CASE BRIEF

ISSUE ONE: Did the district court err by concluding Spencer was not in custody for the purposes of *Miranda* before making his initial confession?

Miranda v. Arizona (1966) 384 U.S. 436: "By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way."

J.D.B v. North Carolina (2011) 564 U.S. 261: Court did not decide whether facts of case constituted custody, but held that the age of the suspect was relevant to the custody analysis as long as the age of the suspect is reasonably known to the interrogating officer.

Whether a suspect is "in custody" is an objective inquiry taking into consideration all of the circumstances. "Two discrete inquiries are essential to the determination: first, what were the circumstances surrounding the interrogation; and second, given those circumstances, would a reasonable person have felt he or she was at liberty to terminate the interrogation and leave." Ultimate question is whether there was a formal arrest or restraint on freedom of movement of the degree associated with formal arrest.

The subjective views harbored by either the interrogating officers or the person being questioned are irrelevant.

United States v. Cavazos (5th Cir. 2012) 668 F.3d 190: Customs Enforcement executed a search warrant and handcuffed defendant in his kitchen while his family was sitting together in the living room. Once house was cleared, agents talked to defendant in a bedroom without handcuffs. Agents told defendant they were conducting a "non-custodial interview." Defendant was permitted to use the restroom and give things from the bedroom to his wife. The interview lasted over one hour and included accusatory tactics. Court held that defendant was in custody.

Apply objective totality of the circumstance test to determine whether a reasonable person would have felt he or she was at liberty to terminate the interrogation and leave. Here, the home was inherently coercive give the dominate police presence and handcuffing. The fact the agents told defendant the interview was non-custodial was of little consequence because the agents' actions contradicted their words and they never communicated that defendant was free to leave.

United States v. Coulter (5th Cir. 2022) 41 F.4th 451: Middle of the night traffic stop, defendant voluntarily stepped out of car and answered questions. Officer believed defendant may have been a burglar and frisked him. Defendant disclosed he had a suspended license, was on parole for aggravated robbery, and had smoked marijuana in the car that morning. Defendant failed to confirm or deny whether a gun was in the car when asked several times. Officer had probable cause to searched car, and "detained" defendant while doing so "for officer safety." Officer asked again whether defendant had a gun in the car and defendant admitted to having a gun in the car. Not custody.

Restraint on freedom of movement usually resembles formal arrest when, "in light of the objective circumstances of the interrogation, ... a reasonable person [would] have felt he or she was not at liberty to terminate the interrogation and leave." The freedom-of-movement test, however, "identifies only a necessary and not a sufficient condition for *Miranda* custody." Courts must also assess whether the environment surrounding the questioning implicated the concerns identified in *Miranda*. Moreover, *Miranda* represents a judicially created rule that applies only where its benefits outweigh its costs.

Applicable factors: (1) the length of the questioning; (2) the location of the questioning; (3) the accusatory, or non-accusatory, nature of the questioning; (4) the amount of restraint on the individual's physical movement; and (5) statements made by officers regarding the individual's freedom to move or leave.

United States v. IMM (9th Cir. 2014) 747 F.3d 754: A detective, who was in plain clothes but visibly armed, drove to the 12-year-old juvenile's home and transported him and his mother to the police station in an unmarked car. At the police station, the detective escorted the juvenile and his mother into a small room about five or six feet by five or six feet—just big enough for a small desk, approximately four chairs, and a recording device. The detective closed the door and kept it closed the entire time he was with the juvenile (including the brief period he was with the juvenile and his mother). Detective conducted 55-minute interview and used common interrogations techniques, such as deception, repetition, and accusation. Court determined juvenile was in custody.

Non-exhaustive list of five factors: "(1) the language used to summon the individual; (2) the extent to which the defendant is confronted with evidence of guilt; (3) the physical surroundings of the interrogation; (4) the duration of the detention; and (5) the degree of pressure applied to detain the individual." And age, when it is reasonably apparent.

