

13-01: Recording Suspect's Conversation with Girlfriend in Police Station

Case: Riley v. State, 2013 WL 275272 (Fla. 5th DCA 2013)

Date: January 25, 2013

Subject: Recording a suspect's conversation with his girlfriend in a police station

FACTS: The defendant, Riley, was arrested for murder. Prior to being interviewed, Riley asked the detective to inform his girlfriend, Takita Thomas, that he had just been arrested. The detective agreed, and proceeded to record his interview with Riley. During the interview, Riley made some incriminating statements. Toward the end of the interview, the detective asked Riley if he wanted his girlfriend to come to the station. Riley said yes. The detective then allowed the girlfriend to bring food and cigarettes for Riley.

The detective left Riley alone with his girlfriend in the interview room. Riley then confessed the murder to his girlfriend. Unbeknownst to Riley or his girlfriend, the police had secretly recorded the conversation. Riley argued that his statements were inadmissible because he was never Mirandized. Riley also argued that the recording violated his reasonable expectation of privacy. The trial judge rejected both arguments, and Riley was convicted. The appellate court affirmed the conviction.

RULING: (1) Suspects have no reasonable expectation of privacy at a police station, unless the suspect is conferring with counsel.

(2) Suspects are not entitled to *Miranda* warnings prior to questioning by friends or other private citizens, unless the friend is acting at the direction of law enforcement.

DISCUSSION: At a police station, a suspect has no expectation of privacy unless law enforcement "deliberately fosters an expectation of privacy" or the suspect is meeting with his attorney. In this case, the police never told Riley that he was not being recorded, and the recording occurred in the same room where Riley already gave a recorded statement to a detective. Furthermore, Riley's girlfriend was not his attorney. Therefore, Riley could not reasonably expect any privacy in his conversation.

The Court also held that the girlfriend's conversation with Riley did not obligate the police to give *Miranda* warnings. *Miranda* is required prior to a custodial interrogation. In general, questions asked by private citizens do not qualify as "interrogation." However, private citizens can become interrogators if law enforcement directs the citizen or guides the citizen regarding what questions to ask. In this case, Riley's girlfriend was a private citizen acting on her own behalf. Law enforcement never asked the girlfriend to speak with Riley, and they certainly never instructed or guided her regarding what questions to ask. Under those circumstances, no "interrogation" occurred. Therefore, *Miranda* was unnecessary.

NOTE: The opinion does not explicitly say whether *Miranda* was read prior to the detective's interview with Riley. Instead, the opinion focuses entirely on Riley's conversation with his girlfriend.

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Officers should consult with their agency legal advisors to confirm the interpretation provided in this Update and to determine to what extent the case discussed will affect their activities.