

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

United States v. Khalil Jackson

No. 21-2811 & 22-1003, United States Court of Appeals for the Seventh Circuit (June 16, 2023)

SUMMARY

Seventh Circuit affirmed sex trafficking, child pornography, and cyberstalking convictions. The court held that even if defendant's statement "I'd rather have a lawyer" invoked his Miranda right to counsel, he immediately reinitiated interrogation by asking "What is there more I can do to help myself?" and subsequently waived his rights knowingly and voluntarily; any error was harmless given overwhelming evidence. The court also held that threatening voicemails left after the crimes were direct evidence of witness intimidation admissible for all charges under Rule 404(b), and the district court did not abuse discretion in denying a limiting instruction.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	HAMILTON, Circuit Judge; SYKES, Chief Judge; BRENNAN, Circuit Judge
JURISDICTION	Federal
DECIDED	June 16, 2023
DOCKET	21-2811 & 22-1003
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the Northern District of Indiana, South Bend Division. No. 3:20-cr-00076-DRL-MGG-1—Damon R. Leichty, Judge.
STANDARD OF REVIEW	For the motion to suppress: de novo review of whether defendant invoked right to counsel; clear error review of factual questions regarding reinitiation and knowing/intelligent waiver; de novo review of voluntariness under totality of circumstances. For the limiting instruction issue: abuse of discretion.
PRECEDENTIAL VALUE	Published
PARTIES	Khalil M. Jackson v. United States of America

TOPICS

criminal procedure

evidence

fifth amendment

sixth amendment

appellate procedure

PRACTICE AREAS

Criminal Law

Appellate Practice

QUESTIONS PRESENTED

1. Whether the district court erred in denying the motion to suppress statements made during the police interview, specifically whether Jackson invoked his right to counsel and whether any invocation was followed by reinitiation and valid waiver.
2. Whether the district court erred in denying a limiting instruction regarding the threatening voicemails, arguing they were inadmissible under Rule 404(b) and unfairly prejudicial under Rule 403.

HOLDINGS

1. The district court did not err because even if Jackson invoked his right to counsel by saying 'I'd rather have a lawyer,' he immediately reinitiated conversation by asking 'What is there more I can do to help myself?' and subsequently waived his rights knowingly and voluntarily. Alternatively, any constitutional error was harmless beyond a reasonable doubt.
2. The district court did not abuse its discretion because the voicemails were direct evidence of witness intimidation and thus not subject to Rule 404(b); the probative value outweighed unfair prejudice.

KEY QUOTATIONS

"I'd just rather have a lawyer—" (7)

"I just, I'd rather talk to a lawyer. You guys are taking me to jail. What is there more I can do to help myself?" (7)

"What is there more I can do to help myself?" (9)

"of course I'm willing to talk to you." (11)

"We are less confident than the district judge was that Jackson chose his verb tense to address an unrealistic or unlikely scenario, as strict grammarians might use that tense." (9)

FACTUAL BACKGROUND

Jackson, 24, befriended 17-year-old Jane Doe, a survivor of sexual assault, and eventually coerced her into prostitution for his benefit. He advertised her services online, transported her across state lines, and physically abused her. After Doe escaped, Jackson left threatening voicemails at her family home. Police investigation led to a search of Jackson's apartment and an interview where Jackson made incriminating statements.

PROCEDURAL HISTORY

Jackson was convicted by a jury on five counts: child sex-trafficking, producing child pornography, possessing child pornography, transporting child pornography, and cyberstalking. He was sentenced to 40 years. He appeals,

challenging the denial of his motion to suppress statements and the denial of a limiting instruction regarding voicemail threats.

DISPOSITION

affirmed

CASES CITED

- *Miranda v. Arizona*, 384 U.S. 436 (1966)
- *Edwards v. Arizona*, 451 U.S. 477 (1980)
- *Davis v. United States*, 512 U.S. 452 (1994)
- *Oregon v. Bradshaw*, 462 U.S. 1039 (1983)
- *United States v. Robinson*, 586 F.3d 540 (7th Cir. 2009)
- *United States v. Peters*, 435 F.3d 746 (7th Cir. 2006)
- *Perri v. Director, Dep't of Corrections*, 817 F.2d 448 (7th Cir. 1987)
- *United States v. Martin*, 664 F.3d 684 (7th Cir. 2011)
- *White v. Finkbeiner*, 611 F.2d 186 (7th Cir. 1979)
- *United States v. Hill*, 575 F. Supp. 3d 185 (D.D.C. 2021)
- *United States v. Espinal-Cardona*, 635 F. Supp. 330 (D.N.J. 1986)
- *State v. Munson*, 594 N.W.2d 128 (Minn. 1999)
- *Booker v. State*, 851 P.2d 544 (Okla. Crim. App. 1993)
- *United States v. Wysinger*, 683 F.3d 784 (7th Cir. 2012)
- *United States v. Gomez*, 763 F.3d 845 (7th Cir. 2014) (en banc)
- *United States v. Mokol*, 646 F.3d 479 (7th Cir. 2011)
- *United States v. Bowling*, 952 F.3d 861 (7th Cir. 2020)
- *United States v. Miller*, 276 F.3d 370 (7th Cir. 2002)
- *United States v. Carson*, 870 F.3d 584 (7th Cir. 2017)
- *United States v. DeAngelo*, 13 F.3d 1228 (8th Cir. 1994)
- *United States v. Balzano*, 916 F.2d 1273 (7th Cir. 1990)
- *United States v. Thomas*, 86 F.3d 647 (7th Cir. 1996)
- *United States v. Guerrero*, 803 F.2d 783 (3d Cir. 1986)
- *United States v. Calabrese*, 572 F.3d 362 (7th Cir. 2009)
- *Solem v. Stumes*, 465 U.S. 638 (1984)
- *Fairman v. White*, 465 U.S. 1075 (1984)