# DEPARTMENT OF PUBLIC SAFETY

## TRAINING ACADEMY

LEGAL BULLETIN NO. 95
September 23, 1985

## KNOWING AND INTELLIGENT WAIVER OF MIRANDA BY JUVENILE

Reference: James A. RIDGELY, Jr.
William G. PLUMLEY
Shelley Ann BOSCH
v.
State of Alaska

Alaska Court of Appeals
Opinion No. 503
924 P.2d 705
September 6, 1985

FACTS:

RIDGELY, PLUMLEY and BOSCH were tried and convicted for the murder of a female they had lured into a trailer on the pretense of inviting her to dinner. After the murder, they stole the victim's vehicle and drove it to Anchorage from the area of Talkeetna where the murder occurred. PLUMLEY was operating the car in an erratic manner and was subsequently stopped by Anchorage police. The three persons in the vehicle told the officers they had "found" the car in Talkeetna.

PLUMLEY was arrested for reckless driving; RIDGELY and BOSCH were arrested for "joy riding." At different times over a two-day period (5:30 a.m. on August 22nd and again the day of August 23rd), the three suspects were interviewed by police officers. All three subsequently gave statements admitting their involvement in the murder. The statements were used at their trials and all of them appealed.

The Appellate Court found the confessions of BOSCH and PLUMLEY to be voluntary. The court found the confession given by RIDGELY to be not voluntary. On remand, the trial court is to determine if the confessions given by BOSCH and PLUMLEY were derived by the illegal confession given by RIDGELY.

This bulletin will deal with RIDGELY.

On the day of his arrest, RIDGELY was sixteen years old. He was a "poor student" completing only the ninth grade. His full-scale I.Q. is 78, which places him in the borderline mentally-deficient range. At the time of his arrest, he had been up all night and there was reason to believe he was under the influence of LSD.

Later in the day (about 3:00 p.m.), police officers again interviewed him. There is nothing in the record to suggest RIDGELY had been permitted to sleep and he told officers that he was "coming down" from a dose of LSD. RIDGELY was questioned for five hours; three hours elapsed before he had confessed. During the interrogation, police made little effort to ascertain his physical or mental condition. No attempt was made to record the three-hour portion of the interrogation prior to RIDGELY's confession.

RIDGELY's father was present and participated in questioning his son. Twice during the initial three-hour period of interrogation, the police read RIDGELY his Miranda rights. Twice RIDGELY responded by asking about the advisability or feasibility of obtaining an attorney. The police made a brief attempt in each instance to clarify RIDGELY's inquiries and RIDGELY responded that he preferred to proceed without counsel.

After three hours of questioning by his father and two officers, RIDGELY incriminated himself and his companions in the homicide. It was at this point that the officers starting using the tape recorder.

ISSUE:

Did RIDGELY make a knowing and intelligent waiver of his Miranda rights and was his confession voluntary?

HELD: No.

REASONING:

1. The picture of RIDGELY that emerges from the record is that of a young offender who, although obviously dangerous and profoundly antisocial, is immature, unsophisticated and severely limited in his intellectual ability. (emphasis added)

2. The myriad factors casting doubt on the voluntariness of his Miranda waiver and confession include his youth, poor levels of education, his apparent lack of sleep and consumption of drugs, his extremely agitated emotional state at the beginning of the interrogation, his repeated but abortive inquiries regarding counsel, the prolonged period of his detention incommunicado prior to interrogation, the lack of any demonstrated genuine concern for his welfare by his father, the presence of two police officers during the untaped interrogation and the lengthy period of interrogration prior to the initial confession.

3. Even though RIDGELY had been involved in the juvenile justice system on prior occasions (including being represented by counsel, there is nothing in the record to indicate whether he was previously subjected to custodial interrogation or whether he was capable of understanding the proceedings he was previously involved in.

4. If a recording of the full interrogation had been made and preserved, it would have borne directly on RIDGELY's mental state, the extent of his awareness, his ability to understand and his willingness to cooperate.

5. There was no apparent impediment to recording the full interrogation. This evidence was readily available to the State; the State had a duty to preserve it, but it failed to do so. (emphasis added)

NOTES:

The Appellate Court, in this case, is directing that all "custodial" statements taken by police from a defendant should be recorded in its entirety is unknown what effect this decision will have on those cases where "unrecorded" statements are taken in the field or enroute to the police station. The Alaska Supreme Court will make known what criteria must be used in recording statements in an upcoming opinion, HARRIS v. State. A bulletin will be issued on that case when it is published.