

STATE OF MICHIGAN
IN THE SUPREME COURT

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

No. 160436

v.

MUHAMMAD ALTANTAWI,
Defendant-Appellant.

Lower Court No. 2017-265355-FJ
Court of Appeals No. 346775

BRIEF OF THE PROSECUTING ATTORNEYS
ASSOCIATION OF MICHIGAN AS AMICUS CURIAE
IN SUPPORT OF THE PEOPLE

Filed under AO 2019-6

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Statement of the Question

I.

Miranda warnings are required when a person in custody is interrogated, and a person is in custody when their freedom of movement has been curtailed to the degree associated with a formal arrest. Defendant was interviewed for 38 minutes at the dining room table of his spacious home with no restraint of any kind by the police, physical or verbal. Was defendant in custody for Miranda purposes?

Defendant answers "YES"

The People answer "NO"

Amicus answers "NO"

Statement of Facts

Amicus adopts the statement of the People of the State of Michigan.

Argument

I.

Miranda warnings are required when a person in custody is interrogated, and a person is in custody when their freedom of movement has been curtailed to the degree associated with a formal arrest. Defendant was interviewed for 38 minutes at the dining room table of his spacious home with no restraint of any kind by the police, physical or verbal. Defendant was not in custody for Miranda purposes.

Introduction: the issue

This Court has in this MOAA directed that the following issue be briefed: “whether the juvenile defendant was subjected to a ‘custodial interrogation’ without being advised of his Miranda rights.”¹ Amicus answers that the defendant was not in custody when interviewed in his home.

Discussion

This case involves no issue of jurisprudential significance to the State.² Miranda warnings are required when a person is, first, in custody, and second, the subject of interrogation. The legal tests for both custody and interrogation have been established. The inquiry as to whether a person is in custody for purposes of Miranda warnings is “simply whether there is [1] a ‘formal arrest or [2] restraint on freedom

¹ People v. Altantawi, 941 N.W.2d 371 (2020).

² MCR 7.305(B)(3).

of movement' of the degree associated with a formal arrest."³ Whether the person in custody has been subject to interrogation is analyzed by looking to whether there have been "any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response,"⁴ and is not at issue here. The trial judge held an evidentiary hearing, and made factual findings that are not subject to second-guessing. The question is whether the trial judge erred in applying the law to the facts as found.⁵ She did not.

The custody test is an objective one; the "determination of custody depends on the objective circumstances of the interrogation, not on the subjective views harbored by either the interrogating officers or the person being questioned."⁶ The court must determine the circumstances surrounding the interrogation, and then determine, given those circumstances, whether "there [was] a formal arrest or restraint on freedom of movement of the degree associated with a formal arrest"⁷; that is, whether "a reasonable person would have felt he or she was at liberty

³ *California v. Beheler*, 463 U.S. 1121, 1125, 103 S. Ct. 3517, 3520, 77 L. Ed. 2d 1275 (1983) (numbering added).

⁴ *Rhode Island v. Innis*, 446 U.S. 291, 301, 100 S. Ct. 1682, 1689, 64 L. Ed. 2d 297 (1980).

⁵ This is a question of law, reviewed de novo. *People v. Barritt*, 325 Mich. App. 556, 561 (2018).

⁶ *Stansbury v. California*, 511 U.S. 318, 323, 114 S. Ct. 1526, 1529, 128 L. Ed. 2d 293 (1994).

⁷ *Yarborough v. Alvarado*, 541 U.S. 652, 663, 124 S. Ct. 2140, 2148–49, 158 L. Ed. 2d 938 (2004).

to terminate the interrogation and leave.”⁸ The question is not whether the person interviewed “feels” constrained or restrained—a subjective test—but whether the police have done something so that the person would feel their movement was restrained, and to a degree associated with a formal arrest.⁹ To be restrained there must be a “restrainer,” who may restrain whether he or she (or they) so intend, looking to the objective circumstances.

