

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

TIYA MANNING,

Defendant-Appellee.

FOR PUBLICATION

December 15, 2000

9:15 a.m.

No. 224898

Wayne Circuit Court

LC No. 99-006691

Updated Copy

February 2, 2001

Before: O'Connell, P.J., and Kelly and Whitbeck, JJ.

KELLY, J. (*concurring in result*).

I agree with the majority that the trial court erred in suppressing defendant's inculpatory statement solely on the basis of the delay and that the court should have, instead, considered the voluntariness of the statement based on the totality of the circumstances under *People v Cipriano*, 431 Mich 315, 334; 429 NW2d 781 (1988). However, to the extent that the majority attempts to evaluate the voluntariness of the statement in light of the record presented to us, I disagree with that approach. The statement must first be properly evaluated by the trial court. That was not done in this case. Therefore, because the trial court has not yet done so, this Court should not be attempting to evaluate the voluntariness of the statement. We simply do not have all the necessary information to do so. However, because I believe that we must reverse and remand to the trial court to make appropriate findings under the factors established in *Cipriano*, I concur in the result.

/s/ Michael J. Kelly