the written apology letter, were voluntary. Accordingly, we reverse the district court's determination that those statements were involuntary.

III. Conclusion

¶47 For the foregoing reasons, we reverse the district court's order suppressing evidence of the firearm, reverse the court's finding that Vanpelt's statements during the interrogation were involuntary, and dismiss the People's appeal as to the identification issue.