

Recent Case Report

People v. Thornton

(2007) 41 Cal.4th 391

ISSUE

Did an officer violate a murder suspect's *Miranda* rights by arranging a meeting between the suspect and his grandmother, during which the suspect made several incriminating statements?

FACTS

Thornton needed a car in which to kidnap his former girlfriend, Stephanie. So he stole one from the parking lot of a pet store in Ventura County. He also abducted the car's owner, a young woman named Kellie O'Sullivan. He then drove Kellie to a remote area near Mulholland Drive in Los Angeles County where he shot and killed her.

Using Kellie's car, Thornton kidnapped Stephanie and drove her to Reno. Later, he took her to a casino where, while he gambled, Stephanie was able to get away and notify security officers. Thornton was arrested at the casino by Reno officers who also recovered Kellie's car.

A Ventura County sheriff's investigator flew to Reno and interviewed Thornton who eventually admitted stealing Kellie's car, but denied that he had murdered her. After the interview, Thornton appeared at an extradition hearing where his court-appointed attorney told the judge that he was hereby invoking Thornton's *Miranda* right to counsel. The attorney also instructed Thornton "not to speak with anybody in Nevada or California" unless his attorney was present. It appears the investigator was present at the hearing and heard the attorney's remarks.

After Thornton was extradited back to Ventura County, the investigator arranged for Thornton's grandmother, Lois, to meet privately with Thornton in a wired room at the sheriff's station. The investigator hoped that the meeting would produce some incriminating statements—and it did. The jury heard the statements and found Thornton guilty. Thornton was sentenced to death.

DISCUSSION

On appeal, Thornton contended that his statements should have been suppressed because they were obtained in violation of *Miranda*.¹ The court disagreed.

At the outset, it should be noted that the attempt by Thornton's attorney to invoke his client's *Miranda* rights had no legal effect. This is because *Miranda* rights are "personal"

¹ **NOTE:** Thornton also argued that his statements were obtained in violation of his Sixth Amendment right to counsel. But the court summarily disposed of this argument, noting that because Thornton "had not been charged with any crimes stemming from his murder-kidnapping-assault crime spree at the time of the conversation, he cannot successfully invoke the Sixth Amendment guarantee."

rights that can only be invoked the suspect—not his attorney, parent, spouse, or anyone else.² Thus, there was never an invocation.

Nevertheless, Thornton argued that his statements were inadmissible because he had not waived his *Miranda* rights before the meeting with Lois. This argument was based on his contention that the investigator effectively “interrogated” him when he put him in a room with Lois, knowing they would probably discuss his crimes. On the surface, this argument seemed plausible because the United States Supreme Court has ruled that “interrogation” under *Miranda* occurs whenever an officer says or does something that is reasonably likely to elicit an incriminating response.³ And it was fairly apparent Thornton would incriminate himself under the circumstances.

The problem with Thornton’s argument was that the United States Supreme Court has also ruled that “interrogation” can occur only if the suspect was questioned by a law enforcement officer. As the Court explained in *Illinois v. Perkins*, “Conversations between suspects and undercover agents do not implicate the concerns underlying *Miranda*. The essential ingredients of a ‘police-dominated atmosphere’ and compulsion are not present when an incarcerated person speaks freely to someone that he believes to be a fellow inmate.”⁴

Consequently, because Thornton was never “interrogated” by an officer, his *Miranda* rights were not violated, and his statements were properly admitted. His conviction and death sentence were affirmed. POV

² See *Moran v. Burbine* (1986) 475 U.S. 412, 433, fn.4 [“the privilege against compulsory self-incrimination is, by hypothesis, a personal one that can only be invoked by the individual whose testimony is being compelled.”]; *People v. Beltran* (1999) 75 Cal.App.4th 425, 430 [“The [Fifth Amendment] right is a personal one which must be invoked by the individual whose testimony is being compelled, and there is no agency theory under which Beltran’s attorney could invoke that personal right on his behalf.”]; *People v. Avila* (1999) 75 Cal.App.4th 416, 422-4 [invocation by suspect’s attorney invalid]; *People v. Calderon* (1997) 54 Cal.App.4th 766, 770-1 [invocation by public defender investigator was ineffective].

³ See *Arizona v. Mauro* (1986) 481 U.S. 520, 529 [“Officers do not interrogate a suspect simply by hoping that he will incriminate himself.”]; *Rhode Island v. Innis* (1980) 446 U.S. 291, 301-2; *People v. Wader* (1993) 5 Cal.4th 610, 637.

⁴ (1990) 496 U.S. 292, 296. ALSO SEE *Arizona v. Mauro* (1987) 481 U.S. 520, 526 [questioning by suspect’s wife]; *People v. Guilmette* (1991) 1 Cal.App.4th 1534 [questioning by victim]; *People v. Plyler* (1993) 18 Cal.App.4th 535, 544-5 [“[The suspect did not know [the victim] was working with the police. Under *Perkins*, absent such knowledge there is no reason to assume he might feel coerced and no Fifth Amendment violation occurred.”]; *People v. Zepeda* (2001) 87 Cal.App.4th 1183, 1194-5; *People v. Mayfield* (1997) 14 Cal.4th 668, 758; *People v. Miranda* (1987) 44 Cal.3d 57, 85; *People v. Williams* (1988) 44 Cal.3d 1127, 1142 [“[*Miranda*] has never been applied to conversations between an inmate and an undercover agent.”]; *People v. Webb* (1993) 6 Cal.4th 494, 526 [“[F]rom defendant’s perspective, he was talking with a friend and lover.”]; *People v. Wojtkowski* (1985) 167 Cal.App.3d 1077, 1081 [“[C]ourts have agreed that questioning by a police agent does not involve ‘interrogation’ as long as the defendant is unaware of the agent’s relationship with the government.”].