

# Recent Case Report

Date posted: February 3, 2011

## People v. Moore

(2011 \_\_ Cal.4<sup>th</sup> \_\_ [2011 WL 285186])

### Issues

Was a murder suspect “in custody” for *Miranda* purposes when he was questioned in a patrol car? If not, was he in custody during subsequent questioning in a police interview room?

### Facts

At about 5 P.M., the Monterey County Sheriff’s Department received a call from Rebecca Carnahan who said that, upon returning home from work, she discovered that her home in Salinas had been ransacked and that her 11-year old daughter Nicole was missing. When deputies arrived, Ms. Carnahan explained that, after discovering the break-in, she saw her next-door neighbor, Ronald Moore, in her back yard; he was carrying “a bundle of some sort” and he was running through a gap in the fence that separated her property from Moore’s house trailer. She yelled at him, but Moore kept running. Ms. Carnahan also told them that after phoning 911 she saw Moore in his yard and asked if he had seen Nicole. He responded by saying that he had seen “two Mexicans” in her yard and that he had chased them away.

A deputy went to Moore’s trailer and started to question him. Moore said he had gone to Ms. Carnahan’s home earlier that afternoon for a glass of water, and that Nicole had given him one. Before asking further questions, the deputy told Moore that he would like to continue the interview in his patrol car because Moore’s trailer was cold and dark. Moore said okay and did not object to sitting in the back seat. Although the deputy closed the rear door, and although the rear door locked automatically, it appears the deputy closed it because Moore had complained about the cold.

During the subsequent 15-minute interview, which the court described as nonaccusatory, Moore gave a convoluted account of his activities that afternoon. In addition, contrary to the story he had given to Ms. Carnahan (that he had chased “two Mexicans” from her yard) he told the deputy that there was only one “Mexican man” in the yard. Because the deputy needed to talk with someone at the crime scene, he asked Moore if he would be willing to wait in the car. Moore agreed, and the deputy opened the rear door for him, apparently so that he could smoke. But just then they both heard Ms. Carnahan screaming from her house. At first, Moore seemed to ignore it but then asked, “Did they find her?”

The deputies had, in fact, found Nicole—she was dead, and her body had been stuffed between her bed and the wall of her bedroom. Her injuries were horrifying.

Moore continued to wait in the patrol car (with the rear door open) until he was contacted by sheriff’s investigator John Hanson who asked, “Would you volunteer to come down to the station and talk to me? I need to take a real detailed statement about it.” Moore asked if he could give a statement tomorrow morning, but Hanson said no, “we have to do it now,” adding that a deputy would drive him home afterward. Moore said “Okay.”

At the sheriff's station, Det. Hanson questioned Moore in an interview room. Although the door to the room locked automatically when it was shut, another investigator had placed something next to the door jamb to prevent the door from closing. Det. Hanson began by telling Moore that he was "not under arrest or anything," that he was "free to go or whatever," and that he was there "only to make a statement because he was the last person known to have seen the victim." Det. Hanson did not seek a *Miranda* waiver.

After Moore repeated his story about the Mexican man who ran from Ms. Carnahan's backyard, Det. Hanson asked, "Did you burglarize the house?" When Moore said no, Det. Hanson suggested that he might have needed money for heroin, and then "asked a series of questions suggesting [Moore] might have been in the Carnahan house that day and might know what happened to Nicole," adding, "This is the time for you to be honest with me." He also asked Moore if he was carrying a weapon when he went to the house for a glass of water. Moore said he usually carried a butcher knife, but claimed he was not carrying it then. Det. Hanson asked him where the knife was located and Moore said it was in his trailer, but he refused to consent to a search unless he was present. When another investigator suggested to Moore that he must have been carrying the knife when he went to Ms. Carnahan's house, Moore said, "You guys are trying to trick me."

The interview then became more confrontational and eventually Moore asked, "Can I please get a ride home? You going to charge me or what?" The investigators continued to question him and eventually arrested him, apparently after obtaining additional incriminating information from the crime scene. Det. Hanson then *Mirandized* Moore, who immediately invoked his right to counsel.

