

**Case No. 21-001  
Court of Appeals**

**WALTER LUND vs. STATE OF MINNESOTA**

**Parties:**     **Appellant - Walter Lund**  
                  **Respondent - State of Minnesota**

**Issues:**

- (1) Was the criminal defendant's statement to the police inadmissible because it was involuntary?
- (2) Did the trial court abuse its discretion by refusing to sentence the criminal defendant to less than the presumptive sentence?

**Facts:**

Walter Lund is a 19-year-old male who dropped out of high school in the eleventh grade to work at a local pizza shop. For three years in elementary school he was placed in special education classes; otherwise he attended mainstream classes.

Lund and Andrew Shipman both attended a party in Duluth on February 1, 2017. At the party, after making a sarcastic comment about Lund's tattoo, Shipman suggested the two go outside to get some air. Shipman went outside first. When Lund went outside a short time later, Shipman signaled for him to come over to the neighbor's yard. When Lund went into the yard, someone swung at him from behind, and he ran away. Shipman chased Lund and caught up with Lund on Oak Street. Lund hit Shipman in the face and tried to run away again. Shipman grabbed Lund and dropped Lund to the ground. The two wrestled and Lund noticed a gun lying near Shipman. When Lund tried to reach the gun, Shipman grabbed it and tried to point it toward Lund. Lund snatched the gun away from Shipman, got up and started backing away. Shipman started coming towards Lund and Lund fired the gun towards Shipman's stomach area three times.

Lund claimed he acted in self-defense. He said he had previously seen two guns on Shipman's person. According to Lund, he dropped the gun and ran away after firing three shots. Lund claimed that as he fled, he heard a series of four or five shots.

An eyewitness to the shooting testified that at about 11:45 PM, he heard three gunshots. It was a very dark winter night, and there were no streetlights. He looked out the window and saw a person standing in his yard. He heard another shot and then saw the person fire another volley of shots and flee. The witness heard a total of about six or seven shots and believed a single person did all the shooting.

At about 12:30 a.m. on February 2, 2017, Duluth police received a call about an intruder in a backyard on Oak Street. The officers who responded to the call found Shipman lying on the ground, semi-conscious and unable to respond to any questions. Shipman died a few hours later. The police officers found a gun in the bushes six feet from where Shipman was lying; this was not the murder weapon. The medical examiner that performed the autopsy found twelve gunshot wounds consistent with six or possibly seven bullets striking and passing through the victim's body. The medical examiner testified that the wounds were consistent with the victim being shot from the front and then turning and running as shots continued to be fired.

Duluth Police Officer Rick James interviewed Lund on February 2, 2017. This was Lund's first interview by police; he had never been interviewed or arrested for any crimes previously. Lund admitted being at the party but claimed he had just heard about the shooting. The following day, Lund was arrested and advised of his rights under the police department's standard advisory form.

Lund agreed to talk to Officer James but did not change the story he previously told. Lund was very nervous about being in jail and could not eat.

Officer James interviewed Lund a third time at the St. Louis County Jail on February 5, 2017. James told Lund that he had some trouble with what Lund had said before, that a few things did not make sense. James told Lund that the victim had identified Lund as the person who shot him. Lund admitted shooting the victim and began to cry. James later admitted that he lied when he said the victim had identified Lund.

After Lund admitted shooting the victim, James tape-recorded Lund's statement. James first went over the form Lund had signed waiving his Miranda rights. In response to individual questions about each of his rights, Lund indicated that he recalled James telling him about the right and he recalled waiving the right. Lund then gave a statement that was consistent with his trial testimony. He also stated that James had not threatened him when they discussed the shooting before the taped interview. Lund's family did not visit him until February 6.

The trial judge admitted the confession, concluding Lund gave it voluntarily. The jury convicted Lund of second-degree intentional murder. The trial judge rejected Lund's request for a lesser sentence because Shipman was the initial aggressor in the fight and gave Lund the presumptive sentence for his crime.

