People v. Farnam
(2002) 28 Cal.4th 107

ISSUES

(1) Was a detainee "in custody" for *Miranda* purposes? (2) Did the detainee invoke his *Miranda* rights? (3) Was the detainee's subsequent statement to a detective involuntary?

FACTS

In 1981, Farnam sodomized and murdered Barbara Griswold in her hotel room. In 1982, he sodomized and murdered Lillian Mar in her home in Los Angeles.

Late one night in 1983, LAPD officers were dispatched to an attempted burglary that had just occurred at a Holiday Inn. En route to the call, an officer spotted Farnam on foot about eight blocks from the hotel. Because Farnam "resembled the described suspect" and was "acting suspiciously," the officer detained and pat searched him. Farnam was carrying a knife.

At this point, the officer asked Farnam his name. Farnam replied, "Fuck you, I'm not going to answer any of your fucking questions." Farnam then said, "Fuck this, I'm not staying here anymore," and started to walk off. When the officer physically restrained Farnam, he grabbed the officer's baton and tried to hit the officer. The officer blocked the blow and arrested Farnam for assault with a deadly weapon on a police officer.

Because Farnam was a suspect in the Griswold murder, an LAPD detective went to the jail the next morning to interview him. Farnam waived his *Miranda* rights and "admitted his involvement" in the Griswold murder and in two other crimes.

Farnam was subsequently convicted of murdering Ms. Mar. Evidence of his other crimes were introduced in the penalty phase. Farnam was sentenced to death.

DISCUSSION

Farnam contended his statements to the LAPD detective should have been suppressed because, (1) they were obtained in violation of *Miranda,* and (2) his statements were coerced.

Miranda

Farnam contended that he effectively invoked his *Miranda* rights when he told the patrol officer, "I'm not going to answer any of your fucking questions." He reasoned that this "invocation" barred the detective from seeking to question him the next day.

As a general rule, the various restrictions imposed by *Miranda* come into play only if, (1) the person who is being questioned is in "custody," and (2) the officer's questions constituted "interrogation." Although it was true that Farnam was being detained when he said he wouldn't answer any questions, a person who is being detained is not "in custody" for *Miranda* purposes unless the detention had become coercive or unnecessarily lengthy, or if there were other circumstances that indicated the suspect was under arrest.[1] Not only did these circumstances not exist, the court pointed out that Farnam's act of walking away from the officer showed he didn't interpret the surrounding circumstances as indicating he was in custody.

Second, even if a detainee was "in custody," officers may ask questions that do not constitute "interrogation," meaning they may ask questions that are not reasonably likely to elicit an incriminating response. Obviously, asking a detainee to identify himself would not fall into this category.

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[1] See *People* v. *Manis* (1969) 268 Cal.App.2d 653, 669; *Berkemer* v. *McCarty* (1984) 468 US 420, 440.

Third, a suspect can invoke his *Miranda* rights only during actual or impending custodial interrogation.[2] This means a suspect cannot invoke his rights at some point before officers seek to interrogate him or before he has been placed in custody. Consequently, because Farnam was neither in custody, nor interrogated at the time he said he would not answer any questions, his refusal did not constitute an invocation.

Accordingly, the detective did not violate *Miranda* when he sought to question Farnam and, therefore, Farnam's statements were admissible.

Coercion

Farnam contended his statements should have been suppressed for another reason: they were coerced. As a general rule, a statement is "involuntary" and will be suppressed for all purposes if it was motivated by physical abuse, threats, promises, or other improper inducements.

Although the detective did not engage in any such conduct, Farnam argued his statements were involuntary because the detective lied to him. Specifically, the detective falsely informed him that his fingerprints had been found at the scene of one of the crimes. It is settled, however, that a lie will not render a suspect involuntary unless the deception was "of a type reasonably likely to procure an untrue statement."[3] And, according to the court in *Farnam*, the detective's lie "was unlikely to produce a false confession." Thus, the court rejected Farnam's argument that his statements were coerced.

Farnam's death sentence was affirmed.

DA's Comment

Even if Farnam had effectively invoked his *Miranda* rights while he was being detained, the detective would not have violated *Miranda* by contacting him the next day to see if he was willing to answer some questions. This is because the U.S. Supreme Court has ruled that when a suspect invokes only the right to remain silent (as Farnam did), and if officers "scrupulously honored" the invocation (as the patrol officer did), they may recontact him to determine if he has changed his mind about talking to them.[4]

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[2] See *McNeil* v. *Wisconsin* (1991) 501 US 171, 182, fn.3 ["We have in fact never held that a person can invoke his *Miranda* rights anticipatorily, in a context other than custodial interrogation—which a preliminary hearing will not always, or even usually, involve."]["Most rights must be asserted when the government seeks to take the action they protect against." Ibid.]; *People* v. *Beltran* (1999) 75 Cal.App.4th 425; *People* v. *Avila* (1999) 75 Cal.App.4th 416, 422-4; *People* v. *Calderon* (1997) 54 Cal.App.4th 766, 770 ["(T)he antipathy expressed in *McNeil* towards the anticipatory invocation of the *Miranda* rights is consistent with *Miranda's* underlying principles."]; *People* v. *Sully* (1991) 53 Cal.3d 1195, 1234 ["[D]efendant's appearance and acceptance of appointed counsel on one charge does not amount to an invocation of (his *Miranda* right to counsel) with respect to another, uncharged offense."].

[3] See *People* v. *Thompson* (1990) 50 Cal.3d 134, 167 ["Numerous California decisions confirm that deception does not necessarily invalidate a confession."]; *People* v. *Lee* (2002) 95 Cal.App.4th 772, 785 ["California courts have long recognized it is sometimes necessary to use deception to get at the truth. [A] deception which produces a confession does not preclude admissibility of the confession unless the deception is of such a nature to produce an untrue statement."]; *People* v. *Cahill* (1994) 22 Cal.App.4th 296, 315; *People* v. *Musselwhite* (1998) 17 Cal.4th 1216, 1240 ["Lies told by the police to a suspect under questioning can affect the voluntariness of an ensuing confession, but they are not per se sufficient to make it involuntary."]; *People* v. *Chutan* (1999) 72 Cal.App.4th 1276, 1280 ["Police officers are at liberty to utilize deceptive stratagems to trick a guilty person into confessing. The cases from California and federal courts validating such tactics are legion."]; *People* v. *Felix* (1977) 72 Cal.App.3d 879, 886 ["The general rule throughout the country is that a confession obtained through use of subterfuge is admissible, as long as the subterfuge used is not one likely to produce an untrue statement."].

[4] See *Michigan* v. *Mosley* (1975) 423 US 96; *People* v. *DeLeon* (1994) 22 Cal.App.4th 1265, 1271; *People* v. *Lispier* (1992) 4 Cal.App.4th 1317, 1324.