

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

United States v. Pence

United States v. Pence · No. 24-1025-cr · Decided April 10, 2026

SUMMARY

The United States Court of Appeals for the Second Circuit affirmed Christopher Pence's conviction for using a facility of interstate commerce in connection with murder-for-hire. The court held that Pence was not in custody for purposes of Miranda when he made pre-warning statements to FBI agents during questioning outside his home. The court concluded that, considering the totality of the circumstances, a reasonable person would not have understood the encounter as equivalent to formal arrest.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Chin, Circuit Judge; Cabranes, Circuit Judge; Robinson, Circuit Judge
JURISDICTION	United States Court of Appeals for the Second Circuit
DECIDED	April 10, 2026
DOCKET	24-1025-cr
DISPOSITION	affirmed
PROCEDURAL POSTURE	Pence appealed from a judgment of conviction entered after a conditional guilty plea, challenging the denial of his motion to suppress pre-Miranda statements made during an FBI interrogation.
STANDARD OF REVIEW	The court reviews factual findings underlying a suppression ruling for clear error, viewing the evidence in the light most favorable to the Government, and reviews the district court's legal conclusions de novo.
PRECEDENTIAL VALUE	Published Second Circuit opinion; precedential.
PARTIES	Christopher Pence v. United States of America

TOPICS

- miranda rights
- fifth amendment
- suppression of evidence
- criminal procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Pence was in custody for purposes of Miranda when he made incriminating statements before receiving Miranda warnings.
2. Whether the Second Circuit should abandon the objective reasonable-person standard for determining Miranda custody or remand for consideration by human-behavior experts.

HOLDINGS

1. Pence was not in custody for purposes of Miranda when he made his pre-warning statements. Considering the totality of the circumstances, a reasonable person in his position would not have believed that he was under formal arrest, not free to leave, or subject to restraints equivalent to formal arrest.
2. The court declined to abandon the reasonable-person standard and declined to remand for expert testimony because Miranda custody is an objective legal question.

KEY QUOTATIONS

“(1) the interrogation’s duration; (2) its location (e.g., at the suspect’s home, in public, in a police station, or at the border); (3) whether the suspect volunteered for the interview; (4) whether the officers used restraints; (5) whether weapons were present and especially whether they were drawn; and (6) whether officers told the suspect he was free to leave or under suspicion.” (11)

*“While this case presents a close call, on the facts accepted by the district court and viewing the evidence in the light most favorable to the government, see *Worjloh*, 546 F.3d at 108, we are persuaded that Pence was not in “custody” for purposes of Miranda.” (15)*

FACTUAL BACKGROUND

FBI agents executed a search warrant at Pence’s Utah home based on evidence linking him to an attempted murder-for-hire scheme. After the agents entered and secured the home, Pence agreed to speak with them in an FBI vehicle outside, was not handcuffed, and was told he was not under arrest and was not required to answer questions. After approximately two hours of questioning, including confrontation with incriminating evidence, Pence confessed before receiving Miranda warnings; he continued speaking after later receiving the warnings.

PROCEDURAL HISTORY

A grand jury indicted Pence on one count of using a facility of interstate commerce in connection with murder-for-hire, in violation of 18 U.S.C. § 1958(a). After an evidentiary hearing, the district court denied his motion to suppress statements made before Miranda warnings, finding by a preponderance of the evidence that he was not in custody when he confessed. Pence entered a conditional guilty plea, was sentenced to seven years’ imprisonment followed by three years of supervised release, and appealed.

DISPOSITION

affirmed

CASES CITED

- United States v. Worjloh, 546 F.3d 104, 108 (2d Cir. 2008)
- United States v. Rodriguez, 356 F.3d 254, 257-59 (2d Cir. 2004)
- Miranda v. Arizona, 384 U.S. 436, 478-79 (1966)
- United States v. Rommy, 506 F.3d 108, 132-34 (2d Cir. 2007)
- United States v. FNU LNU, 653 F.3d 144, 148 (2d Cir. 2011)
- United States v. Newton, 369 F.3d 659, 671 (2d Cir. 2004)
- California v. Beheler, 463 U.S. 1121, 1124 (1983)
- United States v. Faux, 828 F.3d 130, 132 n.2, 135, 138-39 (2d Cir. 2016)
- J.D.B. v. North Carolina, 564 U.S. 261, 270-71 (2011)
- United States v. Burke, 700 F.2d 70, 83-84 (2d Cir. 1983)
- United States v. Schaffer, 851 F.3d 166, 174-76 (2d Cir. 2017)
- United States v. Hall, 421 F.2d 540, 545-46 (2d Cir. 1969)
- United States v. Hall, 459 F.2d 454 (2d Cir. 1972)
- United States v. Jabar, 19 F.4th 66, 74, 83-84 (2d Cir. 2021)
- United States v. Badmus, 325 F.3d 133, 135-36, 138-39 (2d Cir. 2003)

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