

EXAMINERS' ANALYSIS OF QUESTION NO. 15

In *Miranda v Arizona*, 384 US 436 (1966), the United States Supreme Court held that the 5th Amendment's prohibition against "self-incrimination requires that the accused be given a series of warnings before being subjected to 'custodial interrogation.'" *People v Elliott*, 494 Mich 292, 301 (2013), citing *Miranda* at 444. The Court explained that "[t]he right to have counsel present during custodial interrogation is a corollary of the right against compelled self-incrimination, because the presence of counsel at custodial interrogation is one way in which to 'insure that statements made in the government-established atmosphere are not the product of compulsion.'" *Elliott*, supra, at 301, citing *Miranda* at 466, 470. Where custodial interrogation is done in the absence of *Miranda* warnings, the accused's statements may not be introduced into trial. *Miranda* at 444-445.

Given the foregoing, the issue is whether the scenario presented amounts to "custodial interrogation" as that term is understood from *Miranda* and its progeny. If found to be "custodial interrogation," the clear absence of warning renders James' statements inadmissible. On the other hand, if not custodial interrogation, the warnings were not required and therefore their absence would not call for suppression.

Miranda defines "'custodial interrogation' as '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.'" *Elliott*, at 305 citing *Miranda*, 384 US 436 at 444. Stated similarly, custodial interrogation occurs "during 'incommunicado interrogation of individuals in a police-dominated atmosphere'." *Illinois v Perkins*, 496 US 292, 296 (1990) quoting *Miranda*, 384 US 436 at 445. The concern is unwarned confessions in a police-dominated atmosphere that is said to generate inherently compelling pressures which work to undermine an individual's will to resist and to compel him to speak where he would not otherwise do so freely. The strictures of *Miranda* require adherence ". . . only in those types of situations in which the concerns that powered

the decision are implicated." *Perkins* at 296 quoting *Berkemer v. McCarty*, 468 US 420, 437 (1984).

The Supreme Court later explained that the sheer fact the accused was imprisoned or incarcerated is not determinative of whether *Miranda* custody exists. *Howes v. Fields*, 565 US ____ (2012); 132 S Ct 1181, 1190 (2012); and see *Maryland v. Shatzer*, 559 US 98, 111-112 (2010). Aside from simply being in custody/incarcerated, ". . . whether incarceration constitutes custody for *Miranda* purposes . . . depends upon whether it exerts the coercive pressure that *Miranda* was designed to guard against -- the danger of coercion [that] results from the interaction of custody and official interrogation." *Elliott*, 494 Mich 292 at 306 (quotation marks and internal citation omitted).

The applicable test therefore is not limited to whether the accused is in custody, but rather is a multifaceted analysis based on all the attendant circumstances. *Stansbury v. California*, 511 US 318, 322 (1994). Rather, the focus is to address two questions. First, ". . . whether in light of the objective circumstances of interrogation a reasonable person would have felt he or she was not at liberty to terminate the interrogation and leave." *Elliot* at 307 (quotation marks and internal citation omitted). Factors to be considered "include the location of the questioning, its duration, statements made during the interview, the presence or absence of physical restraints during the questioning and the release of the interviewee at the end of the questioning." *Id.* And second, ". . . whether the relevant environment presents the same inherently coercive pressures as the type of station house questioning at issue in *Miranda*." *Id.*

Applying these principles to the facts presented yields the conclusion that (1) James was not in custody for *Miranda* purposes; (2) therefore, any interrogation was not "custodial interrogation;" (3) with a lack of custodial interrogation, the questioning troopers were not obligated to provide James with *Miranda* warnings; and (4) their failure to do so does not require suppression of his statements.

On the question of whether a person in James' position would have been free to leave, the facts indicate the questioning was done in an open conference room, not some

closed-off side room in the bowels of the prison. The questioning lasted three hours, certainly not brief nor necessarily onerous. The facts are silent on the statements made other than James was told more than once he could go back to his cell if he wanted. James was not restrained and, at the interview's end, he was returned to his cell by prison personnel. On balance, a reasonable person in James' position would not believe he was not free to return to his cell.

On the second question, the scenario described has little if any similarities to the police station interrogation at issue in *Miranda*. The troopers were not in control of James' coming and going; prison guards were in control. The questioning troopers had no influence on James' release; he was serving a prison sentence unconnected to the topic at hand. Relatedly, the troopers had no ability to control where James went, no matter what he said. As stated in *Elliott*, this "is hardly the sort of incommunicado, police-dominated atmosphere involving custodial interrogation and the 'overbearing' of the subject's will toward which *Miranda* was directed." *Elliott*, 494 Mich at 313.

James' motion to suppress should be denied.