People v. Fradiue
(April 24, 2000) __ Cal.App.4th __

ISSUE

Under what circumstances must officers obtain a *Miranda* waiver before questioning a suspect who is serving time in prison?

FACTS

Fradiue was serving time at the California State Prison in Sacramento. During a search of his cell, a correctional officer found eight pieces of tar heroin. Pursuant to prison regulations, the Department of Corrections assigned an "investigating employee" to gather information to be presented to a hearing officer. In this case, the investigating employee was Correctional Officer Clarence Callahan.

About a month after the heroin was found, Callahan went to Fradiue's cell for the purpose of interviewing him. Callahan remained outside the cell and spoke to Fradiue through the "food tray port." Callahan informed Fradiue that he was investigating the matter and that he had a right to reject him as investigating employee. Fradiue said he had no objection.

Callahan then asked, "Were the drugs found on the top shelf of the lower shelving unit belonging to you? Fradiue responded, "I admit that I had possession of the drug, but I was not trafficking it."

Fradiue was subsequently charged in superior court with possession of heroin. During his trial, the statements he made to Callahan were used against him. He was convicted.

DISCUSSION

Fradiue contended his statements to Callahan should have been suppressed because they were obtained in violation of *Miranda*. This argument was based on the settled rule that officers must obtain a *Miranda* waiver before questioning a suspect who is "in custody."[(1)]

Although it is technically true that inmates serving time in state prisons are "in custody," the California and federal courts that have analyzed this issue have rejected the idea that all state prisoners are automatically in custody for *Miranda* purposes. This is because, among other things, the prison in which the questioning occurs is familiar territory to the prisoner. It is where he lives, and he may have been living there for many months or even years. In addition, although prisoners are not free to leave the facility, they usually enjoy a degree of freedom within the facility that is inconsistent with a formal arrest.[(2)]

Consequently, the courts have consistently ruled that a prison inmate is not automatically "in custody" for *Miranda* purposes when he interrogated. Instead, they seem to have agreed on a rule that "custody" results only if a reasonable person in the suspect's position would have believed his freedom of movement had been restrained to a degree *greater* than that which is inherent in the facility.[(3)]

The courts have also provided a list of circumstances that are relevant In determining whether an inmate was in "custody" for *Miranda* purposes. They are as follows:

- What language was used to summon the prisoner? Specifically, was he led to believe he was *required* to meet with the officers and answer their questions?
- Did the questioning take place in surroundings that would be familiar to the prisoner (e.g., jail library, day room, visiting room) or unfamiliar (e.g., the warden's office)?
- Was the questioning initiated by officers or the prisoner?
- Was the prisoner handcuffed or subjected to other restraint in addition to the restraint inherent in the facility?
- Was the prisoner confronted with evidence of his guilt?[(4)]

Applying these circumstances to the facts of the case, the court noted, among other things, that the interview was conducted in Fradiue's cell, he was not handcuffed, Fradiue consented to having Callahan investigate the matter, Fradiue was not confronted with evidence of his guilt, and he could have walked away from the cell door and stopped talking to Callahan at any time. Consequently, the court ruled Fradiue had not been restrained to a degree *greater* than that which is inherent in the facility and was, therefore, not "in custody" for *Miranda* purposes. His conviction was affirmed.

(1) See *Berkemer* v. *McCarty* (1984) 468 US 420, 428; *California* v. *Beheler* (1983) 463 US 1121, 1124; *Illinois* v. *Perkins* (1990) 496 US 292, 297 ["It is the premise of *Miranda* that the danger of coercion results from the interaction of custody and official interrogation."].

(2) See *People* v. *Mayfield* (1997) 14 Cal.4th 668 [barricaded suspect in a residence was not "in custody" for *Miranda* purposes even though the residence was surrounded by armed officers from several jurisdictions and a SWAT team]

(3) See *Cervantes* v. *Walker* (9th Circuit 1978) 589 F.2d 424, 428 ["In the prison situation, (*Miranda* "custody") necessarily implies a change in the surroundings of the prisoner which results in an added imposition on his freedom of movement. Thus, restriction is a relative concept, one not determined exclusively by lack of freedom to leave. Rather, we look to some act which places further limitations on the prisoner."] ["When prison questioning is at issue, however, this ?free to leave' standard ceases to be a useful tool in determining the necessity of *Miranda* warnings. It would lead to the conclusion that all prison questioning is custodial because a reasonable prisoner would always believe he could not leave the prison freely. Once more, we cannot reconcile such a result with the limitations set forth in *Miranda*."]; *People* v. *Anthony* (1986) 185 Cal.App.3d 1114, 1120-1 ["Nothing in *Miranda* suggests that an inmate is automatically ?in custody' and therefore entitled to *Miranda* warnings merely by virtue of his prisoner status."]; *People* v. *Sanchez* (1967) 65 Cal.2d 814, 824[California Supreme Court indicated that a San Quentin prisoner who had stabbed and killed a civilian employee in the clothing shop was not in custody when a correctional officer, upon arriving at the scene, asked "Who did this? and then, "Why did you do it?" Said the court, "(W)hile defendant was in custody in the general sense in which all prisoners are deemed to be in custody, he was not yet in custody for the particular offense.]; *U.S.* v. *Turner* (9th Cir. 1994) 28 F.3d 981, 983; *Garcia* v. *Singletary* (11th Cir. 1994) 13 F.3d 1487, 1491; *U.S.* v. *Conley* (4th Cir. 1985) 779 F.2d 970; *Leviston* v. *Black* (8th Cir. 1988) 843 F.2d 302; *State* v. *Ford* (New Hampshire Supreme Court 1999) 738 A.2d 937, 943.

(4) See *People* v. *Anthony* (1986) 185 Cal.App.3d 1114, 1122-3; *Cervantes* v. *Walker* (9th Circuit 1978) 589 F.2d 424, 427-8; *U.S.* v. *Turner* (9th Cir. 1994) 28 F.3d 981, 983-4; *State* v. *Ford* (New Hampshire Supreme Court 1999) 738 A.2d 937, 943 ["In this case, the . . . interview took place in a relatively uncoercive area of the prison, the correctional officers' lunch room, not a prison cell or interrogation room."]; *U.S.* v. *Conley* (4th Cir. 1985) 779 F.2d 970, 973-4 ["Although Conley wore handcuffs and, at some points, full restraints, evidence in the record indicates that this was standard procedure for transferring inmates to the infirmary or elsewhere in this maximum security facility. Both officers knew Conley, addressed him by his nickname, and testified that they questioned him a witness to . . . the murder . . . .].