



DPS TRAINING BULLETIN



LEGAL BULLETIN NO. 355

July 11, 2011

AGE OF CHILD SUBJECTED TO POLICE QUESTIONING IS RELEVANT TO CUSTODY ANALYSIS OF MIRANDA

Reference:

J.D.B.
v.
North Carolina

United States Supreme Court
No. 09-11121
_____ U.S. _____
June 16, 2011

FACTS:

J.D.B., a 13-year-old seventh grader student was seen near the site of two home break-ins. Police contacted him and interviewed him at the scene and later the same day. The police also spoke with his grandmother, who was J.D.B.'s legal guardian.

Five days later, after a digital camera matching one of the stolen items was found at J.D.B.'s school and seen in his possession, a police investigator assigned to the juvenile bureau went to the school where he contacted the police resource officer assigned to the school and an assistant principal. The investigator said he wanted to interview J.D.B. about the burglaries. The uniformed officer assigned to the school took J.D.B. from his classroom to a closed-door conference room, where police and school administration questioned him for at least 30 minutes. J.D.B. was not given his Miranda warnings or the opportunity to call his grandmother, nor did they tell him he was free to leave the room.

J.D.B. initially denied his involvement, but later confessed after the assistant principal encouraged him to "do the right thing"; and being warned by the police investigator of the prospect of juvenile detention and separation from his guardian primary care giver. After learning of the prospect of juvenile detention, J.D.B. confessed that he and a friend were responsible for the break-ins. The police investigator then informed J.D.B. that he could refuse to answer questions and that he was free to leave. J.D.B. wrote a statement at the request of the investigator. J.D.B. was allowed to leave and to catch the bus home.

J.D.B. was charged as a juvenile and his lawyer argued that (1) police must view Miranda warnings and "knowing intelligent" waiver different with juveniles, and (2) for purposes of Miranda J.D.B. was in custody during their interrogation. This bulletin will address only the age of the child as it pertains to Miranda. The U.S. Supreme Court has remanded the "custody" issue back to the lower courts.

ISSUE:

Is the age of a child subjected to police questioning relevant to the custody analysis of Miranda v. Arizona?

Held. Yes. It is beyond dispute that children will often feel bound to submit to police questioning when an adult in the same circumstances would feel free to leave.

REASONING:

1. Two inquiries are essential to determine if a person is in custody for Miranda purposes: first, what are the circumstances surrounding the interrogation; and second, given those circumstances, would a reasonable person have felt he or she was at liberty to terminate the interrogation and leave.
2. In some circumstances, a child's age "would have affected how a reasonable person" in the suspect's position would perceive his or her freedom to leave.
3. A reasonable child subjected to police questioning will sometimes feel pressure to submit when a reasonable adult would feel free to go.
4. The law has historically reflected the same assumption that children characteristically lack the capacity to exercise mature judgment and possess only an incomplete ability to understand the world around them.
5. 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.

NOTES:

Alaska has addressed a number of issues involving juvenile waiver issues. Here are a few examples: Quick v. State (no bulletin) where the court is directed to consider such factors as age, intelligence, length of questioning, education, mental state at the time of waiver, and whether there had been a prior opportunity to consult with a parent, guardian or attorney; Warden v. Alvarado, bulletin no. 281, non-custodial interview does not require Miranda warnings; State v. Ridgley, knowing intelligent waiver of juvenile with IQ of 78 upheld; State v. J.R.N., bulletin 182, upholding juvenile right to waive Miranda and Alaska Delinquency Rule 7(b) requiring police to contact parent or guardian before interview; and Kalmakoff v. State, bulletin 334 where violations of Miranda during several interviews does not require supervision of statements made when police did give proper warnings.

A review of section P, right to counsel and waivers during custodial interviews, selected juvenile cases of the manual is recommended.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEF MANUAL:

File Legal Bulletin No. 355 numerically under Section R of the manual.