

People v. Bridgeford

(2015) __ Cal.App.4th __ [2015 WL 6500857]

Issue

After a double murder suspect invoked his right to counsel, did sheriff's deputies violate *Miranda* by releasing him from custody, rearresting him about three hours later, then, after obtaining a *Miranda* waiver, resuming their questioning about the murders?

Facts

Late one night, Bridgeford and two other men, one of them armed with a 22 caliber rifle, committed a home invasion robbery in Dos Palos. The resident of the house told deputies that he heard one of the robbers address an accomplice as "Bryan" and, although the robbers wore masks, he was positive that "Bryan" was a childhood friend named Bryan Bridgeford. The next day, two men were found murdered in a garage located off a nearby highway. They were shot with a 22 caliber rifle and a shotgun.

One day later, a Dos Palos police officer visited Bridgeford at his home for the purpose of questioning him about the robbery. The officer began by asking Bridgeford if he knew why he wanted to talk to him. Surprisingly, Bridgeford responded that it was because "of the stuff that happened on the highway." Although Bridgeford had not yet been connected to the murders, the officer notified Merced County sheriff's deputies who were investigating the case. The deputies were aware that Bridgeford was an active member of the Norteños, and that the two murder victims were Sureños.

Six days later, the investigators transported Bridgeford to a sheriff's station for questioning about the murders. Although he was told he was not under arrest, he was handcuffed and was effectively "in custody" for purposes of both *Miranda* and the Fourth Amendment.¹ Upon arrival, Bridgeford was *Mirandized* but immediately invoked his right to counsel. He was then released from custody.

Within an hour or so, investigators executed a warrant to search the home of another Norteño, Jose German, who was another suspect in the murders. During the search, they found a 22 caliber rifle hidden between the mattress and box spring of German's bed. German was arrested.

Based mainly on the discovery of the rifle and interviews with German and other people, investigators determined that they now had probable cause to arrest Bridgeford for the murders. So they went to his workplace and arrested him. The arrest occurred about two to three hours after his release from custody.

Bridgeford was then transported back to a sheriff's station where he waived his *Miranda* rights but denied any involvement in the murders. Investigators then placed him in a wired room with German. Soon after the investigators left, German told Bridgeford that they had found the rifle in his home, and that they knew Bridgeford was one of the shooters. Investigators then removed Bridgeford from the room and continued to question him about the murders and German's comments. He eventually confessed, and his confession was used by prosecutors at trial. He was convicted of two counts of gang-related first degree murder.

¹ See *Dunaway v. New York* (1979) 442 U.S. 200, 215; *People v. Taylor* (1986) 178 Cal.App.3d 217, 228.

Discussion

In 2010 the Supreme Court in *Maryland v. Shatzer* ruled that officers may not ordinarily seek to interview or reinterview a suspect who had invoked his *Miranda* right to counsel unless they waited 14 days.² The theoretical purpose of the 14-day waiting period is to give the suspect an opportunity to consult with an attorney before further questioning. Why 14 days? The Court admitted it was “arbitrary” but explained that a two-week waiting period was necessary to protect against “gamesmanship,” whereby “the police will release the suspect briefly and then promptly bring him back into custody for reinterrogation.”

But what if there was no “gamesmanship?” What if the officers released the suspect after concluding—in good faith—that they lacked probable cause? Are they prohibited from initiating questioning during the 14-day window if they lawfully arrest the suspect based on newly-discovered evidence? Unfortunately, the Supreme Court in *Shatzer* did not address this issue and, as the result, the trial court was required to do so. And it concluded that although Bridgeford was out of custody for only two to three hours, this was enough time for him to decide whether he wanted to have an attorney present during questioning. Consequently, the court ruled that Bridgeford’s confession was obtained lawfully.

The Court of Appeal saw things differently. It concluded that *Shatzer* imposed a strict, no-exceptions, 14-day wait period and, accordingly, it ruled that Bridgeford’s confession should have been suppressed because his “break in custody was far less than the 14 days required under *Shatzer*.”

It should be noted that *Bridgeford* is probably not the final word on this subject because it was an unusual case. For one thing, a two to three hour wait is way too short. In addition, the possibility of a ploy could not be eliminated because the investigators had probable cause to arrest Bridgeford for the robbery and, therefore, they were not required to release him. Eventually, a better case will come along, and a court will have an opportunity to address this issue. POV

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² (2010) 559 U.S. 98.