

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States v. Pelice

United States v. Pelice · No. Criminal Action No. 22-246 (JDB) · Decided December 10, 2025

SUMMARY

The United States District Court for the District of Columbia denies Jean Pelice’s motion to suppress statements made during interviews with U.S. law enforcement in the Dominican Republic and the United States. The court finds that the April 28, 2022 interview was voluntary and non-custodial for Miranda purposes, and that the July 8, 2022 statements were voluntary, preceded by Miranda warnings, and followed by a valid waiver.

CASE DETAILS

COURT	United States District Court for the District of Columbia
WRITING FOR THE COURT	John D. Bates
JURISDICTION	United States District Court for the District of Columbia
DECIDED	December 10, 2025
DOCKET	Criminal Action No. 22-246 (JDB)
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved to suppress statements made during interviews with U.S. law enforcement, arguing that the statements were involuntary and that the April 28, 2022 interview violated Miranda. The district court held an evidentiary hearing and denied the motion.
STANDARD OF REVIEW	The government bears the burden of proving voluntariness and Miranda waiver by a preponderance of the evidence. Voluntariness is assessed under the totality of the circumstances, and custody is determined under the objective circumstances of the interrogation.
PRECEDENTIAL VALUE	Published district court memorandum opinion; persuasive authority within the District of Columbia but not binding on other courts.
PARTIES	Jean Pelice v. United States

TOPICS

- suppression of evidence
- miranda rights
- criminal procedure
- due process
- fifth amendment

PRACTICE AREAS

criminal procedure

constitutional law

evidence

QUESTIONS PRESENTED

1. Whether Pelice's April 28, 2022 statements in Santo Domingo were involuntary under the Due Process Clause.
2. Whether the April 28 interview was a custodial interrogation requiring Miranda warnings.
3. Whether Pelice's July 8, 2022 statements were involuntary under the totality of the circumstances.
4. Whether Pelice received and waived his Miranda rights before the July 8 interview.

HOLDINGS

1. The April 28 statements were voluntary because the record showed no coercive police activity or egregious facts sufficient to overbear Pelice's will.
2. Pelice was not in custody during the April 28 interview, so Miranda warnings were not required and no Miranda violation occurred.
3. Pelice's July 8 statements were voluntary.
4. Pelice received Miranda warnings before the July 8 interview and waived those rights by making an uncoerced statement without invoking them.

KEY QUOTATIONS

"The facts of the April 28 interview fall in between Mathiason and Yarborough and the Court therefore finds that the interview was non-custodial." (at 10)

"Thus, the Court finds that Pelice was read his Miranda rights before the July 8 interview and that he waived those rights." (at 12)

FACTUAL BACKGROUND

Pelice, charged in connection with the kidnapping of U.S. missionaries in Haiti, voluntarily met with U.S. and Dominican law-enforcement personnel in Santo Domingo on April 28, 2022. He was not restrained, was told the interview was voluntary and could be stopped, was accompanied by his wife, and left with Dominican personnel after the interview; no Miranda warnings were given. After his later arrest in the United States, Pelice was interviewed on July 8, 2022, after receiving oral Miranda warnings in Haitian Creole and having opportunities to consult privately with his attorney.

PROCEDURAL HISTORY

Pelice was charged with hostage taking, conspiracy, and aiding and abetting under 18 U.S.C. §§ 1203(a) and 2. He moved to suppress statements from an April 28, 2022 interview in Santo Domingo and a July 8, 2022 interview in the United States. After a December 4, 2025 suppression hearing, the court found the statements voluntary, determined that the April interview was noncustodial, and found that Pelice received and waived Miranda rights before the July interview.