### **Authorities:**

The following is a brief summary of the points of law you should keep in mind in preparing your briefs and arguments (you are not limited to these points; they are just good starter questions to think about). You will also notice some cases attached. These cases represent some of the materials you can use to begin your research. No further research is necessary.

### **Summary:**

#### Issue #1 -- Admissibility of Defendant's Statement

- Was Lund's confession made freely and voluntarily?
- Did the police improperly induce Walter Lund to confess the crime?
- Did the circumstances of his incarceration unduly influence Lund's confession?
- Did the police act appropriately in obtaining Lund's statements and confessions?
- Did the lack of a second Miranda warning make Lund's statements involuntary?

#### Issue #2 -- Trial Court Sentencing

- Does the issue that the victim was the aggressor in the fight warrant a lesser sentence from the presumptive sentence?
- Do Walter Lund's statements vs. the statements of the eyewitnesses have any relation to proper sentencing?
- Do Lund's actions after the shooting figure into sentencing guidelines?

### **Cases and Related Materials:**

- State v. Moorman, 505 N.W.2d 593, 600 (Minn. 1993)
- State v. Garner, 294 N.W.2d 725, 727 (Minn. 1980)
- King v. State, 353 N.W.2d 144, 149 (Minn. Ct. App. 1984)

<b>Prior Case 1</b> – <i>State of Minnesota v. Moorman</i> , Supreme Court of Minnesota (1993)	
<b>Facts</b>	Defendant Richard Moorman was arrested for making unwarranted advances towards a woman. After Moorman was arrested and brought into custody, a detective noticed the assault was similar to the murder of a different woman a month prior. On the way to the interview room and before Moorman was given a <i>Miranda</i> warning, the detective asked Moorman if was familiar with the Pyramid cigarette brand. A Pyramid cigarette had been found at the murder scene. Moorman indicated he was familiar with the brand and took the cigarette the Detective offered him. He was then given a Miranda warning and agreed to talk about that night’s assault. The next night Moorman was interviewed again. He was read his <i>Miranda</i> rights and was asked about the murder. He initially denied involvement, but after the detective told Moorman certain evidence linked him to the murder, he eventually confessed a few hours later after they took a break. He was convicted of first-degree murder for the death of a teenage woman
<b>Issue</b>	Should Moorman’s confession have been suppressed because his earlier unwarned admission that he was familiar with Pyramid cigarettes fatally tainted his confession?
<b>Holding</b>	NO. Moorman’s confession was voluntarily made.
<b>Reasoning</b>	The failure to provide a <i>Miranda</i> warning does not taint an investigation unless there was actual coercion or other circumstances calculated to undermine the suspect’s ability to to exercise free will. The admissibility of any subsequent statements turns on whether a statement is “knowingly and voluntarily made.” Here, Moorman’s admission regarding the Pyramid cigarettes was clearly voluntary. The real question is whether, in light of the Pyramid cigarette admission, his later confession was voluntary. To decide this, the court looked to the totality of the circumstances. Under this test, the court must undertake a “subjective, factual inquiry” into events and conditions surrounding the confession. Factors include age, maturity, intelligence, education, and experience of the defendant as well one’s ability to comprehend, the lack of or adequacy of warnings, the length of detention, the nature of the interrogation, and physical deprivations and limits. Here, the defendant had prior experience with the criminal system and knew the situation he was in, and the nature and length of the interrogation was not unreasonable or burdensome. Although he was lied to, there were no threats or physical intimidation, so the tactics did not indicate unduly coercive methods.

