
FLORIDA CASE LAW UPDATE 17-04

Case: Day v. State, 42 FLW D819a (Fla. 4th DCA)

Date: April 18, 2017

Subject: Suspect's waiver of his *Miranda* rights was valid, even though the suspect was not "in custody" at the time the advisement and waiver occurred

FACTS: The defendant voluntarily came to the police station to be interviewed regarding injuries sustained by his infant son. Before any questioning, the detective advised Day of his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966), and he responded that he understood his rights and agreed to answer questions. The interview went on for several hours, and eventually the defendant made incriminating statements which implicated him in the crime. At trial, Day moved to suppress his statements, arguing that while he was not "in custody" at the time of the initial questioning, the interrogation became custodial once the exchange became "confrontational and accusatory," and therefore the detective was required to re-advise him of his *Miranda* rights, and obtain a fresh waiver, at that time. The trial court denied the motion, and Day appealed.

RULING: The Fourth District Court of Appeal affirmed the trial court, and held that Day's statements were admissible under the circumstances.

DISCUSSION: Acknowledging that this case presents a "novel issue," the appellate court affirmed that the police are required to advise an in-custody suspect of their *Miranda* rights before commencing interrogation; however, *Miranda* warnings are not required in police-citizen encounters where the suspect is neither under arrest nor in custody (citing *Caldwell v. State*, 41 So.3d 188 (Fla. 2010)). The court noted that the purpose of *Miranda* warnings is to allow a defendant to make an intelligent and knowing waiver of their rights prior to speaking to the police, and a defendant who is not in custody is better equipped to intelligently make such a waiver than one who has experienced the stress of being arrested, handcuffed, transported to a police station, and placed into an interrogation room. Therefore, in Day's case, it is reasonable to conclude that the free and voluntary waiver of his rights before he was even in custody, and before any interrogation began, continued to be effective "even after the interrogation took on a more accusatory tone."

COMMENTS: This case is unique because defendants rarely argue that they were advised of their *Miranda* rights "too soon." The appellate court here provides a very reasonable and cogent analysis, astutely noting that to agree with Day's argument would be to place law enforcement in an impossible position: if they advised too early, before custody began, then the warnings would be ineffective; if given too late, a constitutional violation would occur. Accordingly, the court holds that "where the police administer warnings at the beginning of a non-custodial interview, it is unrealistic for the law to require them to determine the magical moment when custody commences, such that the warnings must be given again."

John E. Kemner
Regional Legal Advisor
Florida Department of Law Enforcement
Jacksonville Regional Operations Center

Officers should consult with their agency legal advisors to confirm the interpretation provided in this Update and to determine to what extent the case discussed will affect their activities.