# CAPTION: STATE V. ROBERTS

**04-26-24**

APPEAL NO.: C-220615

TRIAL NO.: B-1904356

KEY WORDS: CUSTODIAL INTERROGATION — *MIRANDA* — FIFTH AMENDMENT — EVID.R. 404(B) — AGGRAVATED MURDER — AGGRAVATED ROBBERY — EVIDENCE — SUFFICIENCY — EVIDENCE TAMPERING — R.C. 2921.12(A)

SUMMARY:

 Where defendant was not given *Miranda* warnings while in police custody, the trial court committed prejudicial error in admitting his statements.

 Where defendant had stopped the car he was driving on the side of the road and a police officer stopped to check on defendant’s welfare, defendant was in custody for purposes of the *Miranda* warnings because, several minutes into the encounter, a reasonable person would have understood himself to be in custody.

 Where defendant was convicted of the aggravated murder of his mother, evidence of defendant taking his aunt’s car without her permission and of her observation of smoldering curtains in her dining room at the time of his departure were inadmissible for the purpose of proving intent, motive, preparation, and plan under Evid.R. 404(B).

 Where there was evidence that there was recent tension between defendant and the victim, that defendant was around the victim at the time of her death, and that there was a struggle which lasted at least a few minutes between defendant and the victim, there was sufficient evidence of prior calculation and design to support an aggravated murder conviction under R.C. 2903.01(A).

 Where defendant was found with the victim’s car and wallet soon after he left the victim’s residence and she was later found strangled to death in her residence, a conviction for aggravated robbery under R.C. 2911.01(A)(3) would have been supported by sufficient evidence and not against the manifest weight of the evidence.

 Where there was no evidence of when defendant reset his cell phone or when he knew about an ongoing investigation, defendant’s conviction for evidence tampering was not supported by sufficient evidence.

JUDGMENT: AFFIRMED IN PART, REVERSED AND CAUSE REMANDED IN PART, AND APPELLANT DISCHARGED IN PART

JUDGES: OPINION by KINSLEY, J.; BERGERON, J., CONCURS and ZAYAS, P.J., CONCURS IN JUDGMENT ONLY.