

Christopher Gilman, who sought to question Defendant about another unrelated shooting incident. (*Id.* at 13:5-9.) After expressing a willingness to talk, Defendant was taken upstairs to Detective Gilman’s office, where he was advised of his *Miranda* rights.² (*Id.* at 14:4-7.) When Detective Gilman questioned Defendant as to the prior shooting, Defendant claimed he “d[id]n’t know anything.” (*Id.* at 15:14-17.) Defendant was then asked about the incident from which the current charge arises. (*Id.* at 15:19.) Defendant responded that “he didn’t want to sign anything.” (*Id.* at 15:20-24.) Detective Gilman interpreted this to mean that Defendant was invoking his right to remain silent. (*See id.* at 31:18-24 (“I assumed at that point that he didn’t really want to talk any more because if you don’t wan[t to] sign a statement, you know, I interpreted it as, you don’t want to talk.”).)

Defendant then spontaneously asked Detective Gilman what he was being charged with. (*Id.* at 16:5.) Detective Gilman told Defendant that he was being charged with violation of the Uniform Firearm Act. (*Id.* at 16:8-9.) Defendant then stated “that Jason was trying to shoot me with an AK-47 and that [I] shot at Jason numerous times because Jason was trying to shoot [me].” (*Id.* at 34:7-10.)

II. DISCUSSION

The instant Motion seeks to suppress Defendant’s statement about “Jason,” contending it was “a custodial statement taken in violation of [Defendant’s] right pursuant to the Fifth Amendment Because [D]efendant invoked his right to silence during [the] police

² Detective Gilman read Defendant his *Miranda* rights and asked him a series of questions to determine whether Defendant understood those rights. (Suppression Hearing Tr., 29:7-30:4, Oct. 14, 2005.) Defendant responded affirmatively to each question. (*Id.* at 29:24-25.)

interrogation, [Detective Gilman] was obliged to end [his] interrogation of Defendant.” (Doc. No. 14 at 2.) Defendant argues that, by informing him of the charge against him, after he had evinced a desire to remain silent, Detective Gilman engaged in a “post[-]invocation interrogation” in violation of *Miranda*. (Suppression Hearing Tr., 37:2, Oct. 14, 2005.)

The determination as to whether an individual has invoked the right to remain silent is an objective one: the defendant must “articulate[] his right to remain silent sufficiently clearly that a reasonable officer would, under the circumstances, perceive it as such.” *United States v. Hurst*, 228 F.3d 751, 759 (6th Cir. 2000) (citing *Davis v. United States*, 512 U.S. 452, 459 (1994) (applying objective standard to determine whether right to counsel was invoked)). The Supreme Court has clearly defined the procedure that must then be followed:

If the individual indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent, the interrogation must cease. At this point he has shown that he intends to exercise his Fifth Amendment privilege; any statement taken after the person invokes his privilege cannot be other than the product of compulsion, subtle or otherwise.

Miranda v. Arizona, 384 U.S. 436, 473-74 (1966) (footnote omitted). In this case, Detective Gilman understood Defendant’s refusal “to sign anything” as an effective invocation of the right to remain silent. (Suppression Hearing Tr., 31:18-24, Oct. 14, 2005.) Any additional interrogation of Defendant was therefore inappropriate and any statement resulting from such interrogation cannot be used by the prosecution. *Miranda*, 384 U.S. at 444.

However, *Miranda* does not imply “that all statements obtained by the police after a person has been taken into custody are to be considered the product of interrogation.” *Rhode Island v. Innis*, 446 U.S. 291, 299 (1980). “Any statement given freely and voluntarily without

any compelling influences is . . . admissible.” *Miranda*, 348 U.S. at 478. The bounds of interrogation are delineated by a “functional equivalence” test:

[T]he term ‘interrogation’ under *Miranda* refers not only to express questioning, but also to 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.

