

11-08: Miranda and In Custody Statements

Case: Bowen v. State, 36 FLW D2676a (Fla. 4th DCA)

Date: December 7, 2011

Subject: Under the factual circumstances, the Defendant was “in custody” during his questioning regarding a homicide, and statements obtained from him without the benefit of a *Miranda* waiver should not have been admitted

FACTS: Police went to Bowen’s home as part of an investigation into a homicide which had occurred the night before, and for which an associate of Bowen’s was in custody. Bowen voluntarily agreed to accompany the detectives to the police station. He was not handcuffed during transport. At the station, Bowen waited in a break room alone, and did not request a lawyer. He was later escorted to an interrogation room, where he was interviewed by two detectives. One of the detectives testified at the suppression hearing that Bowen was a suspect at that time. During the interview, the police obtained two recorded statements from Bowen. During the first, Bowen was not advised that he was under arrest or in custody; however, the detectives admitted at the hearing that Bowen was not going home that night. Additionally, he was never told that he was free to leave. The detectives suggested to Bowen that the victim was killed during a botched robbery in which he participated, and that it “would be so much easier” if he provided information to them. Bowen continued to provide responses and was confronted with the fact that his friend was in custody. At one point during the first statement, Bowen stated “straight up...I need a lawyer.” The interview continued, and Bowen eventually admitted to being at the scene, but denied involvement in the murder. At the conclusion of the first statement, he was placed under arrest. Prior to the second statement, police read Bowen his *Miranda* rights, which he invoked. The trial court found that Bowen was not “in custody” until he unequivocally invoked his right to counsel during the first statement, and suppressed all statements made after that point. However, the statements made prior to that point were admitted at trial, and Bowen was convicted of first degree murder. The defendant appealed, arguing that none of his statements should have been admitted.

RULING: The Fourth District Court of Appeal disagreed with the trial court and concluded that Bowen was in custody during the entirety of his questioning. As such, since all of the statements were obtained without the benefit of *Miranda* protections, they should all have been suppressed. The conviction was reversed, and the case remanded for a new trial.

DISCUSSION: The Florida Supreme Court has affirmed that *Miranda* warnings need to be given only when the person is in custody. *Ramirez v. State*, 739 So. 2d 568 (Fla. 1999), and that the test for determining custody for *Miranda* purposes is whether “a reasonable person placed in the same position would believe that his or her freedom of action was curtailed to a degree associated with actual arrest.” *Id.* at 573. Courts consider four factors in making this determination: (1) the manner in which police summon the suspect for questioning; (2) the purpose, place, and manner of the interrogation; (3) the extent to which the suspect is confronted with evidence of his guilt; and (4) whether the suspect is informed that he or she is free to leave...” *State v. C.F.*, 798 So. 2d 751 (Fla. 4th DCA 2001). In this case, Bowen was interrogated at the police station in an official interview room. The purpose of the

interview was to obtain incriminating responses, and the interview was conducted in an “adversarial” manner (i.e. Bowen was confronted with accusations about his involvement.) Finally, Bowen was never told that he was free to leave, and the detectives admitted at the hearing that he was not free to go home that night. Applying the four-prong test to these facts, the appellate court concluded that a reasonable person in the same position would not believe that he was free to leave. Accordingly, Bowen was deemed to be “in custody” from the beginning of his questioning in the interview room, and failure to provide and obtain a waiver of his *Miranda* rights mandated suppression of his statements.

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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.