Though defendant mouths the appropriate tests, in the end he asks this Court to overturn the reasoned judgment of the trial court on the basis that, in his view, the circumstances of his in-home interview constituted a “coercive environment.” He points to such things as:

- The defendant’s mother had died the day before, with the defendant in direct contact with her body, attempting CPR.
- Defendant’s mother was the person he would go to with a problem.
- The questioning was not, in defendant’s estimation, brief.¹⁰

⁸ *Thompson v. Keohane*, 516 U.S. 99, 112, 116 S. Ct. 457, 465, 133 L. Ed. 2d 383 (1995).

⁹ Though one’s freedom of movement is undeniably restrained at a traffic stop, Terry stop, or during detention incident to execution of a search warrant, Miranda warnings are not required in any of these circumstances, as they are not restraints on the freedom of movement to a degree associated with a formal arrest. See 2 LaFare, Israel, King & Kerr, *Criminal Procedure* § 6.6(e) (4th ed.) (Presence elsewhere).

¹⁰ This was not an hours-long questioning session, but lasted about 40 minutes, which amicus submits is on the brief side. Cf. *United States v. Levenderis*, 806 F.3d 390, 400 (CA 6, 2015), describing a 30 minute interview as “relatively brief.”

- Defendant did not choose the time or location of the questioning—[but which was in his home, at his dining room table].
- Defendant was a juvenile, and the adults in the home at the time of the interview were police officers.
- The officers “became increasingly confrontational and accusatory” in the interview, telling defendant that they believed he was in the bedroom from which his mother’s body fell, “implying that once the video gets cleared up by MSP, they will easily be able to see him,” when only a shadow was visible on the video.¹¹
- The detectives “downplayed the legal significance of [defendant’s] acceptance of the accident scenario, implying to this juvenile that by capitulating, by agreeing it was an accident, there would be a resolution – never telling him that he was hypothesizing and guessing and capitulating his way into first degree murder charges, and a possible life sentence.”¹²
- Allegedly “contributing to the psychological pressures” on defendant was that the police had [with consent] gone through the home, and had taken [with consent] the surveillance video.¹³

This is not an argument that the police had done anything to restrain defendant’s liberty, and to a degree associated with a formal arrest, so that a reasonable person would not have felt free to end the questioning and leave, but that the atmosphere was “coercive.” But this sort of argument is foreclosed by decisions of the United States Supreme Court.

¹¹ Defendant’s Brief, p. 19.

¹² Defendant’s Brief, p. 20.

¹³ Defendant’s Brief, p. 20.

Making the point is *Oregon v. Mathiason*.¹⁴ Defendant was suspected of a burglary, and was a parolee. An officer arranged an interview with defendant at the state patrol office. Defendant was told he was not under arrest; the door was closed during the interview, and was told the interview was about a burglary; that his truthfulness would possibly be considered by the district attorney or judge; that the police believed defendant was involved in the burglary; and, falsely, that his defendant's fingerprints were found at the scene. Defendant confessed. The state supreme court held that the interview took place in a "coercive environment" because it occurred at the offices of the State Police; the officer and defendant were alone and behind closed doors; defendant was told he was a suspect; defendant was a parolee under supervision; and the officer told him (and falsely) that the police had his fingerprints from the scene of the crime. The United States Supreme Court rejected this approach to the question of custody.

The Court found that there was "no indication that the questioning took place in a context where respondent's freedom to depart was restricted in any way," and that an interview does not become custodial "simply because a reviewing court concludes that, even in the absence of any formal arrest or restraint on freedom of movement, the questioning took place in a 'coercive environment.' . . . Miranda warnings are required only where there has been such a restriction on a person's freedom as to render him 'in custody.'"¹⁵ The officer's false statement about having discovered defendant's fingerprints at the scene, the Court said, had

¹⁴ *Oregon v. Mathiason*, 429 U.S. 492, 97 S.Ct. 711, 50 L.Ed.2d 714 (1977).

¹⁵ *Mathiason*, 97 S.Ct. at 714.