DISPOSITION

other

CASES CITED

- *Miranda v. Arizona*, 384 U.S. 436 (1966)
- *Jackson v. Denno*, 378 U.S. 368, 376-77 (1964)
- *United States v. Neely*, 124 F.4th 937, 951 (D.C. Cir. 2024)
- *Mincey v. Arizona*, 437 U.S. 385, 397-98, 401 (1978)
- *Colorado v. Connelly*, 479 U.S. 157, 167-68 (1986)
- *Lego v. Twomey*, 404 U.S. 477, 483-88 (1972)
- *United States v. Roberson*, 573 F. Supp. 3d 209, 217-19 (D.D.C. 2021)
- *United States v. Murdock*, 667 F.3d 1302, 1305-07 (D.C. Cir. 2012)
- *Schneekloth v. Bustamonte*, 412 U.S. 218, 226 (1973)
- *Culombe v. Connecticut*, 367 U.S. 568, 602 (1961)
- *United States v. Avitan*, 349 F. Supp. 3d 23, 34-36 (D.D.C. 2018)
- *United States v. Mohammed*, 693 F.3d 192, 198 (D.C. Cir. 2012)
- *Chambers v. Florida*, 309 U.S. 227, 235-38 (1940)
- *Ashcraft v. Tennessee*, 322 U.S. 143, 153 (1944)
- *United States v. Hallford*, 816 F.3d 850, 858-59 (D.C. Cir. 2016)
- *Rhode Island v. Innis*, 446 U.S. 291, 301 (1980)
- *Howes v. Fields*, 565 U.S. 499, 509-12 (2012)
- *Oregon v. Mathiason*, 429 U.S. 492, 495 (1977)
- *Yarborough v. Alvarado*, 541 U.S. 652, 664-65 (2004)
- *Berkemer v. McCarty*, 468 U.S. 420, 438 (1984)
- *Illinois v. Perkins*, 496 U.S. 292, 297 (1990)
- *Maryland v. Shatzer*, 559 U.S. 98, 106 (2010)
- *Berghuis v. Thompson*, 560 U.S. 370, 382-89 (2010)
- *Moran v. Burbine*, 475 U.S. 412, 421 (1986)
- *North Carolina v. Butler*, 441 U.S. 369, 373, 376 (1979)

OPINION

PER CURIAM.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA UNITED STATES
Criminal Action No. 22-246 (JDB) v. JEAN PELICE MEMORANDUM OPINION Pelice is
charged with hostage taking, conspiracy, and aiding and abetting in violation of 18 U.S.C. §§
1203(a) and 2. See Indictment, Dkt. 11. He now moves to suppress statements that he made to law

enforcement on the basis that they were not voluntary and were given without having been properly advised of his rights as required by *Miranda v. Arizona*, 384 U.S. 436 (1966).

Because the government has carried its burden to show by a preponderance of the evidence that Pelice's statements were voluntary and that Pelice received Miranda warnings and waived his rights before his custodial interrogation, the Court denies Pelice's motion to suppress. Background According to the indictment, Pelice was a senior leader of 400 Mawozo, a Haitian gang that operated in a suburb near Port-au-Prince, Haiti.

Indictment ¶¶ 1, 6-9. From January 2020, 400 Mawozo was engaged in armed kidnappings of U.S. citizens in Haiti for ransom, including a conspiracy from October 2021 to December 2021 to kidnap and ransom sixteen U.S. citizen Christian missionaries. Id. ¶¶ 4-5. Five of the sixteen U.S. missionary hostages were released and the others eventually escaped after 62 days in captivity.

Id. ¶ 13. The indictment alleges that Pelice managed the hostages' guards at times, inspected a sick hostage's condition, and engaged in various communications with other gang leaders about the hostages. Id. ¶ 17(f), (j), (s), (z). 1 Pelice claims that he was not in Haiti or participating in the activities of 400 Mawozo during the time of the alleged kidnappings because he was hospitalized after being struck in the head with a machete.

Def.'s Mot. to Suppress (Mot.) 2, Dkt. 48. The government disputes this, pointing out that the indictment charges that Pelice was in Haiti and participating in 400 Mawozo activities, including the hostage taking, during the relevant period. Gov't Opp'n to Mot. (Opp'n) 1 n.1, Dkt. 49.

In any event, Pelice traveled to the Dominican Republic in February 2022, where he made the initial statements at issue. Mot. 2. The defense principally argues that Pelice's statements made during an April 28, 2022, interview in Santo Domingo with U.S. law enforcement should be suppressed because they were involuntary and were made during a custodial interrogation without Miranda warnings.

See Mot. The government responds that the interview was voluntary and Pelice was not in custody. Opp'n 2. The defense also seeks to suppress statements made subsequent to the April 28 interview as tainted by that interview. Mot. 3.

For its part, the government argues that U.S. authorities next interviewed Pelice on July 8, 2022, in the United States—following his arrest—and that he received Miranda warnings before that interview and voluntarily waived his rights in the presence of his then-counsel. Opp'n 2-3.

