



DPS TRAINING BULLETIN



LEGAL BULLETIN NO. 362

October 11, 2012

MIRANDA "CONTINUOUS-CUSTODY" 14 DAY RULE

Reference:

Maryland
v.
Michael Blaine Shatzer, Sr.

U.S. Supreme Court
130 S.Ct. 1213 (2010)
February 24, 2010

FACTS:

A social worker contacted the Hagerstown, Maryland police department to report allegations that SHATZER had sexually abused his 3-year-old son. At the time, SHATZER was incarcerated and serving a sentence for an unrelated sexual abuse offense. A detective contacted SHATZER at the corrections institution and obtained a written waiver of his (SHATZER's) Miranda rights. When SHATZER realized the detective wanted to interview him about sexually abusing his son, SHATZER said he wanted to talk to a lawyer at which time the interview was concluded.

Two and a half years later a different detective from the same department was contacted by the same social worker who had obtained more specific allegations about the same incident. After interviewing the victim (then eight years old), the detective learned that SHATZER was still incarcerated for the same offense but had been transferred to another institution.

The detective contacted SHATZER at the institution, read SHATZER his Miranda rights and obtained a written waiver. SHATZER denied ordering his son to perform fellatio on him, but admitted to masturbating in front of his son from a distance of less than three feet. Before the interview ended SHATZER agreed to submit to a polygraph examination.

Five days later, detectives again contacted SHATZER at the institution whereupon he once again waived his Miranda rights and they administered the polygraph examination. When informed that he had failed the polygraph SHATZER incriminated himself by saying: "I didn't force him. I didn't force him." After making these statements, SHATZER requested an attorney and the detective promptly ended the interrogation.

The State's attorney charged SHATZER with second-degree sexual offense, sexual child abuse, and several other offenses. The incriminating statements made by SHATZER were used against him at trial.

SHATZER argued that the statements must be suppressed because they were obtained in violation of the Edwards rule. The Edwards rule (see Edwards v. Arizona, Legal Bulletin no. 48) states, in part: "When an accused has invoked his right to have counsel present during custodial interrogation, a valid waiver of that right cannot be established by showing only that he responded to further custodial interrogation even if he has been advised of his rights. He is not

subject to further interrogation by authorities until counsel has been made available to him; unless the accused himself initiates further communication with the police (emphasis added).

ISSUE:

Is a 14-day break in custody enough to satisfy Miranda and Edwards rules?

Held. Yes. The Edwards rule is not a constitutional mandate, but judicially prescribed prophylaxis. 14 days provides plenty of time for the suspect to get re-acclimated to his normal life, even if that life is within the prison environment.

REASONING:

1. Interrogated suspects who have previously been convicted of a crime live in prison. When they are released back into the general prison population, they return to their accustomed surroundings and daily routine - they regain the degree of control they had over their lives prior to the interrogation. SHATZER's release back into the general prison population constitutes a break in custody.
2. The protections offered by Miranda, is sufficient to ensure that the police respect the suspect's desire to have an attorney present the first time police interrogate him, adequately ensure that result when a suspect who initially requested counsel is re-interrogated after a break in custody that is of sufficient duration to dissipate its coercive effects.

NOTES

A review of Edwards v. Arizona (see bulletin no. 48) -- the Edwards rule - where the court rules that once a person who is in custody asked for a lawyer, police must cease contact unless contact is initiated by the suspect; Minnick v. Mississippi (see bulletin no. 152) where police re-contacted MINNICK, who was still in custody, without affording him opportunities to contact a lawyer; and Alaska's Kochutin v. State (see bulletin no. 186) where police waited a year after KOCHUTIN invoked Miranda and interviewed him again. His statement was upheld because he was not in "continuous custody."

Here, the U.S. Supreme Court adopts what is referred to as the "14-Day" rule.

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