



# DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 105

May 3, 1986

## THE RIGHT TO COUNSEL DURING CUSTODIAL INTERROGATION

Reference: Michigan  
v.  
Robert B. Jackson  
Rudy Bladel

U. S. Supreme Court

~~Nos. 84-1531 & 84-1539~~

~~36 CR 3001~~ 47545

April 1, 1986

### FACTS:

Both defendants were arrested for unrelated murders and each of them furnished statements to the police prior to their arraignments. The initial statements were obtained after proper Miranda warnings were given and subjects waived their rights.

At the arraignment, investigating officers were present when charges were read to the defendants and the judge advised them of their rights. Both defendants requested appointment of legal counsel. After arraignment and obtaining written waivers in both cases, the investigating officers obtained additional statements from the defendants.

### ISSUE:

Did the defendants validly waive their right to counsel at their post-arraignment custodial interrogations?

HELD: No.

### REASONING:

1. If police initiate an interrogation after a defendant's assertion of his right to counsel at an arraignment or similar proceeding, any waiver of that right for that police-initiated interrogation is invalid.
2. An accused person in custody who has expressed his desire to deal with the police only through counsel is not subject to further interrogation by the authorities until counsel has been made available to him, unless the accused himself initiates further communication, exchanges or conversations with the police.  
(emphasis added)

### NOTES:

The following cases should be reviewed:

Edwards v. Arizona, Legal Bulletin No. 48--police-initiated contact of a person in custody, who has requested an attorney, requires suppression of his confession.

Sheakley v. State, Legal Bulletin No. 55--defendant is in custody

and requested an attorney and police cease communication; one lawyer refuses to represent him because of "conflict," but advises him not to talk to the police; attempts are made to contact other lawyers with negative results; defendant requests to talk to police and give "his side of story" and proper Miranda warning was given and waiver obtained--court ruled defendant initiated contact and admitted statement.

Oregon v. Bradshaw, Legal Bulletin No. 74--defendant first requested attorney, then changed his mind and initiated contact with police.

Alili v. State, Legal Bulletin No. 77--police gave proper Miranda warning, but did not obtain intelligent waiver.

Depp v. State, Legal Bulletin No. 87--non-custodial suspect gives statement to police against advice of his attorney; statement admitted.

Smith v. Illinois, Legal Bulletin No. 89--defendant asked about a lawyer, but police continued to read Miranda warning and obtained a statement; suppressed.

Ridgely, Plumley & Bosh v. State; Legal Bulletin No. 95--juvenile did not make knowing intelligent waiver and statement suppressed.

Hampel v. State, Legal Bulletin No. 97--custodial interrogation where defendant requests a lawyer and police continue; statement suppressed.

REMINDER:

As a result of Stephan and Harris v. State, Legal Bulletin No. 99, you must record the entire interrogation of a person in custody at the place of detention.