“nothing to do with whether respondent was in custody for purposes of the Miranda rule.”¹⁶ Compare defendant’s argument that circumstances demonstrating custody here include that the detectives “downplayed the legal significance of [defendant’s] acceptance of the accident scenario,” and “imply[ed] that once the video gets cleared up by MSP, they will easily be able to see him,” when only a shadow was visible on the video; as in *Mathiason*, these are irrelevant to the custody inquiry. And as in *Mathiason*, defendant essentially argues that he was in a “coercive environment,” and so Miranda warnings were required, and the argument thus fails.

Similarly, in *California v. Beheler*¹⁷ the defendant and others, attempted to steal drugs from a woman who was selling them, and defendant’s companions killed her when she resisted. Defendant himself called the police and told them who had killed the victim and where the gun had been hidden. Later on that day, he agreed to accompany police to the police station; he was told he was not under arrest. Defendant was not given Miranda warnings before the interview, which lasted under 30 minutes. He was released after the interview, and arrested five days later. Though the trial judge found that Miranda warnings were not required before this interview, the California Court of Appeal disagreed, saying that because the interview took place in the police station, defendant was identified by the police as a suspect at that time, and there was essentially a coercive atmosphere requiring Miranda warnings.

¹⁶ *Id.*

¹⁷ *California v. Beheler*, 463 U.S. 1121, 103 S. Ct. 3517, 77 L. Ed. 2d 1275 (1983).

The United States Supreme Court in turn reversed, citing *Mathiason*. That the defendant was questioned shortly after the crime, had been drinking, and was emotionally distraught, did not change the inquiry, which, said the Court, in the end “is simply whether there is a “formal arrest or restraint on freedom of movement of the degree associated with a formal arrest.”¹⁸ The factors cited by the California Court of Appeal were not sufficient to demonstrate that defendant was not at liberty to end the interview and leave.

So here. Whether there was or was not a “coercive atmosphere” is not the question—so says the United States Supreme Court. Defendant was not formally arrested. Nor did the police do anything to restrain his freedom of movement when they interviewed him at his dining room table in his own home. That he was 16 is a factor in the inquiry,¹⁹ but one which the trial judge took into account, and does not overcome that the objective facts show that the police did nothing to restrain his freedom of movement at all,²⁰ let alone to the degree associated with a formal arrest.²¹ And that the discussion took place in defendant’s own home is,

¹⁸ *Beheler*, 103 S.Ct. at 3520.

¹⁹ *J.D.B. v. North Carolina*, 564 U.S. 261, 131 S.Ct. 2394, 180 L.Ed.2d 310 (2011) (saying that “we hold that so long as the child’s age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer, its inclusion in the custody analysis is consistent with the objective nature of that test. This is not to say that a child’s age will be a determinative, or even a significant, factor in every case”). 131 S.Ct. at 2406.

²⁰ See Appellee’s Apx., 651-653b.

²¹ Had the defendant attempted to leave and been stopped, then any statements made after that time may have been subject to suppression if made without *Miranda* warnings. But this did not happen, and one can only litigate what happened. See *I.N.S. v. Delgado*, 466 U.S. 210, 220–21, 104 S. Ct. 1758,

though also not alone determinative, critical; as one case has said, the “fact that the interview took place at the kitchen table in Deason’s home is significant because ‘courts are much less likely to find the circumstances custodial when the interrogation occurs in familiar or at least neutral surroundings, such as the suspect’s home.’”²² Defendant has not shown a “coercive atmosphere,” which is not the test, and certainly has not shown that the police restrained defendant’s freedom of movement at all, much less to a degree associated with a formal arrest.

Conclusion

For these reasons, and the reasons so ably stated by counsel for the People, the trial judge’s ruling should not be disturbed.

1765, 80 L. Ed. 2d 247 (1984) (“While persons who attempted to flee or evade the agents may eventually have been detained for questioning. . . respondents did not do so and were not in fact detained. . . . Respondents may only litigate what happened to them”).

²² United States v. Deason, –F.3d– , 2020 WL 4033841, at 4 (CA11, 2020). See LaFave, *supra*.

Relief

WHEREFORE, the amicus submits that this Honorable Court should affirm the Court of Appeals.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that the foregoing brief complies with AO 2019-6. The body-text font is 12 point Century Schoolbook set to 150% line spacing. This document contains __2134____ countable words.

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