Accordingly, the Court held a hearing on December 4, 2025, on the voluntariness and Miranda issues. See *Jackson v. Denno*, 378 U.S. 368, 376-77 (1964) (recognizing right to voluntariness hearing); *United States v. Neely*, 124 F.4th 937, 951 (D.C. Cir. 2024) (explaining right to Miranda

hearing unless defendant's assertions are insufficient to establish a constitutional violation or there are no disputes of material fact).

At the motion hearing, FBI Special Agent John Dugue testified for the government. According to Dugue, U.S. law enforcement first became aware of Pelice in March 2022, when he posted videos on YouTube in which he discussed his 400 Mawozo activities—including the missionary kidnapping at issue in this case—and stated that he wanted to talk to U.S. authorities.

Rough Draft Hr'g Tr. 11:22-13:5 (Hr'g Tr.). Indeed, Pelice provided a phone number and answered when Dugue called. Id. at 13:5-9. Specifically, on March 3 and 4, 2022, Dugue and Diplomatic Security Service Special Agent Zachary Harrison spoke to Pelice via WhatsApp, with Dugue providing Haitian Creole translation for Harrison. Id. at 13:10-14:7. Dugue testified that neither he nor Harrison made any promises or threats to Pelice or told him that he would be arrested.

Id. at 14:8-16. However, they did ask Pelice if what he had said on YouTube was true, and the agents and Pelice agreed that Dugue and Harrison would travel to the Dominican Republic to meet Pelice in person. Id. at 14:17-24, 30:2-18. U.S. law enforcement first met in person with Pelice in the Dominican Republic near the border with Haiti. Id. at 32:18-24. Dominican Republic Departamento Nacional De Investigación (DNI) agents were also present, dressed in business casual, and Pelice was accompanied by his two wives and children.

Id. at 33:3-22. The parties arranged to meet again but no interview was conducted at the initial encounter. Id. at 32:25, 33:24-34:5. The next meeting took place on April 28, 2022, and is the main focus of Pelice's motion. Id. at 6:7-8. Pelice met with U.S. authorities for an interview in a conference room in Santo Domingo at the DNI, which is a two-story government office building where the Dominican Republic's intelligence functions are located.

Id. at 15:9-13. It is not clear how Pelice arrived at the meeting, but he was staying in a nearby hotel. Id. at 32:4-10, 34:14-23. Eight people were present for the interview: Pelice, one of his wives, three U.S. law enforcement agents (Dugue, Harrison, and FBI Special Agent Alexandra Montilla), and three members of DNI (Colonel Pedro Castro, Head of Haitian Affairs, and two DNI analysts).

Id. at 15:14-16:7. All six law enforcement 3 personnel were dressed in business casual, the U.S. law enforcement agents were unarmed, and to Dugue's knowledge so were the DNI agents. Id. at 15:18-21, 16:8-12. The conference room had one door that required keycard access to enter but not to leave, padded office chairs for up to 10 or 12 people, and large windows.

Id. at 16:16-17:4. Pelice sat opposite the door next to his wife and everyone was seated. Id. at 45:14-21. During the April 28 interview, Pelice was not restrained, and Dugue told Pelice that the

interview was voluntary and that he could stop if he wanted, but he never asked to stop or leave. Id. at 17:8-18:3. Nobody told Pelice whether he would be arrested.

Id. at 37:18-38:7. Pelice was calm and smiling, eager to answer questions, and offered many details about gang activities. Id. at 18:13-18. He also shared that he had a head injury from being hit with a machete. Id. at 34:24- 35:10.

The interview was in Haitian Creole; Dugue translated into English for Harrison and Montilla, and one of Castro's analysts translated into Spanish for him, but he did not ask any questions. Id. at 18:25-19:10, 38:17-40:2.

The tone of the interview was cordial, nobody made promises or threats to Pelice and he did not request an attorney. Id. at 19:11-25. According to Dugue, Pelice said that he did not trust the Haitian authorities and wanted to tell his story to U.S. law enforcement, so Dugue told him the best way to do so would be to go through the legal system in the United States.

Id. at 20:9-21, 42:19-43:25. Dugue could not recall how long the interview lasted, but it could have been a couple of hours. Id. at 35:11-16. None of the U.S. agents gave Miranda warnings to Pelice. Id. at 36:20-37:17.

