

People v. Parker

(2017) 2 Cal.5th 1184

Issues

Did a serial murderer waive his *Miranda* rights? Did he later invoke them?

Facts

In 1978 and 1979, Parker raped and brutally beat six women during home invasions in the Orange County cities of Anaheim, Costa Mesa, and Tustin. Five of the women died. The crimes went unsolved until 1996 when DNA testing linked Parker to all of the crimes. Having learned that Parker was currently at Avenal State Prison on a parole violation, detectives from Costa Mesa and Tustin went there to question him.

The first interview was conducted by two Costa Mesa detectives who advised Parker of his rights and informed him that his DNA “came up on a couple of Costa Mesa homicides back in 1979.” When asked if he wanted to talk about it, Parker said, “I can’t imagine why I would want to talk with the Costa Mesa Police Department,” and “Why would I want to talk to you about something that occurred back then?” After explaining the significance of the DNA hit, one of the detectives urged Parker to confess. Parker responded by saying “the day is not today” and “I think I should wait until later on.” He then suggested that the detectives visit him when he was transferred to the Orange County Jail in three weeks.

Before the detectives left the room, they told Parker that a Tustin detective was also present and wanted to talk with him. Parker did not object so, after obtaining an express waiver, the Tustin detective questioned him about that murder. Among other things, Parker said it was “possible” that he had killed someone in Tustin because he sometimes “blacked out” and would do things he did not remember. The detective urged Parker to “do the right thing” and talk to him about it. Parker responded by asking “Is Costa Mesa still here?” The detective said yes, and Parker said “then we can get this over with.” During interviews that followed with the three detectives, Parker confessed to all of the crimes. He was convicted and sentenced to death.

Discussion

On appeal, Parker argued that his confessions should have been suppressed because they were obtained in violation of *Miranda*. The California Supreme Court disagreed.

COSTA MESA INVOCATION #1? Parker claimed that he had invoked his right to remain silent at the outset when he said, “I can’t imagine why I would want to talk with the Costa Mesa Police Department?” and “Why would I want to talk to you about something that occurred back then?” He also contended that these questions were rhetorical and are commonly understood as meaning “no.” It is settled, however, that a suspect’s words can constitute a *Miranda* invocation only if they clearly and unambiguously demonstrated an intent to immediately invoke.¹ That did not happen here, said the court, because, “Taken

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 require the cessation of questioning.”]; *People v. Stitely* (2005) 35 Cal.4th 514, 535 [“In order to

in context, [Parker's] statement was reasonably understood as seeking to clarify why the Costa Mesa detective and investigator wished to speak with him, rather than as an invocation of the right to remain silent.”

COSTA MESA WAIVER: Next, Parker argued that his *Miranda* rights were violated because, although he expressly told the Costa Mesa detectives that he understood his rights, they did not ask him if he wanted to waive them. However, as the court pointed out, “It is well settled that law enforcement officers are not required to obtain an express waiver of a suspect’s *Miranda* rights prior to a custodial interview and that a valid waiver of such rights may be implied from the defendant’s words and actions.” It then ruled that Parker’s words and actions constituted an implied waiver because he actively participated in the interview by, for example, asking questions of the detectives and asking them to clarify certain things.

COSTA MESA INVOCATION #2? Finally, Parker claimed that, even if he impliedly waived his rights at the beginning of the Costa Mesa interview, he had invoked them at the end when he said “I think I should wait [to talk with you] until later on.” The court interpreted this as a limited invocation pertaining only to further questioning by the Costa Mesa detectives—not the Tustin detective—especially because he made no objection when he was informed that the Tustin detective wanted to talk with him, and he expressly waived his rights before talking with the detective.

For these reasons, the court ruled that the detectives did not violate Parker’s *Miranda* rights, and it affirmed his conviction and death sentence. POV

Date posted: December 6, 2017

invoke the Fifth Amendment privilege after it has been waived, and in order to halt police questioning after it has begun, the suspect must *unambiguously* assert his right to silence or counsel.”].