

In re Anthony L.

(2019) __ Cal.App.5th __ [2019 WL 6837968]

Issue

What are the consequences if officers interrogate a 15-year old suspect who has not yet conferred with an attorney?

Facts

Anthony and four other young men assaulted a man in San Francisco and fled. The crime was captured on a surveillance camera and, for reasons not disclosed in the court's opinion, an officer showed the recording to a teacher in Anthony's school, and the teacher identified Anthony as one of the perpetrators. The officer then went to Anthony's home and interviewed him in the presence of his mother. The officer *Mirandized* Anthony who acknowledged that he understood his rights and freely answered the officer's questions. In the course of the interview, he confessed.

After Anthony was charged in juvenile court with assault, he filed a motion to suppress his confession on grounds that it was obtained in violation of a California statute that prohibits officers from seeking *Miranda* waivers from minors who are 16-years old or younger unless they consulted with an attorney beforehand. The juvenile court judge rejected the argument, affirmed the wardship petition, and placed Anthony on probation. He appealed the denial of his motion to suppress.

Discussion

Welfare and Institutions Code section 625.6 prohibits officers from conducting custodial interrogations of minors who were 15-years old or younger unless they had conferred with an attorney beforehand. The officer who interrogated Anthony was aware of the law, but he did not attempt to comply because he did not think that Anthony was "in custody" for *Miranda* purposes. Although the officer was probably correct (e.g., a short interview at home, with mother present, no coercion), the court assumed for the sake of argument that it was custodial. The question, then, was what are the consequences if an officer interrogates a 15-year old in custody who had not previously consulted with an attorney. Anthony argued that anything the minor says must be suppressed. The court disagreed.

Section 625.6, does not permit courts to suppress statements for noncompliance. Instead, it merely requires that judges consider the violation in determining whether the statement was admissible under federal law. As the court explained, "[T]he proper inquiry remains not whether officers complied with the state statute, but whether federal law compels exclusion of the minor's statements."

It was apparent that suppression was not required under federal law because Anthony was correctly informed of his rights, he said he understood them, and he freely answered the officer's questions. Furthermore, there was no reason to believe that Anthony's age, experience, education, or intelligence would have prevented him from understanding his *Miranda* rights.¹ Said the court, "Nothing in the record persuades us [that Anthony] did not understand his rights to silence and counsel and the consequences of waiving those rights."

¹ See *People v. Lessie* (2010) 47 Cal.4th 1152, 1167.

Nevertheless, Anthony argued that suppression was required because section 625.6 says that the courts must consider a violation in determining whether a minor understood his *Miranda* rights, and the judge did not do so. But it didn't matter, said the court, because there was no reason to believe that Anthony was coerced into waiving his rights or answering the officer's questions. Consequently, the court upheld the juvenile court's ruling that Anthony's confession was admissible.

Comment

If a 15-year old consults with an attorney before officers question him, the attorney will simply—and inevitably—instruct him not to speak with officers. The attorney will *not* sit down with the minor and explain the applicable legal issues so that the minor can make an intelligent decision about whether to talk with officers. Thus, the real objective of section 625.6 was to simply prohibit officers from questioning minors who are 15-years old or younger. But because the legislature attempted to achieve this result in a circuitous and roundabout manner, the practical affect of section 625.6 will not be known for a while. It is, however, encouraging that the court in *Anthony L.*—the first court to address the matter—has provided judges and prosecutors with a logical and sensible analysis of the issue. POV

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