The meeting was not recorded, id. at 38:8-16, but U.S. law enforcement summarized the interview in an FD-302 form, id. at 53:9-19. At the end of the meeting, U.S. law enforcement went to retrieve their vehicle and DNI agents escorted Pelice in the opposite direction. Id. at 41:11-42:4. Thereafter, U.S. authorities arranged for Pelice to travel to the United States.

Id. at 44:7-14. 4 On or around May 13, 2022, Pelice traveled along with Dugue and Harrison by commercial plane to the United States, where he was arrested on arrival in Miami by Customs and Border Protection (CBP) officers. Id. at 21:3-23:13; 45:22-47:19.

On direct examination, Dugue stated that Pelice was advised of his rights at that point, id. at 23:22-24, but on cross examination Dugue said that he did not read Pelice any rights and so did not know if Pelice was read his rights, id. at 47:5-7. Upon arrest, Pelice asked to speak to a prosecutor and so a call was placed to Assistant U.S. Attorney (AUSA) Karen Seifert.

Id. at 48:10-18. Seifert told Pelice that she could not say much at that time except that he had been arrested in relation to his role in the missionary kidnapping and that he would know more about his situation upon his initial appearance before a judge. Id. at 49:18-50:1. Pelice did not appear shocked to have been arrested. Id. at 48:19-49:3. No interview was conducted on the date of arrest, id. at 23:25-24:5, and the government does not intend to introduce into evidence any statements Pelice made that day, Opp'n 2.

Dugue did not know of any interviews conducted between the date of arrest and July 8, 2022, and there is no record of any FD-302 forms in that time period either. Hr'g Tr. 47:24-48:3, 54:5-11. On

July 8, U.S. authorities spoke with Pelice again in an interview room at the Alexandria Detention Center, where he was being held. Id. at 24:6-17, 50:19-51:7. Six people were present for that meeting: Dugue, Supervisory Special Agent Liz Santamaria, Seifert, Pelice, Pelice's then- attorney Alfred Guillaume III, and an interpreter.

Id. at 24:12-15, 26:11-12. Before the interview, Pelice was able to speak with his attorney privately and with his family under Dugue's supervision. Id. at 24:18-25:4. Dugue testified that either he or Santamaria advised Pelice of his rights in Haitian Creole, although Dugue could not recall who did. Id. at 25:5-26:15. AUSA Seifert also explained the proffer letter to Pelice and Guillaume, although the record is unclear on whether 5 Pelice and his counsel signed it.

Id. at 26:17-27:2, 51:21-52:5.1 During the interview, Pelice was given several opportunities to speak privately with his attorney. Id. at 52:6-11. Pelice did not testify. Following the suppression hearing, Pelice's motion is now ripe for review. Discussion A defendant's involuntary statement may not be used against him for any purpose in his criminal trial, whereas his voluntary statement made in violation of Miranda may be used only for impeachment purposes.

Mincey v. Arizona, 437 U.S. 385, 397-98 (1978). The prosecution bears the burden of proving both voluntariness and Miranda waiver by a preponderance of the evidence. *Colorado v. Connelly*, 479 U.S. 157, 168 (1986) (citing *Lego v. Twomey*, 404 U.S. 477, 488 (1972)).

I. Voluntariness A defendant has a due process right not to be convicted based on his involuntary confession—whether true or false—and to have a hearing on the issue of voluntariness before a court admits his confession as evidence. See *Lego*, 404 U.S. at 483-87; *United States v. Roberson*, 573 F. Supp. 3d 209, 217-18 (D.D.C. 2021). “Voluntariness turns on whether the ‘defendant’s will was overborne’ when he gave his statement, and the test for this is whether the statement was a ‘product of an essentially free and unconstrained choice by its maker.’” *United States v. Murdock*, 667 F.3d 1302, 1305 (D.C.

Cir. 2012) (first quoting *Schneckloth v. Bustamonte*, 412 U.S. 218, 226 (1973); then quoting *Culombe v. Connecticut*, 367 U.S. 568, 602 (1961)). In When asked by defense counsel whether “there was a [proffer] letter... that Mr. Guillaume and Mr. Pelice 1 signed,” Dugue testified that “[t]here was a letter, yes.” Id. at 51:22-25.

