Juvenile Law Case Summaries

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Juvenile was not in custody when he confessed to arson [In re R.M.F.] (02-1-22).

On February 6, 2002, the San Antonio Court of Appeals held that a juvenile voluntarily accompanied an arson investigator to his office and was not in custody when he gave a written statement confessing to arson.

02-1-22. In the Matter of R.M.F., UNPUBLISHED, No. 04-00-00538-CV, 2001 WL 184336, 2001 Tex.App.Lexis ___ (Tex.App.-San Antonio 2/6/02) [Texas Juvenile Law (5th Edition 2000).

Facts: This appeal concerns the admissibility of a juvenile's written statement. R.M.F., a juvenile, complains that the trial court erred in denying his motion to suppress a written statement he made during an arson investigation, claiming the statement was taken without admonishing him of his rights in accordance with section 51.095 of the Texas Family Code. Because we hold that R.M.F. was not in custody when he gave his statement, officials were not required to comply with the requirements of section 51.095 when taking the child's statement. We affirm the trial court's ruling.

On May 27, 1999, Eddie Martin's home was seriously damaged by a fire. Frank Rodriguez Jr., an arson investigator for the City of San Antonio Fire Department, investigated Martin's fire and determined that it was caused by arson. During the course of the investigation, Rodriguez, following a lead, met with R.M.F., a 15-year-old, to learn what he knew about the fire. Rodriguez spoke briefly to R.M.F. and his mother at their residence, and invited them to come to the arson office to discuss the fire further. [FN1] R.M.F.'s mother declined the invitation, but expressly consented to Rodriguez taking her son to the office for questioning. R.M.F. willingly accepted Rodriguez's invitation. Rodriguez gave R.M.F.'s mother a number where her son could be reached, and told her that he [Rodriguez] would return the boy once they were finished.

FN1. Rodriguez testified that the arson office was approximately 10 to 15 minutes, or between 10 and 15 miles, from R.M.F.'s home.

R.M.F. and Rodriguez drove together to the office in an unmarked police car. R.M.F. sat next to Rodriguez in the front seat of the vehicle and was not handcuffed.

Upon their arrival at the office, R.M.F. and Rodriguez sat in one of the office's interview rooms. No one was in the room except for R.M.F. and Rodriguez. Rodriguez told R.M.F. that he was not under arrest and was free to leave the interview at any time. Shortly thereafter, R.M.F. provided Rodriguez with a written statement implicating both himself and a friend in the arson and burglarizing of Martin's home. The statement made R.M.F. a suspect, although this was never conveyed to R.M.F. at any time. In his statement, R.M.F. declares that "I know that I am not under arrest. I came to the arson office voluntarily and know that I can leave anytime I want." Once Rodriguez had obtained R.M.F.'s statement, he immediately returned the child to his home. [FN3]

FN3. R.M.F. exhibited a cool, calm demeanor throughout the two hour interview with Rodriguez, and at no time did he ask to speak with his mother.

R.M.F. was subsequently indicted for engaging in delinquent conduct. Prior to trial, R.M.F. filed a motion to suppress his statement because Rodriguez failed to admonish him of his rights before taking his statement. See Tex. Fam.Code Ann. § 51.095 (Vernon Supp.2001). R.M.F. claims that because Rodriguez had him "in custody," Rodriguez was required to admonish him in accordance with section 51.095 of the Family Code before taking his statement. R.M.F. contends Rodriguez's failure to comply with section 51.095 rendered his statement inadmissible.

At the hearing on the motion to suppress, the trial court determined that: (1) R.M.F. voluntarily agreed to give a statement; (2) R.M.F.'s mother consented to her son giving a statement; (3) R.M.F. voluntarily accompanied Rodriguez to the arson office for the purpose of

giving a statement; (4) R.M.F. was advised that he could leave the interview at any time; (5) R.M.F. was not handcuffed; (6) R.M.F. rode to the arson office in the front seat of an unmarked patrol car; (7) Rodriguez advised R.M.F. that he was not under arrest; and (8) R.M.F.'s statement was freely and voluntarily given. Based on these findings, the trial court denied R.M.F.'s motion. A jury later found R.M.F. guilty of the charged offense and the court committed the child to the Texas Youth Commission.

Held: Affirmed.

Opinion Text: In a single point of error, R.M.F. challenges the admissibility of his written statement. R.M.F. asserts that the statement is inadmissible because Rodriguez never complied with the requirements of section 51.095 of the Family Code. [FN4] See Tex. Fam.Code Ann. § 51.095. In response, the State argues that R.M.F. was not in custody at the time he gave his statement. Because R.M.F.'s statement did not arise from custodial interrogation, the State contends it was never required to comply with section 51.095 in this instance. We hold that the record supports the State's argument.

FN4. Section 51.095 provides a list of admonishments that must be provided to a juvenile before a statement can be obtained from the child in a custodial environment. See Tex. Fam.Code Ann. § 51.095.

STANDARD OF REVIEW

Motions to suppress are subject to a bifurcated standard of review. Carmouche v. State, 10 S.W.3d 323, 327 (Tex.Crim.App.2000). We give almost total deference to the trial court's determination of historical facts; however, we review the trial court's application of the law to these facts de novo. Guzman v. State, 955 S.W.2d 85, 88-89 (Tex.Crim.App.1997). The historical facts of this case are undisputed; therefore, we review the trial court's admission of R.M.F.'s statement under a de novo standard. Id.