ISSUE TWO: Did the district court err by concluding Spencer's confession was voluntarily made under the Fifth Amendment?

Blackburn v. Alabama (1960) 361 U.S. 199: Defendant was 24 years old and severely mentally ill. He failed to return to a mental hospital after a 10-day leave. He was alleged to have committed a robbery during that time. Defendant was subjected to eight hours of questioning in a small room at a police station with three officers. Confession held involuntary.

Arizona v. Fulminante (1991) 499 U.S. 279: Defendant was a suspect in his 11-year-old stepdaughter's murder and incarcerated on other charges. Another inmate, who was an informant, befriended defendant and was instructed to question defendant about his stepdaughter's death. The inmate knew defendant was getting some tough treatment from other inmates because of rumors concerning his stepdaughter. The inmate offered to protect defendant, but told defendant he had to tell the inmate about his stepdaughter in order to receive any help. Defendant then admitted to driving his stepdaughter to the desert, strangling and sexually assaulting her, and shooting her twice in the head. Confession held involuntary.

Totality of the circumstances test reviewed de novo. Our cases have made clear that a finding of coercion need not depend upon actual violence by a government agent; a credible threat is sufficient.

Murray v. Earle (5th Cir. 2005) 405 F.3d 278: Civil rights lawsuit on summary judgment motion for qualified immunity. 11-year-old minor was suspected of killing two-year-old toddler. Minor, along with all of her siblings, were removed from family home and placed in children's shelter. Two detectives and CPS agent interviewed minor and gave her *Miranda* warnings but did not notify guardians. Interviewed minor for three hours. Confession held involuntary.

We determine whether a suspect's confession is coerced or involuntary by examining the totality of the circumstances surrounding the interrogation. Our examination includes consideration of the juvenile's "age, experience, education, background, and intelligence."

Edmonds v. Mississippi (5th Cir. 2012) 675 F.3d 911: Civil rights suit on summary judgment. Thirteen-year-old minor's sister shot her husband and convinced minor to take the blame. Minor went to police station upon request with his mother and both executed *Miranda* waivers. Over the course of the two hour interview, minor denied involvement in murder. At first his mother was in the room with him, and then officers escorted her away against her will. Officers brought defendant's sister into room and she convinced minor to confess. Confession held voluntary.

Under the Fifth Amendment's privilege against self-incrimination, when a person confesses in custodial interrogation, courts "determine whether such a suspect's confession is coerced or involuntary by examining the totality of the circumstances surrounding the ... interrogation." When the suspect is a child, the evaluation must consider his "age, experience, education, background, and intelligence, and [inquire] into whether he has the capacity to understand the warnings given him, the nature of his Fifth Amendment rights, and the consequences of waiving those rights." Here, any susceptibility to police coercion, pales beside the minor's desire to help his sister. Improper police tactics did not implant that desire. The officers likely presumed the minor loved his sister, but he does not argue that the deputies knew that bringing his sister to meet with him would further her exploitative scheme.

United States v. Carmouche (Dist. Ct. Tx. 2014) 18 F.Supp.3d 838: Defendant was interviewed by police as a suspect in a conspiracy to commit robbery. He cooperated with law enforcement and participated in several interviews at various places. Defendant cooperated believing he would be offered a plea bargain. After defendant submitted to a polygraph and the results showed defendant was not completely honest, defendant was not offered a plea bargain.

The voluntariness of a defendant's statement is reviewed based on the totality of the circumstances surrounding the interrogation. "A confession is voluntary if, under the totality of the circumstances, the statement is the product of the accused's free and rational choice." To render a confession involuntary, a defendant must demonstrate that law enforcement officers engaged in coercive conduct and that there was a causal link between the officer's coercive conduct and the confession. Coercive conduct refers not only to physical violence but also to other deliberate means calculated to break the defendant's will, including direct or subtle forms of psychological persuasion.

ISSUE THREE: Did the district court err in concluding SB 23 did not violate Spencer's free speech rights under the First Amendment as a matter of law?