As follow up, defense counsel asked whether Pelice and Guillaume “sign[ed] that letter” before or after AUSA Seifert explained its contents to them, and Dugue responded that “AUSA Seifert explained the proffer letter to them and gave them the letter.” Id. at 52:1-5.

The government did not introduce the proffer letter into evidence. See id. 75:2-76:19. 6 evaluating voluntariness, courts consider “all the circumstances of the interrogation,” id. (quoting *Mincey*, 437 U.S. at 401), including “the defendant’s age and education, the length of detention, whether

the defendant was advised of his rights, and the nature of the questioning,” *id.* at 1305-06 (citing *Schneckloth*, 412 U.S. at 226).

To find that a confession was not voluntary, there must be “coercive police activity,” *Connelly*, 479 U.S. at 167, and “egregious facts,” *United States v. Mohammed*, 693 F.3d 192, 198 (D.C. Cir. 2012). Pelice argues that his statements in Santo Domingo were not voluntary in part because he was not made aware of his right to remain silent or to have an attorney present.

Mot. 4. If Pelice were interrogated while in custody, such a failure would violate *Miranda*. Although such a violation is “relevant to whether [Pelice’s] statements were voluntary,... it is insufficient by itself to establish involuntariness.” *Murdock*, 667 F.3d at 1306. Pelice next points out that English is not his primary language and says it is “not clear” whether he “was given the opportunity to secure an independent interpreter.” Mot.

4. However, he does not explain why the independence of an interpreter bears on the voluntariness of his statements. After all, a defendant’s statements may remain voluntary even when given to police—who are surely not independent—following a *Miranda* violation. See *Murdock*, 667 F.3d at 1306. And courts have often found that a defendant speaking English only as a second language does not render statements involuntary, provided that the defendant can understand the questions being asked.

See *United States v. Avitan*, 349 F. Supp. 3d 23, 34-36 (D.D.C. 2018) (collecting cases). Here, the interviews took place in Haitian Creole, so there was no language barrier in any event. Hr’g Tr. 14:2-4, 18:25-19:2, 26:11-14, 38:17-20.

In *Murdock*, the D.C. Circuit held that a defendant’s statements during a custodial interrogation were voluntary where (1) he was an adult with previous prison experience; (2) “he had been given water”; (3) “he agreed during the interview that everything was alright”; (4) “he 7 showed no apparent mental impairment, understood... questions, and gave intelligent answers;” (5) “the interview took place in a standard interrogation room and lasted only a little over an hour”; and law enforcement neither (6) made “false statements about the evidence” nor (7) offered false promises.

667 F.3d at 1307 (citation modified); see also *United States v. Hallford*, 816 F.3d 850, 858-59 (D.C. Cir. 2016) (holding that defendant’s statements were voluntary where he agreed to interview of under an hour; hospital setting was not police-dominated; he was not deprived of essentials; he refused certain law enforcement requests; agents did nothing to indicate he could not leave; and agents were aware of his mental and physical conditions).

The facts here are similar to those in *Murdock* and *Hallford*. Regarding the April 28 interview, it is undisputed that Pelice was not read his *Miranda* rights. Hr’g Tr. 36:20-22. But there is no indication that Pelice was deprived of necessities or that law enforcement made false statements

about evidence or false promises. *Id.* 62:2-4. While longer than the roughly one-hour interviews in *Murdock* and *Hallford*, this two-hour interview looks nothing like the week-long detention in *Chambers v. Florida*, 309 U.S. 227, 235-38 (1940), that the Supreme Court has cited as indicative of involuntariness.

See *Schneckloth*, 412 U.S. at 226. Nor does it resemble the 36- hour continuous interrogation in *Ashcraft v. Tennessee*, 322 U.S. 143, 153 (1944), that the Court has likewise cited as weighing against voluntariness. See *Schneckloth*, 412 U.S. at 226. It also appears that Pelice and his wife voluntarily attended the interview and then freely left when it concluded.

See Hr’g Tr. 32:4-10, 34:14-23, 41:11-42:4. The April 28 interview also took place in a large conference room unlocked from the inside within a foreign government building—albeit a law enforcement one—where the U.S. authorities had no jurisdiction. Hr’g Tr. 17:1-4, 56:21-57:5. And when Pelice disclosed his head injury, he did not indicate any mental impairment.

