

Recent Case Report

People v. Jefferson

(2008) __ Cal.App. 4th __ [2008 WL 62559]

ISSUE

Did sheriff's deputies violate *Miranda* by secretly recording a conversation between two murder suspects who had previously invoked their rights?

FACTS

At about 11 P.M., members of a Compton-area gang were driving around in a Chevy Suburban looking to kill some members of a rival gang known as Varrio Flats. The driver was named Staten and one of the passengers was Jefferson. Their motive was retaliation. It seems that a member of their gang had been shot and killed the day before, and they figured the shooter was a member of Varrio Flats.

A car parked in front of a house drew their attention because the man sitting in the driver's seat had a "V.F." tattooed on his arm. Actually, it was a "V.H.," which stood for Van Halen, his favorite band. The man, Anthony Staniforth, had been celebrating his 24th birthday that day, and he was sitting in his car talking with his fiancée about their upcoming marriage. In any event, when Staten pulled up to the car, Jefferson (and possibly others) started firing at Staniforth. At least 15 shots were fired, and Staniforth was killed instantly.

No one saw the shooter or the driver, but investigators at the scene did find a shell casing and pieces of tinted vehicle glass. The lead investigator, Sgt. John Corina of the Los Angeles County Sheriff's Department, theorized that the shooter must have inadvertently broken the window while he was firing. When he learned that the glass came from a Suburban, he started looking around for one with a broken tinted window. He found it a day or so later and, during an inventory search, investigators found three shell casings which matched the casing found at the crime scene. They did not, however, find any latent prints. A day or two later, deputies arrested the registered owner, Staten. They also arrested Jefferson, but it's not clear how they linked him to the crime.

The two suspects were interviewed separately. Before *Mirandizing* them, Corina and his partner said they had knew all about the motive for the murder, and they told them about some of the evidence they had uncovered, much of which did not exist. For example, they told Jefferson that they had found his fingerprints in the Suburban and on some bullets inside it. They also implied that at least one of the other passengers in the Suburban was furnishing useful information. Nevertheless, both suspect's invoked, so the deputies reverted to Plan B.

They put Staten and Jefferson in a bugged cell and let them sit together for awhile. As they had hoped, the two men immediately started talking—about the shooting. For over

an hour they discussed various details, expressed amazement that the deputies could have amassed so much evidence so quickly, and they wondered who amongst their friends had snitched them off. Here are some exited excerpts:

Staten: That's fuckin scandalous man. I wasn't expecting these mother fuckers to put the smash down that quick. I'm not ever fittin to do no shit like that again, and when I do you can believed me I'm only going with one or two mother fuckers. Now all of a sudden they know everything, because of ballistics they know that was the truck used.

Jefferson: Damn, you should have left that mother fucker parked and got the window fixed.

Jefferson also talked about how he had hidden the "hot K's" (stolen AK-47s) at "Rick's house" and said he hoped that Rick would "move the guns." He also assured Staten that he had gotten rid of all the bullets from the shooting. Staten responded that he was sure the deputies were lying about finding a fingerprint in the Suburban because they had both worn gloves. He also said he figured the deputies were lying when they said that Staniforth was not a ganster. "[T]hey trying to say he didn't bang," said Staten, "but I know. I've seen tattoos on this mother fucker." Jefferson responded, "We're gonna beat that shit. They ain't got enough to go on unless them mother fuckers be coming to court and be snitching."

Prosecutors played a recording of the conversation to the jury which found both men guilty of first-degree murder.

DISCUSSION

Jefferson and Staten contended that the recording should have been suppressed because it was obtained after they had invoked their *Miranda* rights. The court disagreed.

Officers may not, of course, "interrogate" a suspect in custody who has invoked his right to remain silent or his right to counsel. And it is settled that the term "interrogation," as used in *Miranda* is defined as any words or actions that are reasonably like to elicit an incriminating response.¹ The purpose of this broad definition is to prevent officers from circumventing *Miranda* by devising "methods of indirect questioning."²

Citing these principles, Jefferson and Staten argued that the deputies' act of putting them together in a bugged cell after they had invoked constituted "interrogation" because the deputies knew that an incriminating response was reasonably likely.

Although it was certainly true that the deputies hoped and maybe even expected that Jefferson and Staten would say something incriminating, the court noted that the United States Supreme Court has ruled that the various restrictions imposed by *Miranda* do not apply if the person asking the questions was an undercover officer or a police agent.³ This

¹ See *Rhode Island v. Innis* (1980) 446 U.S. 291, 301 ["the definition of interrogation can extend only to words or actions on the part of police officers that they *should have known* were reasonably likely to elicit an incriminating response."].

² See *Rhode Island v. Innis* (1980) 446 U.S. 291, 299, fn.3 ["To limit the ambit of *Miranda* to express questioning would place a premium on the ingenuity of the police to devise methods of indirect interrogation, rather than to implement the plain mandate of *Miranda*."]; *People v. Wojtkowski* (1985) 167 Cal.App.3d 1077, 1081 ["This broad definition prevents police ingenuity in creating methods of indirect questioning."].

³ *Illinois v. Perkins* (1990) 496 U.S. 292, 296 ["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

rule, which is sometimes called the “undercover agent exception,” is based on the Court’s determination that these types of conversations do not generate the type of coercion that *Miranda* was designed to alleviate. As the Court explained in *Illinois v. Perkins*, “When a suspect considers himself in the company of cellmates and not officers, the coercive atmosphere is lacking.”⁴

Although the undercover agent exception is usually applied when the person asking the questions was an undercover officer or a police agent, the court in *Jefferson* ruled that it applies equally—and maybe even more so—when the conversation is between two friends. As the court pointed out:

Jefferson and Staten were more than just fellow cellmates. They were friends and neighbors. They spoke freely—too freely, they now realize. From their perspective, the problem was the opposite of compulsion. They were candid because they thought no one else was listening, not because they were getting the third degree.

Consequently, the court ruled that the recording was properly received in evidence, and it affirmed the convictions of both men.⁵

COMMENT

In another recent case, *Saleh v. Fleming*,⁶ a murder suspect who had invoked his *Miranda* right to counsel later phoned the investigating officer from jail and, in the course of their conversation, made some incriminating statements. On appeal, the Ninth Circuit ruled that a telephone conversation between an officer and a suspect who has invoked does not violate *Miranda* because, as in *Jefferson*, the situation was not inherently coercive. As the court pointed out, “[I]t is undisputed that Saleh could have terminated the phone call he had begun at any time.” POV

to someone that he believes to be a fellow inmate.”]; *Arizona v. Mauro* (1987) 481 U.S. 520, 526 [questioning by suspect’s wife]. **CAL:** *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. Wojtkowski* (1985) 167 Cal.App.3d 1077, 1081; *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.”].

⁴ (1990) 496 U.S. 292, 297.

⁵ **NOTE:** The court also ruled that the admission of the recording at the defendants’ joint trial did not violate the rule of *Crawford v. Washington* (2004) 541 U.S. 36 because their conversation was not “testimonial” in nature.

⁶ (9th Cir. 2008) __ F.3d __ [2008 WL 43719].