Board of Education v. Pico (1982) 457 U.S. 853 (Plurality Opinion): School Board removed books from the library after attending a conference sponsored by a politically conservative organization that advocated for the removal of certain books it and the School Board described as "anti-American, anti-Christian, anti-Semitic, and just plain filthy," and justified the books' removal as its "duty, our moral obligation, to protect the children in our schools from this moral danger as surely as from physical dangers." School Board rejected School District's committee's recommendation to keep some books.

The Court has long recognized that local school boards have broad discretion in the management of school affairs. At the same time, however, we have necessarily recognized that the discretion of the States and local school boards in matters of education must be exercised in a manner that comports with the transcendent imperatives of the First Amendment. For example, students' liberty of conscience could not be infringed in the name of "national unity" or "patriotism." Further, students' rights to freedom of expression of their political views could not be abridged by reliance upon an "undifferentiated fear or apprehension of disturbance" arising from such expression.

We have recognized that "the State may not, consistently with the spirit of the First Amendment, contract the spectrum of available knowledge." " '[S]tudents must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding.' " The school library is the principal locus of such freedom. "If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion ... If there are any circumstances which permit an exception, they do not now occur to us."

We hold that the Board rightly possess significant discretion to determine the content of its school libraries. But that discretion may not be exercised in a narrowly partisan or political manner. Thus whether the Board's removal of books from their school libraries denied respondents their First Amendment rights depends upon the motivation behind the Board's actions. If the Board intended by its removal decision to deny the students access to ideas with which the Board disagreed, and if this intent was the decisive factor in the Board's decision, then the Board has exercised their discretion in violation of the Constitution.

Campbell v. St. Tammany Parish (5th Cir. 1995) 64 F.3d 184: School Board removed *Voodoo & Hoodoo* from the libraries. The book discusses the evolution and practice of voodoo and hoodoo from its beginnings in Africa to modern day New Orleans. The second half of the book is devoted to a presentation of "spells," "tricks," "hexes," "recipes,". School Board followed policies and book was reviewed by several committees, with each committee recommending to keep the book. At the School Board meeting a member of the Louisiana Christian Coalition made a speech and presented a petition signed by 1,600 people in favor of removing the book. The School Board voted to remove the book.

Summary judgment was granted in favor of Students, School District appeals. The Supreme Court has held that the key inquiry in a book removal case is the school officials' substantial motivation in arriving at the removal decision. Here, there was no single voice providing a reason for removal of the book, and thus there are disputed facts. However, in light of the special role of the school library as a place where students may freely and voluntarily explore diverse topics, the School Board's non-curricular decision to remove a book well after it had been placed in the public school libraries evokes the question whether that action might not be an unconstitutional attempt to "strangle the free mind at its source." That possibility is reinforced by the evidence indicating that many of the School Board members had not even read the book, or had read only the excerpts provided by the Christian Coalition, before voting. Moreover, the School Board's failure to consider the recommendation of the two previous committees has the appearance of a Constitutional violation.

ACLU of Florida v. Miami-Dade County School Board (11th Cir. 2009) 557 F.3d 1177: Request to remove book *Vamos a Cuba* because it did not reflect reality in Cuba. *Vamos a Cuba* is a part of a children's series containing mostly superficial text meant to illustrate a typical child's life across different countries and cultures. All committees who reviewed the book recommended retaining the book. School Board voted to remove the book and during the meeting several Board members made statements about their reasons. Many Board members were Cuban immigrants or the family of Cuban immigrants and held negative views of the Cuban government. Many Board members explained that the positive outlook of Cuban life described in the book was inaccurate and that the book omitted important aspects of Cuban life.

Under the *Pico* standard, the Board did not "remove books from school library shelves simply because they dislike[d] the ideas contained in those books and [sought] by their removal to prescribe what shall be orthodox in politics ... or other matters of opinion." The Board pointed to factual inaccuracies and a lack of literary merit and it followed its established procedure. Further, the Board did not impose a complete ban because the book was still available in public libraries.