Id. at 59:15-25. To be sure, there were six law enforcement agents in the interview, some necessary for interpretation, but Pelice’s wife was also by his side. *Id.* at 15:14-16:7. The parties dispute the extent of Pelice’s prior contacts with any criminal justice system, contrast *id.* at 62:8-13, with *id.* at 70:20-71:22, but the Court finds that he was not familiar with the U.S. justice system before being arrested, *id.* at 66:13-15.

Finally, the suppression hearing record does not set out Pelice’s age—although he is an adult—or educational attainment, but defense counsel did not argue that these factors weigh against voluntariness. Hr’g Tr. 62:8-20, 70:10-16. Simply put, there is no evidence of the “coercive police activity,” *Connelly*, 479 U.S. at 167, or “egregious facts,” *Mohammed*, 693 F.3d at 198, required to find that the April 28 interview was involuntary.

There is no indication of any interrogation in the United States between the date of Pelice’s arrest and the interview on July 8, 2022. See Hr’g Tr. 54:9-11. And defense counsel conceded at the hearing that it would be hard to argue there was a constitutional violation at the July 8 interview if Pelice and his then-counsel signed the proffer letter. *Id.* at 7:9-10.

Nevertheless, that is the position that Pelice takes. *Id.* at 7:20-21. Following Dugue’s uncontradicted testimony that either he or Santamaria provided Pelice with oral Miranda warnings, defense counsel also concedes that point, but maintains that Pelice’s statements in the July 8 interview were involuntary under the totality of the circumstances. *Id.* at 67:15-25.

On the one hand, the July 8 interview was plainly more custodial than the April 28 one because Pelice had been arrested in the meantime. On the other hand, he was read his Miranda rights. Most importantly, however, Pelice was given the opportunity to speak with his then-attorney in private both before and during the interview, and both he and his counsel received a proffer letter that

AUSA Seifert explained to them, although the record is not clear on whether they each signed the letter.

Hr’g Tr. 24:18-25:4, 26:19-27:2, 51:18-52:11. The Court therefore finds that Pelice’s July 8 statements were also voluntary. 9 II. Miranda Rights Under Miranda, an individual must be read his rights before a custodial interrogation. 384 U.S. at 478-79; see also *Roberson*, 573 F. Supp. 3d at 218-19. Interrogation for Miranda purposes includes both express questioning and “any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response from the suspect.” *Rhode Island v. Innis*, 446 U.S. 291, 301 (1980).

An individual is in custody where (1) “in light of the objective circumstances of the interrogation” a “reasonable person” would have felt unable to “terminate the interrogation and leave” and (2) “the relevant environment presents the same inherently coercive pressures as the type of station house questioning at issue in *Miranda*.” *Howes v. Fields*, 565 U.S. 499, 509 (2012) (quotations omitted).

As part of step one, courts consider the location and duration of the questioning, statements made during the interview, whether physical restraints were present, and the release of the interviewee at the end of the questioning. See *id.* Under step two, courts consider the shock of arrest and the hope that speaking may lead either to being allowed to leave or to more lenient treatment.

See *id.* at 511-12. The Supreme Court has held that an individual who voluntarily comes to the police station where he is informed that he is not under arrest and who in fact leaves without hindrance after a 30 minute interview is not in custody. See *Oregon v. Mathiason*, 429 U.S. 492, 495 (1977). It has also held that it is reasonable—but a closer call—to find that an individual is not in custody where he is brought to the police station by legal guardians for a two hour interview, not threatened but not told he is free to leave, offered breaks, and released after the interview.

Yarborough v. Alvarado, 541 U.S. 652, 664-65 (2004). 10 Even absent invocation of the right to remain silent, an individual’s statement during a custodial interrogation is inadmissible in the government’s case-in-chief unless the government can establish that the individual “knowingly and voluntarily waived [his] Miranda rights when making the statement.” *Berghuis v. Thompkins*, 560 U.S. 370, 382 (2010) (quotation omitted).

A waiver is voluntary where it is “the product of a free and deliberate choice rather than intimidation, coercion, or deception” and is knowing where 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.* at 382-83 (quoting *Moran v. Burbine*, 475 U.S. 412, 421 (1986)). It can be express or “implied from all the circumstances.” *Id.* at 384 (citing *North Carolina v. Butler*, 441 U.S. 369, 373, 376 (1979)).

