



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 219
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INTERVIEW BECOMES CUSTODIAL WHEN THREAT
TO ARREST FOR ANOTHER CRIME IS MADE

Reference: Brian A. Aningayou
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 1558
P.2d
December 5, 1997

FACTS:

During the early morning hours, a person broke a window to the St. Lawrence residence of E.M. The suspect, who cut his hand in the process, entered the residence and brutally raped E.M. E.M. could not identify her attacker, but reported that he was wearing a hat with the word "Sonics" written on it.

Trooper investigators later identified Aningayou as a person who owned such a hat. During the initial interview, which took place at his residence, Aningayou told the trooper that he had traded his "Sonics" hat to an unknown person for some whiskey the night before the rape. Aningayou also had a cut on his hand, but stated he had received the injury as a result of a four-wheeler accident. Based on the initial description furnished by E.M., the trooper did not suspect Aningayou of committing the attack; he did, however, feel that Aningayou knew who had the hat.

Sometime later, the trooper returned to Aningayou's residence to conduct another interview. Aningayou agreed to accompany the trooper to the Magistrate's office located on the second floor of the city office building. Aningayou and the trooper rode to the Magistrate's office on a four-wheeler belonging to a village police officer.

The trooper thought that Aningayou was protecting the person with whom he had traded his hat. During the interview, the trooper accused Aningayou of hindering prosecution of the case by withholding the name of the person he gave the hat to. The trooper then said, "...if you don't cooperate, I'm telling you right now that you can go to jail."

Shortly thereafter, Aningayou said, "It's me." When the trooper realized that Aningayou was identifying himself as the rapist, he proceeded to advise Aningayou of his Miranda rights. Aningayou confessed.

ISSUES:

Did the interview become custodial for purposes of Miranda when the trooper threatened to arrest Aningayou for hindering prosecution? Should the statements made by Aningayou after the threat was made be suppressed?

HELD: Yes to both issues.

REASONING:

1. A reasonable person in Aningayou's position would interpret the trooper's remarks as requiring Aningayou to respond concerning who had the hat.

2. Although it appears that the trooper was questioning Aningayou as a witness and not as a suspect, a reasonable person in Aningayou's position would not have felt he was free to leave nor to break off questioning.

3. A determination of custody for Miranda purposes is an objective test--would a reasonable person believe he or she was not free to leave or to break off questioning? (Hunter v. State, 590 P2d 888; emphasis added)

NOTES:

Over the last several years, the Court of Appeals has ruled in a number of cases that police have failed to advise suspects of their Miranda rights. Several of these cases involve statements taken at police stations where officers have assured suspects that they were not under arrest and were free to go. Unfortunately, the actions of the officer(s) conducting the interviews demonstrate to the "reasonable objective person" that the suspect is in custody.

When in doubt, advise your suspect of his or her Miranda rights. By doing so, you are also demonstrating that you are treating suspects fairly. Review of Section P of the Alaska Legal Briefs Manual is suggested.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section P, "Right to Counsel and Waivers during Custodial Interviews," of your Contents and Text. File Legal Bulletin No. 219 numerically under Section R of the manual.