Recent Case Report

People v. Macklem

(2007) 149 Cal.App.4th 674

ISSUE

Was a county jail inmate "in custody" for *Miranda* purposes when he was questioned about a jailhouse assault?

FACTS

Macklem was being held at the San Diego County Jail, awaiting trial on charges that he murdered his girlfriend during a heated argument. One day, Macklem got into an argument with an elderly inmate named Doane. Later, while Doane was sleeping, Macklem attacked him with a pipe. When a deputy heard Doane screaming, he rushed to the cell and ordered Macklem to stop the attack. Macklem continued on, so the deputy incapacitated him by means of pepper spray.

A sheriff's detective named Birmingham was assigned to investigate the assault. At her request, Macklem was brought to a room used for attorney-client interviews. His handcuffs were removed and Birmingham told him that he did not have to speak with her. Nevertheless, he proceeded to discuss the incident.

Toward the end of the interview, he explained that he has difficulty controlling himself when he gets angry, and that he would have killed Doane if the deputy had not stopped him. He then added, *"[T]hat's the reason why I'm in here, because no one was there to stop me."*

Although Birmingham had not sought a *Miranda* waiver from Macklem, this statement was used against him at his murder trial. He was convicted.

DISCUSSION

Macklem argued that his admission was obtained in violation of *Miranda* and should have been suppressed. The court disagreed.

As a general rule, a *Miranda* waiver is required before officers may question a suspect who is "in custody."[1] It is also the rule that a person is "in custody" if, (1) he was arrested, or (2) his freedom had been restricted to the degree associated with an actual arrest.[1]

[1] See *Berkemer* v. *McCarty* (1984) 468 U.S. 420, 442; *People* v. *Stansbury* (1995) 9 Cal.4th 824, 830.

It would appear, therefore, that Macklem must have been "in custody" because he had been arrested and, moreover, he was a prisoner in the county jail. Not so fast, said the court. It pointed out that while Macklem was technically in custody, the surrounding circumstances hardly generated the type of coercive pressure that the *Miranda* procedure was designed to alleviate. And without a coercive environment, *Miranda* simply does not apply. As the California Supreme Court observed, "[T]he purpose behind [*Miranda* was] preventing government officials from using the coercive nature of confinement to extract confessions that would not be given in an unrestrained environment."[2] The court added, "Where government actions do not implicate this purpose, interrogation is not present."

Although the United States Supreme Court has not addressed this precise issue, there is reason to believe that it, too, would look below the surface to determine whether the suspect, although technically "in custody," was questioned in a noncoercive environment. As it observed in *Berkemer* v. *McCarty*, "Fidelity to the doctrine announced in *Miranda* requires that it be enforced strictly, but only in those types of situations in which the concerns that powered the decision are implicated."[3]

For these reasons, several lower courts have ruled that jail and prison inmates who were questioned about other crimes (such as assaults on other prisoners) were not "in custody" for *Miranda* purposes unless they reasonably believed their freedom of movement had been restrained to a degree *greater* than that which is inherent in the facility.[4]

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[2] *People* v. *Clark* (1993) 5 Cal.4th 950, 985 [quoting from *Arizona* v. *Mauro* (1987) 481 U.S. 520, 529-30].

[3] (1984) 468 U.S. 420, 437.

