Recent Case Report

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J.D.B. v. North Carolina

(2011) __ U.S. __ [2011 WL 2369508]

Issue

In determining whether a minor was "in custody" for *Miranda* purposes, must officers take into account the minor's age?

Facts

Officers in Chapel Hill, North Carolina suspected that a 13-year old boy, identified here as J.D.B., had been burglarizing homes in the city. In the course of the investigation, a uniformed school resource officer went to J.D.B.'s middle school, removed him from his classroom, and escorted him to a conference room. Waiting in the room were a police investigator, the school's assistant principal, and an administrative intern. During the next 30-45 minutes, J.D.B. was questioned about the burglaries but was not advised of his *Miranda* rights. He eventually confessed and was allowed to leave.

After being charged with the crimes in juvenile court, J.D.B. filed a motion to suppress his confession on grounds that it was obtained in violation of *Miranda*. Specifically, he argued that he was "in custody" when he was questioned in the conference room and, therefore, the officers violated *Miranda* by failing to obtain a waiver before questioning him. His motion was denied, and so were his appeals in state court. The United States Supreme Court decided to review the matter.

Discussion

It is settled that officers must obtain a *Miranda* waiver before interrogating a suspect who is "in custody."[1] Furthermore, a suspect will be deemed "in custody" only if a reasonable person in his position would have reasonably believed that he was under arrest, or that his freedom had been restricted to the degree associated with an arrest.[2]

In applying this test, the courts have consistently applied an objective test, which means the only circumstances that matter are those that were, or reasonably appeared to have been, seen or heard by the suspect. As the Supreme Court explained in *Stansbury* v. *California*, custody "depends on the objective circumstances of the interrogation, not on

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[1] See *Stansbury* v. *California* (1994) 511 U.S. 318, 322 ["An officer's obligation to administer *Miranda* warnings attaches only where there has been such a restriction on a person's freedom as to render him 'in custody.'"]; *Illinois* v. *Perkins* (1990) 496 U.S. 292, 297 ["It is the premise of *Miranda* that the danger of coercion results from the interaction of custody and official interrogation."]; *People* v. *Mayfield* (1997) 14 Cal.4th 668, 732 ["In applying *Miranda*, one normally begins by asking whether custodial interrogation has taken place."].

[2] See *Yarborough* v. *Alvarado* (2004) 541 U.S. 652, 662 ["custody must be determined based on how a reasonable person in the suspect's position would perceive his circumstances"]; *Berkemer* v. *McCarty* (1984) 468 U.S. 420, 442 ["the only relevant inquiry is how a reasonable man in the suspect's position would have understood his situation"].

the subjective views harbored by either the interrogating officers or the person being interrogated."[3] Thus, for example, it is immaterial that, unbeknownst to the suspect, he had become the "focus" of the officers' investigation,[4] or that the officers had probable cause to arrest him.[5] Similarly, the Supreme Court has ruled that the suspect's experience with police and any other "contingent psychological factors" are irrelevant in determining how the circumstances would have appeared to a reasonable person.[6] As the Court explained in *J.D.B.*:

> Police must make in-the-moment judgments as to when to administer *Miranda* warnings. By limiting analysis to the objective circumstances of the interrogation, and asking how a reasonable person in the suspect's position would understand his freedom to terminate questioning and leave, the objective test avoids burdening police with the task of anticipating the idiosyncrasies of every individual suspect and divining how those particular traits affect each person's subjective state of mind.

The question, then, was whether the age of a minor is an objective circumstance that may be considered, or a subjective circumstance that may not. The Court ruled it is an objective circumstance when, as is usually the case, officers were aware of the minor's age or his age was apparent. As the Court explained, "a child's age differs from other personal characteristics" because "childhood yields objective conclusions," most importantly the fact that "children are most susceptible to influence, and outside pressures." Elaborating on this idea, the Court observed:

> In some circumstances, a child's age would have affected how a reasonable person in the suspect's position would perceive his or her freedom to leave. That is, a reasonable child subjected to police questioning will sometimes feel pressured to submit when a reasonable adult would feel free to go.

Although officers must consider the fact that they are questioning a minor, the Court said that this circumstance will not always be important or even relevant. "This is not to say," said the Court, "that a child's age will be a determinative, or even a significant factor in every case. It is, however, a reality that courts cannot simply ignore." Finally, the Court ruled that officers are not required to make assumptions as to the vulnerability of the minor they are questioning, as this would require a consideration of subjective circumstances. In the words of the Court, its ruling "requires officers neither to consider circumstances unknowable to them, nor to anticipate the frailties or idiosyncrasies of the

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[3] (1994) 511 US 318, 323. ALSO SEE *People* v. *Pilster* (2006) 138 Cal.App.4th 1395, 1403 ["Custody determinations are resolved by an objective standard: Would a reasonable person interpret the restraints used by the police as tantamount to a formal arrest?"].

[4] See *Stansbury* v. *California* (1994) 511 U.S. 318, 326 ["any inquiry into whether the interrogating officers have focused their suspicions upon the individual being questioned (assuming those suspicions remain undisclosed) is not relevant for purposes of *Miranda*"]; *Minnesota* v. *Murphy* (1984) 465 US 420, 431 ["The mere fact that an investigation has focused on a suspect does not trigger the need for *Miranda* warnings in noncustodial settings."].

[5] See *Berkemer* v. *McCarty* (1984) 468 U.S. 420, 442 ["Although Trooper Williams apparently decided as soon as respondent stepped out of his car that respondent would be taken into custody and charged with a traffic offense, Williams never communicated his intention to respondent."].

[6] *Yarborough* v. *Alvarado* (2004) 541 U.S. 652, 668 ["We do not ask police officers to consider these contingent psychological factors when deciding when suspects should be advised of their *Miranda* rights."].

particular suspect whom they question." The Court added, "[C]onsidering age in the custody analysis in no way involves a determination of how youth subjectively affects the mindset of any particular child."

As for whether J.D.B. was "in custody," the Court did not rule on the issue. Instead, it remanded the case to North Carolina for a determination.

Comment

If officers are unsure whether they must obtain a waiver from a minor, they should consider notifying him that he is not under arrest, that he is free to leave, and that he is not required to answer their questions. As the Eighth Circuit recently observed, "The most obvious and effective means of demonstrating that a suspect has not been taken into custody is for police to inform the suspect that an arrest is not being made and that the suspect may terminate the interview at will."[7] POV

[7] *U.S.* v. *Boslau* (8th Cir. 2011) 632 F.3d 422, 428.