

People v. Young

(2019) __ Cal.5th __ [2019 WL 3331305]

Issues

A homicide detective requested that an arrested murder suspect listen to a recorded phone call in which the suspect essentially confessed. Did the detective violate *Miranda* by not obtaining a waiver beforehand?

Facts

Early one morning, four skinheads robbed the employees of a parking lot near San Diego International Airport. The robbery did not go well. While one of the men waited in the getaway car, one of the others went to the toll booth, ordered the toll taker to lie on the ground, and emptied the cash drawer. When the suspect did not leave quickly (as most robbers would), the toll taker looked up and asked him why he still there. The man replied, "I can't leave. I'm waiting for my ride." Meanwhile, two of his accomplices—one of whom was Jeffrey Young—walked into a nearby the office, ordered the two employees there to lie on the ground and, again for no apparent reason, shot and killed both of them. All three men then ran to the getaway car but, when the driver tried to start the engine, the key broke. So they abandoned their getaway car and ran to a parking lot across the street, where they carjacked a vehicle. Despite all the screw-ups, they got away and the case "went cold."

Three years later, a San Diego police homicide investigator interviewed a woman who, at the time of the crimes, had been the girlfriend of one of the perpetrators. She identified three of them and said that, after they fled, they had driven to Arizona and stayed with a man named Jason Getscher. When the detective learned that Getscher was currently serving time for forgery in an Arizona state prison, they interviewed him and Getscher explained exactly how the crimes were committed and that Young had admitted to him that he was one of the shooters.

Getscher then agreed to participate in a sting, whereby he would make a recorded phone call to Young and get him to discuss the crimes. It worked and Young admitted that the robbery was "poorly planned" and that it became necessary to kill the victims when he realized he had forgotten to bring duct tape.

After Young was arrested, the detective met with him and told him that his phone conversation with Getscher had been recorded. He allowed Young to listen to the recording, and then *Mirandized* him and asked if he wanted to tell his side of the story. Young replied, "You heard it all." The interview ended.

Before trial, Young filed a motion to suppress the statement. The judge denied the motion, and the statement was used in trial. Young was found guilty and sentenced to death.

Discussion

On appeal to the California Supreme Court, Young argued that everything he said before he waived his *Miranda* rights was obtained in violation of *Miranda* and should have been suppressed. The court agreed, but pointed out that, because none of his pre-warning statements were used by prosecutors at trial, there was nothing to suppress.

The more substantial issue was whether the trial court should have suppressed Young's admission ("You heard it all") since he had essentially admitted that all of the

incriminating statements he made during the phone conversation was true. Specifically, he argued that his statement should have been suppressed because the detective obtained it by employing an illegal “two step” interrogation procedure. The two-step was a tactic in which officers would interrogate a suspect in custody without obtaining a *Miranda* waiver. That was “Step 1.” Then, if he confessed or made a damaging admission, the officers would move to “Step 2” in which they would *Mirandize* him and try to get him to repeat the statement in full compliance with *Miranda*. The two-step works on the theory that suspects will usually waive their rights and repeat their incriminating statements because they thought (erroneously) that their earlier statement could be used against them and therefore, they had nothing to lose by repeating it.

In 2004, however, the Supreme Court ruled in *United States v. Seibert* ruled that the two-step was illegal if it was used as a deliberate attempt to circumvent *Miranda*.¹ Although it was arguable that the detective employed this tactic, it was unnecessary for the court to address this issue (or determine whether *Seibert* should be enforced retroactively) because, again, it ruled that, even if the admission was obtained in violation of *Seibert*, the error was harmless in light of the other overwhelming evidence of Young’s guilt. Consequently, the court affirmed his conviction.

Comment

In 1999, when the detective interviewed Young, many officers in California were being encouraged to ignore the *Miranda* requirements. Specifically, they were taught by some that, because voluntary statements obtained in violation of *Miranda* could be used to impeach the defendant if he testified at trial, it was smart to “go outside *Miranda*” by conducting unwarned interrogations and even ignoring *Miranda* invocations. The situation became even more complicated when some courts, when faced with intentional *Miranda* violations of this sort, would dodge the issue.² Judging from the precipitous decline in the number of cases in which this issue has arisen, it appears that officers and their agencies have concluded that it is better if the officers avoided such tactics. POV

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¹ See *Missouri v. Seibert* (2004) 542 U.S. 600.

² See, for example, *People v. Case* (2018) 5 Cal.5th 1, 25; *People v. Depriest* (2007) 42 Cal.4th 1, 35; *People v. Coffman* (2004) 34 Cal.4th 1, 58; *People v. Demetrulias* (2006) 39 Cal.4th 1, 30.