

EXAMINERS' ANALYSIS OF QUESTION NO. 4

Miranda v Arizona, 384 US 436 (1966), held that the Fifth Amendment's prohibition against compelled self-incrimination requires an accused subjected to custodial interrogation be given the following warnings before interrogation: "Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has the right to the presence of an attorney, either retained or appointed." *Id.* at 444.

The issue in this case is whether the officers' interview of Dorothy in her hospital bed constitutes custodial interrogation.

If there is custodial interrogation and it is not preceded by adequate warnings, any statement made during that interrogation may not be introduced in evidence at an accused's criminal trial. *Miranda*, 384 US at 444-445. If there is no custodial interrogation then the statement can be admitted into evidence. *People v Hill*, 429 Mich 382, 391 (1987).

Not all restraints on freedom of movement amount to custody. *Ill v Perkins*, 496 US 292, 296 (1990); *Berkemer v McCarty*, 468 US 420, 437 (1984); *Hill*, 429 Mich at 397-398; *People v Elliott*, 494 Mich 292, 302-303 (2013). Custodial interrogation is "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." *Miranda*, 384 US at 444. The test is whether the relevant environment presents the same inherently coercive pressures as the type of station house questioning at issue in *Miranda*. *Elliott*, 492 Mich at 305-306.

"Custody" is a term of art which specifies circumstances that present a serious danger of coercion or product of compulsion. *Miranda*, 384 US at 466. To determine whether a person is in custody, the court must determine, in light of objective circumstances of the interrogation, whether a reasonable person would have felt he or she was at liberty to terminate the interrogation and leave. *Elliott*, 492 Mich at 307. Courts are required to examine all the circumstances surrounding the interrogation. *Id.* Relevant factors include (a) the location of the questioning, (b) the duration, (c)

statements made during the interview, (d) the presence or absence of physical restraints during the questioning, and (e) the release of the interviewee at the end of the questioning. *Id.*

"Custody" depends upon whether the coercive pressure of *Miranda* results from the interaction of custody and official interrogation. *Elliott*, 492 Mich at 306; *Maryland v Shatzer*, 559 US 98, 112 (2010).

The first constitutional step is to determine whether an individual's freedom of movement was curtailed, i.e. "taken into custody or otherwise deprived of his freedom of action in any significant way." *Miranda*, 384 US at 444. Next, if so, the court should inquire whether the relevant environment presents the same inherently coercive pressures as does the station house questioning of *Miranda*. *Elliott*, 492 Mich at 307.

Custodial interrogation occurs "during 'incommunicado interrogation of individuals in a police-dominated atmosphere.' That atmosphere is said to generate 'inherently compelling pressures which work to undermine the individual's will to resist and to compel him to speak where he would not otherwise do so freely.' " *Ill v Perkins*, 496 US 292, 296 (1990) quoting *Miranda*, 384 US at 445, 467.

In this instance, Dorothy was in a hospital not the police station. Dorothy was in bed due to medical reasons, her wound, and was getting treatment for it. The door to her room was open. The issue of her or the police leaving was not mentioned. The police did not prevent anyone else from coming into the room. Her family was close by in the hospital. It was a relatively short interview. The better conclusion is that there is no custodial interrogation. However, if the answer factually concludes Dorothy's inability to move coupled with medication and police questioning presented the inherently coercive pressures of station-house questioning, a point may be awarded.