During Moore's trial, the evidence against him included the statements he made in the patrol car and in the interview room. He was found guilty of murdering Nicole and was sentenced to death.

## Discussion

Moore contended that his statements should have been suppressed because they were obtained in violation of *Miranda*. Specifically, he argued that he was continuously "in custody" for *Miranda* purposes from the time he was seated in the patrol car and, therefore, the failure of the deputy and detective to obtain *Miranda* waivers rendered his statements inadmissible. The court disagreed.

It is settled that officers must obtain a *Miranda* waiver before interrogating a suspect who is "in custody." And a suspect will be deemed in custody if he had been arrested or if he reasonably believed that his freedom had been restricted to the degree associated with an arrest.<sup>1</sup> Furthermore, in determining whether a suspect was in custody, the courts apply an objective test, meaning the only circumstances that matter are those that were, or reasonably appeared to have been, seen or heard by the suspect.<sup>2</sup> It is, thus, immaterial that, unbeknownst to the suspect, he had become the "focus" of the officers' investigation.<sup>3</sup>

---

<sup>1</sup> 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"].

<sup>2</sup> See *Stansbury v. California* (1994) 511 U.S. 318, 323 [custody "depends on the objective circumstances of the interrogation, not on the subjective views harbored by either the interrogating officers or the person being interrogated"].

<sup>3</sup> 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*"].

In applying these principles to the facts, the California Supreme Court ruled that Moore was not in custody, at least until his request to be driven home from the sheriff's station was denied. As for the interview in the patrol car, the court noted that the deputy had explained to Moore that he did not want to continue the interview inside Moore's trailer because it was cold and dark. Thus, taking into account all of the surrounding circumstances, the court ruled it would have reasonably appeared to Moore that he was merely an important witness, and that the deputy would have permitted him to leave if he had requested. This conclusion was bolstered by the deputy's act of leaving Moore alone in the car with the rear door open.

The court also ruled that the interview at the sheriff's station did not become custodial, at least until Moore's request to be driven home was denied. Although Moore said he would have preferred that the interview be delayed for one day, the court noted that "he acceded to [Det. Hanson's] reasonable explanation that time was of the essence." It also pointed out that Det. Hanson told Moore that "he was not under arrest and was free to leave," that he "was not handcuffed or otherwise restrained," and "there was no evidence the interview room door was locked against his leaving."

Admittedly, the interview became somewhat accusatory when Moore was asked if he had burglarized the house, and whether he was carrying his butcher knife when he went there for a drink of water. But, as the court explained, "police expressions of suspicion, with no other evidence of restraint on the person's freedom of movement, are not necessarily sufficient to convert voluntary presence at an interview into custody."

Consequently, the court ruled that until Moore's request to leave was denied, "a reasonable person in defendant's circumstances would have believed, despite indications of police skepticism, that he was not under arrest and was free to terminate the interview and leave if he chose to do so." As for the statements Moore made after his request was denied, the court ruled that their admission into evidence was harmless error because they were insignificant.<sup>4</sup>

Moore's conviction and death sentence were affirmed.

## Comment

This case provides a good illustration of the problems that officers encounter at crime scenes when they locate a percipient witness who may also be the perpetrator. On the one hand, because they need to obtain as much information from him as possible, they may not want to seek a *Miranda* waiver as it tends to inhibit openness. On the other hand, a waiver may be required at some point because the need to control the suspect's movements may inadvertently render him "in custody."

The main thing to remember about this case is that locking a suspect in a patrol car or an interview room is a strong indication that the suspect was in custody. Consequently, if it becomes necessary to do so before seeking a waiver, officers must take steps to reduce the coerciveness of this circumstance. That's what happened here, as one deputy left the rear door to the patrol car open, and another propped open the door to the interview room. POV

---

<sup>4</sup> **NOTE:** In a similar recent case, *People v. Thomas* (2011) \_\_ Cal.4th \_\_, the Supreme Court ruled that, even though a witness/suspect was in custody when he was locked in a patrol car while awaiting the arrival of detectives, his statement to the detectives was not obtained in violation of *Miranda* because, when questioned, he had been released from the car and was not handcuffed.