Pelice first argues that law enforcement violated his rights under Miranda because the Santo Domingo interview was an unwarned custodial interrogation. Mot. 5. The government disputes only whether Pelice was in custody. Opp'n 5; Hr'g Tr. 36:22-37:13.

The facts of the April 28 interview fall in between Mathiason and Yarborough and the Court therefore finds that the interview was non-custodial. Under Howes step one, the meeting took place in a law enforcement building but not one where U.S. authorities had jurisdiction. Hr'g Tr. 15:9-13.

The interview was also conducted in a conference room with large windows that was unlocked from the inside rather than an interrogation room. Id. at 16:16-17:4. The record does not reflect how Pelice arrived at the interview, but he was staying in a nearby hotel. Id. at 32:4-10, 34:14-23. And he was not physically restrained. Id. at 17:8-10. Instead, Dugue told Pelice that he was free to stop the interview, and nobody told Pelice he was or would be under arrest.

Id. at 17:11-18:3, 37:18-38:7. At the end of the interview, Pelice and the U.S. agents went their separate ways, although he was still in the presence of DNI agents. Hr'g Tr. 41:11-42:4. Granted, the interview may have lasted two hours, id. at 35:11-16, 11 which weighs in favor of custody under Yarborough, 541 U.S. at 665. And there were six law enforcement agents in the room.

Hr'g Tr. 15:14-16:7. However, Pelice's wife was also at his side. Id. at 17:5-7. Moreover, law enforcement personnel were not uniformed and had no visible weapons. Id. at 15:18-21, 16:8-12, see also *Berkemer v. McCarty*, 468 U.S. 420, 438 (1984) ("[T]he aura of authority surrounding an armed, uniformed officer... exert[s] some pressure on the detainee to respond to questions.").

On balance, therefore, Pelice was not in custody because his "freedom of movement was [not] curtailed." *Howes*, 565 U.S. at 509. Even if Pelice's freedom of movement were curtailed, he was not in custody under *Howes* step two.

To be sure, Pelice may have wished to speak in the hopes of "more lenient treatment." Id. at 512 (quoting *Illinois v. Perkins*, 496 U.S. 292, 297 (1990)). But there is no indication of "the shock that very often accompanies arrest." Id. at 511. Pelice's demeanor was calm, smiling, and eager. Hr'g Tr. 18:13-18. And he was not "cut off from his normal life and companions." *Howes*, 565 U.S. at 511 (quoting *Maryland v. Shatzer*, 559 U.S. 98, 106 (2010)).

Instead, he had his wife with him. Hr'g Tr. 17:5-7. Moreover, there is nothing to suggest that Pelice spoke in the hope of being allowed to leave. *Howes*, 565 U.S. at 511. Rather, Dugue told him that he could stop at any time. Id. at 17:11-18:3.

Accordingly, no Miranda violation occurred at the Santo Domingo interview because Pelice was not in custody. Although Pelice contended in his motion to suppress that he was also not read his Miranda rights in the United States, Mot. 3, he conceded that point in the suppression hearing after

Dugue's uncontradicted testimony that either he or Santamaria orally provided the warnings, Hr'g Tr.

25:5- 26:5, 67:15-20. Pelice and his then-attorney also received a proffer letter, which AUSA Seifert explained to them. Id. at 51:18-52:5. The record is unclear on whether Pelice and his attorney signed the proffer letter agreeing that the interview was voluntary, id., which would constitute 12 express waiver, *Berghuis*, 560 U.S. at 383. Nevertheless, "a suspect who has received and understood the Miranda warnings, and has not invoked his Miranda rights, [impliedly] waives the right to remain silent by making an uncoerced statement to the police." Id. at 388-89.

Here, the Court has already found that Pelice's July 8 statements were uncoerced, and the uncontradicted evidence is that he received Miranda warnings in Haitian Creole and then had ample opportunity to speak to his then-counsel privately both before and during the interview.

Thus, the Court finds that Pelice was read his Miranda rights before the July 8 interview and that he waived those rights. Conclusion For the foregoing reasons, the Court will deny Pelice's motion to suppress. A separate order will accompany this opinion. /s/ JOHN D. BATES United States District Judge Date: December 10, 2025 13