Recent Case Report

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Howes v. Fields

(2012) __ U.S. __ [2012 WL 538280]

Issue

Are state prison inmates automatically "in custody" for *Miranda* purposes when they are questioned about crimes that occurred outside the facility?

Facts

While Randall Fields was serving time at a state prison in Michigan, sheriff's deputies began investigating allegations that, before being incarcerated, he had engaged in illegal sexual conduct with a 12-year old boy. In the course of the investigation, two sheriff's deputies arranged to interview Fields in a conference room at the prison. He was not handcuffed. At the beginning of the interview, the investigators notified Fields that he "was free to leave and return to his cell." They did not seek a *Miranda* waiver.

The interview lasted between five and seven hours, and was sometimes accusatorial. At no time, however did Fields request return to his cell, even though he was reminded at one point that he could do so. He eventually confessed, and his confession was used against him at trial. He was convicted.

The Sixth Circuit, however, reversed the conviction on grounds that Fields' confession was obtained in violation of *Miranda* since the deputies neglected to obtain a waiver. The state appealed to the United States Supreme Court.

Discussion

It is settled that officers who are about to interrogate a suspect must obtain a *Miranda* waiver only if the suspect is "in custody." It is also settled that a person is "in custody" only if a reasonable person in his position would have believed he was not free to terminate the interview and leave.[1] The Sixth Circuit, however, announced an exception to this rule: Regardless of what a reasonable person would have believed, state prison inmates are automatically "in custody" whenever they are "taken aside and questioned about events that occurred outside the prison walls." The Supreme Court disagreed.

The Court observed that the term "custody," as used in *Miranda*, is a "term of art that specifies circumstances that are thought generally to present a serious danger of coercion." For example, the Court noted that a *Miranda* waiver will usually be required when "a person is arrested in his home or on the street and whisked to a police station for questioning" because such a "sharp and ominous" change in circumstances "may give rise to coercive pressures."

But the situation is much different when the person is serving time because, said the Court, "the ordinary restrictions of prison life, while no doubt unpleasant, are expected and familiar and thus do not involve the same inherently compelling pressures." In addition, prison inmates know that, regardless of what they say, they won't be walking

[1] See *Thompson* v. *Keohane* (1995) 516 U.S. 99, 112 [the issue is "would a reasonable person have felt he or she was not at liberty to terminate the interrogation and leave"].

out the prison gates when the interview is over and, thus, they are "unlikely to be lured into speaking by a longing for prompt release."

Accordingly, the Court ruled that "service of a term of imprisonment, without more, is not enough to constitute *Miranda* custody." Instead, said the Court, "the determination of custody should focus on all of the features of the interrogation." The Court then examined the circumstances surrounding the interrogation of Fields and noted that, although the interview was lengthy (five to seven hours) and that one of the deputies "used a very sharp tone and, on one occasion, profanity," there were several overriding circumstances. "Most important," said the Court, was that Fields "was told at the outset of the interrogation, and was reminded again thereafter, that he could leave and go back to his cell whenever he wanted." In addition, Fields "was not physically restrained or threatened, he was interviewed in a well-lit, average-sized conference room," and was "offered food and water, and the door to the conference room was sometimes left open."

Consequently, the Court reversed the Sixth Circuit and ruled that Fields' confession was not obtained in violation of *Miranda* because he was not "in custody" when he was interviewed.

Comment

Three questions arise: (1) Does *Fields* apply to interviews with county jail inmates; i.e., are jail inmates automatically "in custody" or is their custody status also dependent on the totality of circumstances? (2) If they are not automatically "in custody," does it matter that they were pre-trial detainees; i.e., not time-servers? (3) Does it matter that they were questioned about a crime that occurred inside the facility? For the following reasons we think that, with one exception noted below, a waiver would not be required of *any* county jail inmate if he was not handcuffed, and if he was notified in no uncertain terms that he could end the interview and return to his cell whenever he wanted.

First, regardless of whether the interview occurred in a prison or jail, an inmate who had been informed that he was free to terminate the interview and return to his cell would not feel the same degree of pressure that made it necessary to impose the protections mandated by *Miranda*. Or, to use the terminology employed by the Court in *Fields*, such an interview would not present a "serious danger of coercion." Moreover, as noted earlier, the Court in *Fields* said that this was the "[m]ost important" of the relevant circumstances. If, however, the interview is lengthy (as in *Fields*), officers should periodically remind the suspect that he can terminate the interview and return to his cell at any time.

Second, a prisoner who is interviewed about a crime that is unrelated to the crime for which he was incarcerated would understand that the officers who were interviewing him do not have the power to release him. In fact, the Court in *Fields* said that it "is not enough to tip the scale in the direction of custody" if the inmate was questioned about a crime that occurred in the facility. This is significant because, in such a situation, the officers who questioned him and the officers who control the jail would usually work for the same agency.

Third, the California Court of Appeal ruled in *People* v. *Macklem* that a pre-trial detainee at a county jail was not "in custody" for *Miranda* purposes when he was questioned about a jailhouse assault.[2] The court's analysis in *Macklem* was almost identical to that employed by the Supreme Court in *Fields*, including the *Macklem* court's

[2] (2007) 149 Cal.App.4th 674, 696.

observation that the defendant was not handcuffed and "was given the opportunity to leave the room if he requested to do so."

The only exception to the above would be a situation in which officers interviewed the inmate so soon after he was booked into the jail that he had not yet settled into a routine. This is because one of the central premises upon which *Fields* was based was that the coercive environment in a penal institution is significantly reduced when the "ordinary restrictions of prison life" are "expected and familiar" and thus "do not involve the same inherently compelling pressures" that are associated with an interview that occurs immediately after an arrest. POV