

SUPREME COURT OF GEORGIA

State v. Darby, 284 Ga. 271

663 S.E.2d 160 (2008) · No. No. S08A0658 · Decided June 30, 2008

SUMMARY

The Supreme Court of Georgia addressed the admissibility of statements made after the defendant invoked his right to counsel. The court held that police improperly reinitiated interrogation and that the defendant's prior waiver was not knowing and intelligent because officers had incorrectly represented that signing a waiver was required to give his side of the story. The court affirmed in part and reversed in part, holding that portions of a videotaped conversation with the defendant's mother unrelated to the illegal interrogation could be admissible.

CASE DETAILS

COURT	Supreme Court of Georgia
WRITING FOR THE COURT	Carley, Justice
JURISDICTION	Georgia
DECIDED	June 30, 2008
DOCKET	No. S08A0658
DISPOSITION	other
PROCEDURAL POSTURE	The State appealed from a pretrial order suppressing the defendant's custodial statements and a videotaped conversation with his mother.
STANDARD OF REVIEW	The court reviewed the suppression ruling under the totality of the circumstances, with deference to the trial court's factual findings and credibility determinations when supported by the evidence.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	State v. Darby

TOPICS

right to counsel miranda rights suppression of evidence criminal procedure evidence

PRACTICE AREAS

criminal procedure constitutional criminal procedure evidence

QUESTIONS PRESENTED

1. Whether Darby's statements during the initial interrogation were admissible after he invoked his right to counsel and signed a Miranda waiver only after being incorrectly told that a waiver was required to tell his side of the story.
2. Whether the subsequent interrogation was barred by Edwards because police initiated the conversation after Darby had invoked his right to counsel.
3. Whether the entire videotaped conversation with Darby's mother was inadmissible as the product or fruit of the unlawful interrogation.

HOLDINGS

1. After Darby invoked his right to counsel, his responses to further police questioning were admissible only if he initiated further discussions and knowingly and intelligently waived the invoked right. The trial court was authorized to find that Darby's waiver was not knowing and intelligent because officers incorrectly represented that signing the waiver was a precondition to telling his side of the story.
2. The trial court was authorized to find that Officer Adkison, rather than Darby, reinitiated interrogation in violation of Edwards by initiating a conversation about the preliminary hearing that was reasonably likely to evoke an incriminating response. The subsequent statement was therefore inadmissible.
3. The trial court erred by excluding the videotape in its entirety. Only the portion of the conversation that was, in effect, a recap of the illegal interrogation was inadmissible; dialogue between Darby and his mother before the officer recited the contents of the illegal interrogation remained admissible.

KEY QUOTATIONS

"Once Darby invoked the right to counsel, his responses to further questioning by Officers Simms and Walker may be admitted only on finding that he (a) initiated further discussions with the police, and (b) knowingly and intelligently waived the right he had invoked." (162)

"The trial court, having considered the totality of the circumstances and assessing the credibility of Officer Adkison's testimony, was authorized to find that, in violation of Edwards, the police, rather than Darby, reinitiated interrogation after he invoked his Sixth Amendment right to counsel." (163)

"If, under Edwards, Darby's statement would not be admissible directly, it could not be admitted indirectly in the form of Officer Adkison's recital on the videotape of what Darby had said to him during the illegal interview, followed by a discussion between Darby and his mother of his inculpatory admissions." (164)

FACTUAL BACKGROUND

Nineteen-year-old Damorrial Darby surrendered to police in connection with a fatal shooting and was arrested and questioned after receiving Miranda warnings. He initially requested a lawyer, but officers told him he had to sign a waiver before telling his side of the story; he then signed a waiver and made an exculpatory statement before again invoking counsel. Later, another officer transported him for a preliminary hearing, initiated conversation about the hearing, and questioned him without obtaining a new express waiver, resulting in an

inculpatory statement. During a subsequent videotaped meeting with Darby's mother, the officer recited information from the illegal interrogation and Darby made additional admissions.

PROCEDURAL HISTORY

After Darby was arrested for murder, the trial court held a suppression hearing at which three officers testified. The trial court ruled that Darby's statements to the officers and the videotape of his conversation with his mother were inadmissible under *Miranda v. Arizona* and *Edwards v. Arizona*. The Supreme Court of Georgia affirmed in part and reversed in part.

DISPOSITION

other

REMAND INSTRUCTIONS

The order suppressing the videotape was reversed only to the limited extent that it excluded dialogue between Darby and his mother that was not based on Officer Adkison's recital of the events from the impermissible interrogation. The suppression of the interrogation-derived portions remained in effect.

CASES CITED

- *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966)
- *Edwards v. Arizona*, 451 U.S. 477, 101 S. Ct. 1880, 68 L. Ed. 2d 378 (1981)
- *Zubiadul v. State*, 193 Ga. App. 235, 236-237, 387 S.E.2d 431 (1989)
- *Sanders v. State*, 182 Ga. App. 581, 582(1), 356 S.E.2d 537 (1987)
- *Hibbert v. State*, 195 Ga. App. 235, 236, 393 S.E.2d 96 (1990)
- *Roper v. State*, 258 Ga. 847, 850(1)(a), 375 S.E.2d 600 (1989)
- *State v. Woods*, 280 Ga. 758, 759, 632 S.E.2d 654 (2006)
- *Richmond County v. McElmurray*, 223 Ga. 440, 443(1), 156 S.E.2d 53 (1967)
- *Cook v. State*, 270 Ga. 820, 826(2), 828(2), 514 S.E.2d 657 (1999)