<b>Prior Case 2 – <i>State of Minnesota v. Garner</i>, Supreme Court of Minnesota (1980)</b>	
<b>Facts</b>	Defendant Michael Ray Garner attempted to cash a stolen check using a false identity. A clerk at the store noticed that the check was among those listed as being stolen and called police. Garner was arrested and taken to police headquarters. Garner was intoxicated when he was placed into police custody. Garner was interviewed by an officer at police headquarters. The officer gave Garner <i>Miranda</i> warnings, but as the officer questioned Garner, the officer used “stress-inducing techniques” such as invading Garner’s body space. The officer also lied to Garner about police ability to correctly identify him (despite Garner having used false identification) in an attempt to persuade Garner to confess to stealing the check. Garner gave a written confession to stealing the check. The trial court admitted the written confession into evidence over the defense’s objection.
<b>Issue</b>	Did police use unduly coercive methods to compel Garner’s confession?
<b>Holding</b>	YES. The interrogation methods used by the officer were so coercive as to render Garner’s confession involuntary.
<b>Reasoning</b>	The interrogating officer’s use of stress-inducing interrogation methods, combined with Garner’s intoxication, and the fact that the officer lied all added up to an “unfair and coercive context” in which Garner “understandably chose to sign the written confessions.” This context was so coercive that the Supreme Court held that Garner’s confession was not voluntary, and that the trial court should have suppressed it (refused to allow the prosecution to admit the confession into evidence). Further, the Supreme Court determined that the trial court’s error was so serious that--even though the prosecution presented overwhelming evidence of Garner’s guilt, not including the confession--the Court reversed Garner’s conviction and ordered a new trial.

**Prior Case 3 – King v. State of Minnesota, Court of Appeals of Minnesota (1984)**

<b>Facts</b>	Defendant Stanley King shot and killed William Hall. King and Hall were previously friends until King developed a romantic relationship with Tanu Hall (Hall's estranged wife). The Halls had been experiencing marital problems for several years and Hall had been physically and emotionally abusive towards his wife. The Halls no longer lived together but remained married. In August, Hall started a fistfight with King, injuring Hall's face. In fall, someone shot at King while he was driving. King suspected it was Hall, but no police report was filed, and King could not confirm his suspicions. In January, because of the prior shooting incident, King purchased a handgun. In February, King was at Tanu Hill's apartment with the youngest of her three children. Hall showed up and was let in by the child. Hall stood by the door with a hand in his pocket. King suspected King had a weapon and described Hall as angry and under the influence of alcohol. When King asked Hall what was happening, Hall responded "you're what's happening! Tanu is pregnant, isn't she?" King testified he feared being hurt and that he felt King intended to kill him. King said he told Hall to leave. Hall turned to leave, but then leaned quickly towards Hall. King, who kept his gun under the couch cushions, grabbed the gun and fired a shot at Hill, which struck him in the stomach. King testified that despite the wound Hall kept coming towards him, so Hall shot him three more times. King was pronounced dead at the scene. King was arrested and at trial argued self-defense. The jury convicted him on manslaughter in the first degree for the shooting death of William Hall. He was sentenced to 43 months, the presumptive sentence for first degree manslaughter where the defendant has no prior criminal history.
<b>Issue</b>	Did the trial court abuse its discretion in refusing to depart from a presumptive sentence under the Minnesota Sentencing Guidelines?
<b>Holding</b>	NO. The trial court did not abuse its discretion in refusing to depart from a presumptive sentence.
<b>Reasoning</b>	Minnesota has implemented sentencing guidelines to assist courts in sentencing offenders. The Minnesota Sentencing Guidelines seek to establish rational and consistent sentencing standards that promote public safety, reduce sentencing disparity, and ensure that the sanctions imposed for felony convictions are proportional to the severity of the conviction offense and the offender's criminal history. The Minnesota Sentencing Guidelines are developed around the concept of "presumptive" sentences. The term comes from the fact that the punishment is presumed to be appropriate for all typical cases, after accounting for the individual's criminal history and the severity of the offense for which they were convicted. However, where an offense involves "compelling circumstances", the trial court may depart from a presumption sentence. Meaning, the court may reduce or increase the sentence from the presumptive sentence. The trial court has "broad discretion" in refusing to depart from the Minnesota Sentencing Guidelines and a trial court's decision will be reversed only in a "rare case". In this case, King's claim for a durational departure was based on characterization of the offense in terms resembling his arguments of self-defense. The Minnesota Supreme Court disagreed, finding those factors not compelling or substantial to demonstrate the rare case requiring reversal of the trial court decision. The trial court felt and the Minnesota Supreme Court agreed that the presumptive sentence was lenient in the circumstances of the case.