

Case: Thompson v. State, 41 Fla. L. Weekly D578a (Fla. 2nd DCA)

Date: March 4, 2016

Subject: **Improper to Suppress Incriminating Statements Made during Police Station Interview When Suspect was not in Custody**

FACTS: After Thompson's infant child died of injuries from blunt force trauma to the abdomen under unknown circumstances, police interviewed Thompson five times: once at the hospital, once at her grandmother's home, and three times at the police station. During each interview the detective advised Thompson that she was free to end the interview. Thompson was not detained or restrained during the interviews and she left on her own after the police station interviews. During the fifth and final interview, Thompson admitted to striking the infant in the abdomen. The detective then read Thompson her *Miranda* warnings and asked her to repeat the incriminating statements. Ms. Thompson's mother, who was present for the interview, announced that Thompson would be seeking counsel and shortly thereafter they left the police station. Thompson was later arrested and charged with felony murder and aggravated child abuse. Thompson moved to suppress the incriminating statements she made during the fifth interview on the grounds that she was not timely advised of her *Miranda* warnings. The trial court agreed with Thompson's motion and suppressed the statements.

RULING: On appeal the Second District Court of Appeal reversed the trial court's ruling to suppress the incriminating statements. The appellate court found that Thompson's statements were not made during a custodial interrogation and she was therefore not entitled to be advised of *Miranda* warnings.

DISCUSSION: For purposes of *Miranda*, when courts consider whether a custodial interrogation took place, they evaluate "how a reasonable person in the suspect's position would have perceived the situation." See Davis v. State, 698 So. 2d 1182 (Fla. 1997). The Second District recited the four factors that courts consider when evaluating whether suspects can consider themselves in custody and therefore entitled to *Miranda* warnings: (1) the manner in which the police summoned the suspect for questioning; (2) the purpose, place, and manner of the interrogation; (3) the extent to which the suspect was confronted with evidence of his/her guilt; and (4) whether the suspect was informed that he/she is free to leave. See Ramirez v. State, 739 So. 2d 568 (Fla. 1999). First, the court found that as to the manner of the interviews, Thompson voluntarily spoke and the detective did not coerce, cajole, entice or summon her to engage in the interviews. Second, the court found as to the purpose, place and manner of the last interview, although it took place at the police station, Thompson was not restrained, she was free to leave, her mother was allowed to be present, and she was able to leave after she made the incriminating statements. Additionally, the tone and content of the conversation suggested nothing coercive or confining about that interview. Third, the court found as to the extent to which Thompson was confronted with evidence of her guilt, the detective only confronted her with facts she already knew. When the detective asked Thompson about the infant's broken ribs, she spontaneously confessed to hitting the child in the abdomen. Fourth, the court found as to whether Thompson was informed that she was free to leave, it was clear from the record that Thompson was not in handcuffs, that she walked freely around the interview room, and she confirmed that she wanted to come down to talk to the police. Moreover, she was consistently advised that she could leave at any time and even after Thompson made the incriminating statements the detective advised that she would not be arrested that day.

COMMENTS: The interviewing detective in this case consistently maintained the integrity of the interviews as being noncustodial by allowing Thompson to come and go freely, having her family present during interviewing and repeatedly advising her that she was not under arrest and could stop talking at any time.

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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.