CUSTODY

The admissibility of a statement given by a juvenile is controlled by section 51.095 of the Family Code. See Tex. Fam.Code Ann. § 51.095. A juvenile's statement is inadmissible if it is taken during custodial interrogation without the admonishments required by this section. Id. at (a). However, section 51.095 does not preclude the admission of a juvenile's statement if the statement does not stem from custodial interrogation. Id. at (b).

Custodial interrogation is questioning initiated by law enforcement after a person has been taken into custody or otherwise deprived of his freedom in any significant way. Cannon v. State, 691 S.W.2d 664, 671 (Tex.Crim.App.1985). In determining whether an individual is in custody, a two-step analysis is employed. First, a court examines all the circumstances surrounding the interrogation to determine whether there was a formal arrest or restraint of freedom of movement to the degree associated with a formal arrest. Stansbury v. California, 511 U.S. 318, 322 (1994). This initial determination focuses on the objective circumstances of the interrogation, not on the subjective views harbored by either the interrogating officers or the individual being questioned. Id. at 323. Second, a court considers in light of the given circumstances whether a reasonable person would have felt he or she was at liberty to terminate the interrogation and leave. Thompson v. Keohane, 516 U.S. 99, 112 (1995). Traditionally, courts considered four factors in making this determination: (1) whether probable cause to arrest existed at the time of questioning; (2) subjective intent of the police; (3) focus of the investigation; and (4) subjective belief of the defendant. Dowthitt v. State, 931 S.W.2d 244, 254 (Tex.Crim.App.1996). Under Stansbury, however, the subjective intent of both the police and the defendant is irrelevant except to the extent that intent may be manifested in the words or actions of the investigating officials. Id. The custody determination is based entirely upon objective circumstances. [FN5] Id.; see also In re L.M., 993 S.W.2d 276, 289 (Tex.App.-Austin 1999, pet. denied) and Jeffley v. State, 38 S.W.3d 847, 855 (Tex.App.-Houston [14th Dist.] 2001, pet. ref'd) (holding a juvenile is in custody for purposes of determining admissibility of his statement, if, based upon the objective circumstances, a reasonable child of the same age would believe his freedom of movement was significantly restricted).

FN5. When the circumstances show that the individual acts upon the invitation or request of the police and there are no threats, express or implied, that he will be forcibly taken, then that person is not in custody at that time. Dancy v. State, 728 S.W.2d 772, 778-89 (Tex.Crim.App.1987). Also, it is important to note that station-house questioning does not, in and of itself, constitute custody. Dowthitt, 931 S.W.2d at 255. Neither does being the focus of the investigation. Stansbury, 511 U.S. at 324. Even a clear statement by an officer that the person under interrogation is the prime suspect is not in itself dispositive of the custody issue, for some suspects are free to come and go until the police decide to make an arrest. Id. at 325.

R.M.F. cites to In re S.A.R., 931 S.W.2d 585 (Tex.App.-San Antonio 1996, writ denied), in support of his argument that he was in custody at the time he gave his statement. In that case, a juvenile was taken to the police station by four officers in a marked patrol car. Id. at 587. Once at the station, the juvenile was photographed, fingerprinted, informed she was a suspect, and placed in a ten-by-ten room with three officers for questioning. Id. The court determined that a reasonable person would have believed that her freedom of movement had been significantly curtailed under the circumstances. Id. Thus, the court held that whether viewed subjectively or objectively, the juvenile was in custody at the time she gave her statement. Id.

Body

The present matter, however, is clearly distinguishable from In re S.A.R. Here, we have a juvenile who voluntarily agreed to go to the arson office with the investigator to give a statement--the child even had his mother's consent. The child rode to the station in the front seat of an unmarked patrol car with only one officer. He was never handcuffed, photographed, fingerprinted, told that he was a suspect, or placed in as intimidating an environment as S.A.R. More importantly, R.M.F. was instructed that he was not under arrest and was free to leave at any time. In light of these facts, we believe R.M.F.'s case is more analogous to In re M.R.R., 2 S.W.3d 319, 324 (Tex.App.-San Antonio 1999, no pet.), where we held that a juvenile was not in custody when the child: (1) voluntarily agreed to make a statement; (2) was not handcuffed; (3) rode to the police station in a police car; and (4) was informed that she was not under arrest and was free to leave at any time.

In this case, R.M.F. emphasizes that he was "in custody" because Rodriguez took him 15 miles from his home, without his mother, for a two-hour interview in an eight-by-ten room. Absent from this case, however, is evidence that R.M.F. was subjected to procedures customarily associated with being "in custody." Also absent is evidence indicating that R.M.F.'s freedom of movement was restrained in any way. Thus, under the circumstances, a reasonable person, be it a child or an adult, would have believed that he was at liberty to terminate the interview and leave. Because we hold that R.M.F. was not in custody when he gave his statement, Rodriguez did not need to comply with the requirements of section 51.095 of the Family Code before taking the child's statement. R.M.F.'s challenge is therefore overruled.

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