

People v. Suff

58 Cal.4th 1013

Issues

(1) Did an officer have sufficient grounds to make a traffic stop on a suspected serial killer? (2) Did a detective violate *Miranda* in obtaining an incriminating statement from him?

Facts

Between June 1989 and December 1991 a serial killer murdered 12 suspected prostitutes in Riverside County. The perpetrator was believed to be driving a late model, two-tone, blue over gray Chevrolet Astro van. At about 9:30 P.M. on January 9, 1992 Riverside motor officer Frank Orta saw a man driving such a vehicle on a street in an area of “much prostitution activity.” So he followed the van intending to stop it if he observed a traffic violation. When the driver stopped for a red light, Officer Orta stopped behind him. Then, without signaling a turn, the driver turned right and the officer stopped him for violating Vehicle Code section 22107 which prohibits making a turn without signaling if another vehicle may be affected by the movement.

The driver identified himself as Bill Suff and Officer Orta noticed that Suff “resembled” a police artist’s sketch of the serial killer. Then, as he examined Suff’s license, he noticed that Suff had lived at two addresses in Lake Elsinore and one address in Rialto. This was significant because he knew that some of the victims’ bodies had been found in Lake Elsinore and one body had been found near Rialto. After the officer returned to his motorcycle to write a citation, he notified his dispatcher of the situation and shortly thereafter he was joined by three officers from the serial killer task force.

Meanwhile, Officer Orta had learned that Suff’s driver’s license was suspended and that his van had not been registered for over two years. So he decided to impound it pursuant to Vehicle Code section 22651(o) and conduct an inventory search of it pursuant to departmental policy. Among other things the officers who conducted the search found wire-rimmed glasses, a black notebook that looked like a Bible, blankets, numerous pieces of cord, and a knife. The officers were aware that the perpetrator might have worn wire-rimmed glasses, that a witness saw what appeared to be a Bible in the perpetrator’s van, that the victims had been tied up or otherwise restrained, and that they had been stabbed. There also appeared to be blood on the knife. Three other things: the front tire on Suff’s van and the perpetrator’s van were both made by Yokohama, there were fibers in the van that were consistent with fibers found at some of the crime scenes, and a witness had noticed that the perpetrator wore a belt buckle with name “Bill” imprinted on it.

At the police station, Det. Christine Keers obtained a *Miranda* waiver from Suff and asked some background questions. Then she started talking about the murders of prostitutes and the knife in Huff’s van. She also asked him about his Converse tennis shoes because they seemed to match a set of shoeprints found at the scene of one of the murders. But throughout the first three hours of the interrogation, Suff said nothing incriminating. Then Det. Keers asked Suff if he would consent to a search of his home. He replied, “I need to know, am I being charged with this, because if I’m being charged with this I think I need a lawyer.” The detective responded, “Well, at this point, no you’re not being charged with this,” so Suff consented to the search and continued to answer

questions. In response to one question, he admitted that he had been in an orange grove in which one of the victims was killed and that he had seen a woman's body there. When asked for specifics, Suff said "I better get a lawyer now. I better get a lawyer, because you think I did it and I didn't." Nevertheless, Det. Keers continued to question him and he eventually admitted that he had removed a knife in the body and had put the knife in his van.

Prior to trial, the court denied Suff's motion to suppress the evidence in his van and his statement that he had seen a body in the orange grove. The court did, however, suppress his statement that he had removed the knife from the body because Suff made the statement after he clearly invoked his *Miranda* right to counsel. But because the statement was relatively insignificant in light of the overwhelming amount of other incriminating evidence the officers had accumulated, Suff was convicted of 12 counts of first-degree murder and sentenced to death.

Discussion

Suff argued that his conviction should be overturned because (1) the evidence discovered in his van was obtained as the result of an illegal detention, and (2) the incriminating statement that was used against him was obtained in violation of *Miranda*.

THE TRAFFIC STOP: Suff claimed that the evidence in his van should have been suppressed because Officer Orta lacked grounds to stop him for violating Vehicle Code section 22107. As noted, this section prohibits a driver from making a turn without signaling if the turn may affect any other vehicle. Suff argued that he did not violate the statute for two reasons. First, he pointed to Vehicle Code section 21453 which describes the circumstances in which a driver stopped at a red light may make a turn. And because section 21453 does not expressly state that the driver must signal the turn, Suff argued that he was not required to do so. The court disagreed, concluding that the legislative intent of both statutes cannot be read as demonstrating a legislative intent to "require a signal only if the driver decides to turn before reaching a red light." In other words, the turn signal requirement set forth in section 22107 applies regardless of whether the driver made the turn before or after he stopped at a stoplight.

Second, Suff argued that he did not violate section 22107 because, as noted, it requires a signal only if another vehicle would be affected by the turn. And, according to Suff, the only other motorist in the vicinity was Officer Orta, and he could not have been affected by the turn because he was *behind* him. Again the court disagreed, pointing out that the officer "was clearly in a position to be affected by defendant's turn" because, if the officer had also decided to make a right turn, "he would have done so without knowing that defendant was planning to turn right into the same path."

MIRANDA: Next, Suff argued that the detective violated *Miranda* when she continued to question him after he said, "if I'm being charged with this I think I need a lawyer." Before going further, two central *Miranda* principles should be noted. First, an invocation of either the right to counsel or the right to remain silent can occur only if the suspect said something that clearly and unambiguously demonstrated an intent to invoke.¹

¹ See *Davis v. United States* (1994) 512 U.S. 452, 459 ["Invocation of the *Miranda* right to counsel requires, at a minimum, some statement that can reasonably be construed to be an expression of a desire for the assistance of an attorney. But if a suspect makes a reference to an attorney that is ambiguous or equivocal in that a reasonable officer in light of the circumstances would have understood only that the suspect might be invoking the right to counsel, our precedents do not

Second, a suspect may make a limited or conditional invocation which consists of a statement that reasonably indicated he will talk to officers *if* a certain condition is met. For example, a suspect may agree to talk with officers on the condition that they not discuss a certain subject.² Consequently, if officers are willing to abide by the condition, they may continue to question him.

Citing these principles, Suff argued that his statement that he wanted an attorney if he was “charged” with the crimes constituted a conditional invocation, and that the triggering event had occurred because it was “virtually certain” that the district attorney would charge him. All of this was plainly true. But the court ruled that, regardless of the degree of certainty that a triggering event might occur, there can be no invocation until it actually happens. And because the D.A. has not charged Suff with the crimes before he was questioned, there was no invocation.

Accordingly, because the trial court had properly suppressed the only statement that was obtained in violation of *Miranda*, and because Officer Orta had grounds to make the traffic stop (Suff did not challenge the legality of the inventory search), the court affirmed Suff’s conviction and death sentence. POV

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require the cessation of questioning.”]; *Berghuis v. Thompkins* (2010) __ U.S. __ [130 S.Ct. 2250, 2260] [“[T]here is no principled reason to adopt different standards for determining when an accused has invoked the *Miranda* right to remain silent and the *Miranda* right to counsel at issue in *Davis*.”].

² See *People v. Gonzalez* (2005) 34 Cal.4th 1111, 1126 [“On its face, defendant’s statement was conditional; he wanted a lawyer if he was going to be charged.”]. Compare *Smith v. Endell* (9th Cir. 1988) 860 F.2d 1528, 1531 [limited invocation resulted when the defendant told officers he wanted a lawyer if “you’re looking at me as a suspect” (and they were)].