

SUPREME COURT OF WISCONSIN

State v. Hambly

745 N.W.2d 48 (Wis. 2008); 2008 WI 10 · No. 2005AP3087-CR · Decided February 7, 2008

SUMMARY

The Supreme Court of Wisconsin affirmed Scott M. Hambly's conviction for delivering cocaine and upheld the denial of his motion to suppress inculpatory statements. The court held that Hambly effectively invoked his Fifth Amendment Miranda right to counsel while in custody and before interrogation, but that the officer's subsequent statements did not constitute interrogation. The court further concluded that Hambly initiated communication and voluntarily, knowingly, and intelligently waived his right to counsel.

CASE DETAILS

COURT	Supreme Court of Wisconsin
WRITING FOR THE COURT	Shirley S. Abrahamson, C.J.; Ann Walsh Bradley, J.; N. Patrick Crooks, J.; Louis B. Butler, Jr., J.; Patience Drake Roggensack, J.; David T. Prosser, J.
JURISDICTION	Wisconsin
DECIDED	February 7, 2008
DOCKET	2005AP3087-CR
DISPOSITION	affirmed
PROCEDURAL POSTURE	Review of a published court of appeals decision affirming a Washington County circuit court judgment of conviction and the denial of Hambly's motion to suppress inculpatory statements.
STANDARD OF REVIEW	Historical or evidentiary facts are upheld unless clearly erroneous. Whether those facts satisfy constitutional principles is reviewed independently as a question of constitutional fact.
PRECEDENTIAL VALUE	Published Wisconsin Supreme Court opinion; binding precedent, although the temporal standard for anticipatory invocation was not definitively resolved.
PARTIES	Scott M. Hambly v. State of Wisconsin

TOPICS

miranda rights

right to counsel

suppression of evidence

fifth amendment

criminal procedure

PRACTICE AREAS

criminal procedure

constitutional law

criminal defense

evidence

QUESTIONS PRESENTED

1. Whether Hambly effectively invoked his Fifth Amendment Miranda right to counsel by requesting an attorney while in custody but before formal interrogation.
2. Whether Detective Rindt's explanation of the reason for Hambly's arrest constituted express questioning or its functional equivalent under *Rhode Island v. Innis*.
3. Whether Hambly initiated further communication after invoking counsel and voluntarily, knowingly, and intelligently waived his Miranda right to counsel.

HOLDINGS

1. Hambly effectively invoked his Fifth Amendment Miranda right to counsel when, after being taken into custody, he unequivocally requested an attorney before interrogation. The court resolved the case under both the anytime-in-custody standard and the imminent-or-impending-interrogation standard, but the lead opinion did not definitively choose between those competing temporal standards.
2. Rindt's statement explaining that Hambly was under arrest because he had sold cocaine to an informant did not constitute express questioning or the functional equivalent of express questioning.
3. After invoking his right to counsel, Hambly initiated further communication with police by stating that he did not understand why he was under arrest and seeking information about his situation and options.
4. Hambly voluntarily, knowingly, and intelligently waived his right to counsel after initiating communication, making his inculpatory statements admissible.

KEY QUOTATIONS

"An invocation of the Fifth Amendment Miranda right to counsel is a defendant's request for the assistance of an attorney "in dealing with custodial interrogation by the police."" (51-52)

"The "functional equivalent of express questioning" (sometimes referred to in the cases and the literature as the "functional equivalent of interrogation") means "any words or actions on the part of the police (other than those normally attendant to arrest and custody) that the police should know are reasonably likely to elicit an incriminating response."" (61)

"Rindt's statement would not be viewed by an objective observer as the type of comment that would encourage the defendant to make some incriminating remark." (66)

"A Miranda waiver is voluntary if it is "the product of a free and deliberate choice rather than intimidation, coercion, or deception."" (70)

*"After the defendant effectively invoked his Fifth Amendment Miranda right to counsel, police interrogation, unless initiated by the defendant, would violate *Edwards v. Arizona*." (72)*

FACTUAL BACKGROUND

Detectives approached Hambly outside his apartment and repeatedly sought to speak with him about drug transactions without arresting him. After Hambly refused, Detective Rindt arrested and handcuffed him; while being taken to the squad car, Hambly requested an attorney. In the squad car, Hambly asked why he was under arrest, and Rindt explained that police believed Hambly had sold cocaine to an informant. Rindt then gave Miranda warnings, Hambly signed a waiver, and during a subsequent interview admitted selling cocaine to the informant.

PROCEDURAL HISTORY

Hambly was charged with three counts of delivering cocaine. The circuit court denied his motion to suppress statements made to Detective Rindt, concluding that Hambly had invoked his Miranda right to counsel but later initiated substantive communication and knowingly and intelligently waived the right. A jury convicted him of one count, and the court of appeals affirmed the conviction and denial of suppression. The Wisconsin Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Edwards v. Arizona, 451 U.S. 477 (1981)
- McNeil v. Wisconsin, 501 U.S. 171 (1991)
- Rhode Island v. Innis, 446 U.S. 291 (1980)
- Oregon v. Bradshaw, 462 U.S. 1039 (1983)
- Miranda v. Arizona, 384 U.S. 436 (1966)
- State v. Collins, 122 Wis. 2d 320, 363 N.W.2d 229 (Ct. App. 1984)
- United States v. LaGrone, 43 F.3d 332 (7th Cir. 1994)
- United States v. Kelsey, 951 F.2d 1196 (10th Cir. 1991)
- State v. Kramer, 2006 WI App 133, 294 Wis. 2d 780, 720 N.W.2d 459
- State v. Hassel, 2005 WI App 80, 280 Wis. 2d 637, 698 N.W.2d 270
- State v. Cunningham, 144 Wis. 2d 272, 423 N.W.2d 862 (1988)
- State v. Bond, 2001 WI 56, 243 Wis. 2d 476, 627 N.W.2d 484
- Hill v. United States, 858 A.2d 435 (D.C. Cir. 2004)
- State v. Jennings, 2002 WI 44, 252 Wis. 2d 228, 647 N.W.2d 142
- Moran v. Burbine, 475 U.S. 412 (1986)
- Smith v. Illinois, 469 U.S. 91 (1984)
- Escobedo v. Illinois, 378 U.S. 478 (1964)
- State v. Turner, 136 Wis. 2d 333, 401 N.W.2d 827 (1987)
- State v. Kramar, 149 Wis. 2d 767, 440 N.W.2d 317 (1989)