[4] See *Cervantes* v. *Walker* (9th Cir. 1978) 589 F.2d 424, 428 ["In the prison situation [*Miranda* 'custody'] necessarily implies a change in the surroundings of the prisoner which results in an added imposition on his freedom of movement. Thus, restriction is a relative concept, one not determined exclusively by lack of freedom to leave. Rather, we look to some act which places further limitations on the prisoner."]; *People* v. *Fradiue* (2000) 80 Cal.App.4th 15, 20 ["The question must therefore shift to whether some extra degree of restraint was imposed upon the [state prison] inmate to force him to participate in the interrogation."]; *People* v. *Anthony* (1986) 185 Cal.App.3d 1114, 1121 ["A prisoner or one incarcerated in jail is not automatically in 'custody' within the meaning of *Miranda*."]; *U.S.* v. *Willoughby* (2nd Cir. 1988) 860 F.2d 15, 24 ["[T]here was nothing in the circumstances that suggested any measure of compulsion above and beyond that confinement."]; *U.S.* v. *Conley* (4th Cir. 1985) 779 F.2d 970, 973 [the test is "whether the inmate was subjected to more than the usual restraint on a prisoner's liberty to depart."]; *Garcia* v. *Singletary* (11th Cir. 1994) 13 F.3d 1487, 1492 ["In the context of questioning conducted in a prison setting, restricted freedom implies a change in the surroundings of the prisoner which results in an added imposition on his freedom of movement."]; *U.S.* v. *Menzer* (7th Cir. 1994) 29 F.3d 1223, 1231 ["The Second, Fourth, Eighth and Ninth Circuits have held that, when challenging a statement given by a defendant, merely because the defendant is in prison on an unrelated charge does not mean the defendant is 'in custody' for purpose of *Miranda*." Citations omitted]; *Leviston* v. *Black* (8th Cir. 1988) 843 F.2d 302, 303 ["[I]ncarceration does not *ipso facto* render an interrogation custodial."]; *U.S.* v. *Conley* (4th Cir. 1985) 779 F.2d 970, 972; *U.S.* v. *Turner* (9th Cir. 1994) 28 F.3d 981, 983 ["We have declined to establish a per se rule that a defendant is in 'custody' for *Miranda* purposes simply because that defendant is in prison."]; *Garcia* v. *Singletary* (11th Cir. 1994) 13 F.3d 1487, 1489 [court rejects argument that a jail guard who had just extinguished a fire in Garcia's cell was required to obtain a *Miranda* waiver before asking Garcia why he set the fire].

How do the courts make this determination? In most cases, they focus on the following:

(1) Was the inmate led to believe he was *required* to meet with the officers or answer their questions?
(2) Did the questioning take place in "neutral" surroundings (such as a visiting room, day room, dining room, library, hospital), or in an inherently coercive environment (such as a jail or prison administrator's office)?
(3) Was the prisoner handcuffed?
(4) Were the officers' questions accusatory, or merely investigatory in nature?[5]

The court in *Macklem* agreed that county jail inmates are not necessarily in custody for *Miranda* purposes. Consequently, it examined these four circumstances and noted the following:

- Birmingham requested that a housing deputy ask Macklem if he was willing to talk with her and, especially significant, "she communicated both to the deputy and to Macklem that he was not required to do so."
- The attorneys' interview room in which Macklem was questioned was "as close to neutral territory as is available in the detention facility."
- When Macklem arrived at the interview room, his handcuffs were removed, the door was left ajar, and no additional restraint was imposed on him "beyond the everyday conditions of confinement."
- It appeared that Birmingham's questioning was investigatory in nature. For example, the court noted that she apparently did not confront him with evidence of his guilt.

Accordingly, the court ruled that Macklem was not in custody for purposes of *Miranda*, and that his statement was properly admitted. Macklem's conviction was affirmed.

COMMENT

Macklem is an important decision because it is the first case in which a California court has ruled that county jail inmates (as well as state prisoners) are not necessarily "in custody" for for *Miranda* purposes when officers question them about a crime other than the one for which they have been incarcerated. POV

[5] See *People* v. *Anthony* (1986) 185 Cal.App.3d 1114, 1122-3; *People* v. *Fradiue* (2000) 80 Cal.App.4th 15, 20-1; *Cervantes* v. *Walker* (9th Cir. 1978) 589 F.2d 424, 427-8; *U.S.* v. *Turner* (9th Cir. 1994) 28 F.3d 981, 983-4; *U.S.* v. *Menzer* (7th Cir. 1994) 29 F.3d 1223, 1232; *U.S.* v. *Conley* (4th Cir. 1985) 779 F.2d 970, 973-4.