



On June 12, 1992, police obtained a search warrant for Skauen's home. Police contacted Motta around 11:30 a.m. at the mobile home. The officers did not tell Motta about the search warrant, but asked if he would be willing to come to the station again for another interview. Motta agreed to meet the officers and drove his own vehicle to the station.

Motta was not advised of his Miranda rights and was assured by officers that he was not under arrest and that he would be allowed to leave upon completion of the interview. The officers told Motta that police needed to search the trailer. Motta consented to the search and signed a waiver. Motta also gave officers a set of keys to both the trailer and his vehicle.

In the meantime, officers executing the search warrant at the trailer had discovered Skauen's body in a crawl space under the trailer. The officers decided to continue the interview without telling Motta of the discovery or advising him of his Miranda rights.

About three hours into the interview, the tone became confrontational. Officers told Motta the body had been discovered and they began to point out inconsistencies in his story. When officers had occasion to leave the interview room, they told him to "Just sit tight--relax." When Motta went to the lavatory, he was accompanied by one of the officers. At one point, Motta asked if he could get a pack of cigarettes from his car. One of the officers told Motta he would get the cigarettes for him. After the interview became accusatory, Motta confessed to killing Skauen and claimed he acted in self-defense.

Following the confession, officers told Motta he was not under arrest and was free to leave. Motta left the police station. He was kept under police surveillance while another officer obtained a warrant to arrest Motta for murder. The warrant was served on Motta about two hours after he left the police station. The confession was used at Motta's trial.

ISSUE:

At some point, did the interview held on June 12 become custodial for purposes of miranda?

HELD: Yes.

REASONING:

1. The test of Miranda custody is an objective one--a person is in custody when police say or do something "such that a reasonable

person would feel he was not free to leave and break off police questioning." (Hunter v. State of Alaska, 590 P.2d 888--no Legal Bulletin)

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)

3. An interrogation that is non-custodial at its inception may become custodial as it progresses. (Hass v. State of Alaska, 897 P.2d 1333--no Legal Bulletin)

4. Motta's interrogation of June 12 had clearly become confrontational by the time he confessed to police; accordingly, he should have been advised of his Miranda rights.

NOTES:

This case demonstrates that even though you may be saying the right words, such as "you are not under arrest" or "you are free to leave," those words may not match the picture. The court may feel you are not treating the suspect fairly and are attempting to circumvent the Miranda requirement. You may want to consider advising suspects of their Miranda rights if the interview is being conducted at a place of detention, such as in a police vehicle or at the police station.

The good part of this case was that Motta elected to testify at his trial and told the same story about self-defense, which the jury did not buy.

Review of Section P of your manual is recommended--especially the following:

Tagala v. State, Legal Bulletin No. 158--non-custodial interview of murder suspect at police station.

Moss v. State, Legal Bulletin No. 160--an interview of a suspect in his private residence becomes custodial.

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. 197 numerically under Section R of the manual.