





DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 281
June 7, 2004

NON-CUSTODIAL INTERVIEW OF JUVENILE AT POLICE STATION DOES NOT REQUIRE MIRANDA WARNING

Reference: Yarborough, Warden United States Supreme Court

v. No. 02-1684

Michael Alvarado June 1, 2004

FACTS:

Francisco Castaneda was shot and killed during the attempted "car jacking" of his truck. About a month after the shooting, a Los Angeles County Sheriff's detective left word at Alvarado's house and also contacted his mother at work with a message that she (the detective) wished to speak with Alvarado. Alvarado was 17 years old at that time.

About lunch time, Alvarado's parents brought him to the Sheriff's station to be interviewed. Alvarado and his parents were told that the interview was "not going to be long." Alvarado's parents remained in the lobby and Alvarado was taken to an interview room where he was interviewed by the detective. The entire interview, which was tape-recorded, lasted two hours.

Alvarado initially denied all knowledge of the homicide. He later admitted that he was present and had agreed to help Paul Soto, who was also charged with the homicide, steal the victim's truck. He said he was on the opposite side of the victim's truck when Soto shot him. Alvarado also admitted that he assisted Soto in hiding the gun, a .357-Magnum, used in the homicide.

Twice during the interview, the detective asked Alvarado if he wanted to take a break and he declined. At the end of the interview, Alvarado went home with his parents.

Alvarado had never been advised of his <u>Miranda</u> during the interview. Several months after the interview, Alvarado was charged and subsequently convicted of the homicide.

ISSUE:

For purposes of <u>Miranda</u>, was Alvarado in custody during the interview?

HELD: No.

REASONING:

- 1. The Miranda custody test is an objective test requiring two essentials: (a) the circumstances surrounding the interrogation, and (b) given those circumstances, whether a reasonable person would have felt free to terminate the interrogation and leave. (emphasis added)
- 2. "Custodial interrogation" means questioning initiated by law-enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. (emphasis added)
- $\underline{3.}$ A policeman's unarticulated plan has no bearing on the question of whether a suspect was in custody at a particular time.
- <u>4.</u> Our U. S. Supreme Court opinions applying the <u>Miranda</u> custody test have not mentioned the suspect's age, much less mandated its consideration.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section P, "Right to Counsel and Waivers During Custodial Interviews (Selected Juvenile Cases)," of your Contents and Text. File Legal Bulletin No. 281 numerically under Section R of the manual.