Innis, 446 U.S. at 301. Any “practice that the police should know is reasonably likely to evoke an incriminating response from a suspect thus amounts to interrogation.” *Id.* However, interrogation should not be equated with mere “subtle compulsion.” *Id.* at 303. Interrogation does not result from an officer’s awareness of the possibility that an individual may make incriminating remarks. *Arizona v. Mauro*, 481 U.S. 520, 529 (1987) (“volunteered statements” that are not the result of “compelling influences, psychological ploys, or direct questioning” are not barred by the Fifth Amendment). While an officer’s intent in making a remark “is relevant in determining whether the remark was reasonably likely to elicit an incriminating response,” that intent is “not conclusive.” *United States v. Crisco*, 725 F.2d 1228, 1231 (9th Cir. 1984). “Officers do not interrogate a suspect simply by hoping that he will incriminate himself.” *Mauro*, 481 U.S. at 529.

Counsel argues that the “intent” and “effect” of Detective Gilman’s response to Defendant’s inquiry were necessarily interrogational, and that Gilman should have refused to answer Defendant’s question. (Suppression Hearing Tr., 36:1-24.) We disagree. Defendant initiated the exchange with Gilman by inquiring as to the charge against him. (*Id.* at 35:23-25.) Detective Gilman’s response, informing Defendant of the alleged Uniform Firearms Act violation, was “in the form of a declaration, not a question.” *United States v. Jackson*, 862 F.2d

1168, 1172 (4th Cir. 1989). Defendant’s “inquiry was entirely spontaneous and the officer’s answer was cursory and directly responsive.” *United States v. Taylor*, 985 F.2d 3, 8 (1st Cir. 1993). These criteria militate towards a finding that the exchange between Defendant and Detective Gilman was not interrogation.

Defendant has not established that Detective Gilman’s statement “[r]ose to the functional equivalent of interrogation,” *Jackson*, 862 F.2d at 1172, or that it would objectively be “perceived as interrogation by a reasonable person in the same circumstance,” *Taylor*, 985 F.2d at 6. The result here is not controlled by Detective Gilman’s “subjective intent” or his awareness that an incriminating statement may result from his response to Defendant’s inquiry. *Id.* Where no interrogation takes place, Defendant’s oral statements are admissible. *See McGowan v. Miller*, 109 F.3d 1168, (7th Cir. 1997) (denying habeas relief where state court found defendant’s “incriminating statements came only after he initiated a conversation with” police, asking “What specifically are you charging me with?”); *United States v. Spurlock*, No. 96-4739, 1997 U.S. App. LEXIS 23530, at *3-4 (4th Cir. Sept. 5, 1997) (suspect who inquired as to “what law he had violated,” and made incriminating statements after being informed by police of the reason for his arrest, could not suppress “statements [that] were uncoerced and not the result of any subtle interrogation”); *Taylor*, 985 F.2d at 6-8 (finding no interrogation where suspect asked “Why is this happening to me?” and made incriminating remarks after police identified his alleged crime; holding otherwise “would . . . propound a rule that police officers may not answer direct questions, even in the most cursory and responsive manner”); *Jackson*, 862 F.2d at 1172 (defendant’s incriminating statement, made after being informed of the reason for his arrest, “was

admissible as a spontaneous comment voluntarily made after being fully informed of his fifth amendment rights”). Accordingly, Defendant’s Motion will be denied.

An appropriate Order follows.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	CRIMINAL ACTION
v.	:	NO. 04-CR-00716
	:	
SHARIF YOUNG	:	

ORDER

AND NOW, this 25th day of October, 2005, upon consideration of Sharif Young's Motion To Suppress Oral Statements (Doc. No. 14, 04-CR-00716) and all papers filed in support thereof and in opposition thereto, and after a hearing in open court, it is ORDERED that the Motion is DENIED.

IT IS SO ORDERED.

BY THE COURT:

S:/ R. Barclay Surrick
U.S. District Court Judge