

20 - 5395
No.

IN THE
SUPREME COURT OF THE UNITED STATES

Marcus Tyler Sheffield - PETITIONER

VS.

Lorie Davis, Director – RESPONDENT

FILED

AUG 13 2020

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ON PETITION FOR WRIT OF CERTIORARI TO
FIFTH CIRCUIT COURT OF APPEALS FOR THE UNITED STATES

1. 2.

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In the fifty years since Miranda, police have artfully sought ways to elicit confessions from criminal suspects. To this end, police create situations to avoid the indicia of a custodial interrogation. One of these situations is for police to ask a person to come to the police station to provide a witness statement. Once at the police station a person who arrived believing that they were a witness discovers through the course of interrogation that they are in fact a suspect. The police promise that the suspect is “free to leave” at any time. Yet, that promise of freedom is often conditioned on providing the police with something. Courts have ruled that the freedom to leave is one of several factors to consider when determining if an interrogation that results in an admission was custodial. Police present a conditional offer to a suspect that implies a threat that the interrogation will continue unless the condition is met. Thus, the suspect is not truly free to leave without meeting that condition.

QUESTION PRESENTED

Whether the police detective’s assurance to Sheffield that he is free to leave on the condition that he make a truthful statement would lead a reasonable person to believe that he was subject to a custodial interrogation.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

RELATED CASES

State v. Sheffield, No. 03-12-00669-CR, 2014 WL 7474211 (Tex.App.-Austin, Dec. 30, 2014)

State v. Sheffield, No. CR2011-575 (207th Dist. Ct., Comal Cnty., Tex. Oct. 21, 2015)

Sheffield v. State, No. 03-15-00627-CR, 2016 WL 6408005 (Tex.App.-Austin, Oct. 27, 2016)

Ex parte Sheffield, No. 87, 449-01 (Tex. Crim. App. Aug. 8, 2017)

TABLE OF CONTENTS

QUESTIONS PRESENTED	II
LIST OF PARTIES	III
RELATED CASES	III
INDEX OF AUTHORITIES	V
OPINIONS BELOW	1
JURISDICTION	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	1
STATEMENT OF THE CASE	2
REASON FOR GRANTING THE WRIT	3
CONCLUSION	7
CERTIFICATE OF SERVICE	8
CERTIFICATE OF FILING	9

INDEX OF APPENDICES

APPENDIX A ORDER OF FIFTH CIRCUIT

APPENDIX B MEMORANDUM OPINION AND JUDGEMENT BY THE DISTRICT COURT

APPENDIX C U.S. 5TH CIRCUIT PETITION FOR REHEARING DENIAL

APPENDIX D U.S. 3RD COURT OF APPEALS SAN ANTONIO STATE INTERLOCUTORY APPEAL

APPENDIX E TRIAL COURT SUPPRESSION ORDER, FINDINGS OF FACT AND CONCLUSIONS OF LAW

INDEX OF AUTHORITIES

Cases

<i>California v. Beheler</i> , 463 U.S. 292, 296 (1990)(per curiam).....	3
<i>Illinois v. Perkins</i> , 496 U.S. 292, 296 (1990).....	3
<i>Miranda v. Arizona</i> , 384 U.S. 436 (1966).....	2-4
<i>Oregon v. Mathiason</i> , 429 U.S. 492, 495 (1977)(per curiam).....	3
<i>Stansbury v. California</i> , 511 U.S. 324, 325 (19940).....	3-4

Statutes

28 U.S.C., Section 1254(1).....	1
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Constitution

Fifth Amendment, <i>U.S. Constitution</i>

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Marcus Tyler Sheffield prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States Court of Appeals appears at Appendix A to the petition and is unpublished.

The opinion of the United States district court appears at Appendix B to the petition and is unpublished.

JURISDICTION

The date on which the United States Court of Appeals decided Sheffield's case was April 9, 2020. His petition for rehearing was denied on May 20, 2020.

The jurisdiction of this Court is invoked under 28 U.S.C. Section 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

STATEMENT OF THE CASE

In November 2011, Sheffield was charged by indictment with two counts of sexual abuse of a child

(ECF No. 23-5 at 12-13). Prior to trial, a suppression hearing was held to determine the admissibility of statements Sheffield made to police admitting his guilt for the charged offenses. A police report and a copy of Sheffield's video-recorded interview were submitted as evidence at the hearing. On October 1, 2012, the trial court granted Sheffield's motion to suppress and issued written findings of fact and conclusions of law to support its ruling. (ECF No. 11-2 at 70, 112-16). The state filed an interlocutory appeal arguing the trial court erred in finding a violation of Sheffield's rights under *Miranda v. Arizona*, 384 U.S. 436 (1966), because Sheffield was not in custody at the time of his interview with police and thus his interview did not rise to the level of a custodial interrogation. (ECF No. 9-9). In an opinion dated December 30, 2014, the Third Court of Appeals agreed with the state, reversed the trial court's order of suppression, and remanded for further proceedings. *State v. Sheffield*, No. 03-12-00669-CR, 2014 WL 7474211 (Tex. App.-Austin, Dec. 30, 2014, no pet.)(ECF No. 9-14).

A jury subsequently convicted Sheffield of both counts alleged in the indictment and assessed punishment at ten years of imprisonment for each offense, with the sentences to run concurrently. *State v. Sheffield*, No. CR2011-575 (207th Dist. Ct., Comal Cnty., Tex. Oct. 21, 2015)(ECF No. 11-2 at 200-05). On appeal, Sheffield's court-appointed counsel filed an uncontested Anders brief stating that the record presented no arguably meritorious grounds for review. (ECF No. 11-19). Following an independent review of the record, the court of appeals agreed with counsel that the appeal was frivolous and affirmed the judgment of the trial court. *Sheffield v. State*, No. 03-15-00627-CR, 2016 WL 6408005 (Tex. App.-Austin, Oct. 27, 2016, no pet.)(ECF No. 11-21). Sheffield did not attempt to appeal this decision by filing a petition for discretionary review with the Texas Court of Criminal Appeals (TCCA).

Instead, Sheffield filed a state habeas corpus application challenging the constitutionality of his state court conviction and sentence on August 8, 2017. *Ex parte Sheffield*, No. 87,449-01 (Tex. Crim. App. Aug. 8, 2017)(ECF No. 11-31 at 23). The state habeas application contained, *inter alia*, a claim that Sheffield's self-incriminating statements made to police were obtained unlawfully and should not have been admitted at trial. The TCCA denied Sheffield's state habeas application without written order on

January 24, 2018 (ECF No. 11-26).

In his federal petition, Sheffield contends the admission of his self-incriminating statements to police violated his *Miranda* rights. According to Sheffield, his confession is the result of a coercive custodial interrogation wherein his request for an attorney was ignored.

REASONS FOR GRANTING THE PETITION

The *Miranda* Court held that a person questioned by law enforcement officers after being “taken into custody or otherwise deprived of his freedom of action in any significant way” must first “be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has the right to the presence of an attorney, either retained or appointed.” 384 U.S., at 444. Statements elicited in noncompliance with this rule may not be admitted for certain purposes in a criminal trial. An officer’s obligation to administer *Miranda* warnings attaches, however, “only where there has been such a restriction on a person’s freedom as to render him ‘in custody.’” *Oregon v. Mathiason*, 429 U.S. 492, 495 (1977)(per curiam); see also *Illinois v. Perkins*, 496 U.S. 292, 296 (1990). In determining whether an individual was in custody, a court must examine all of the circumstances surrounding the interrogation, but “the ultimate inquiry is simply whether there [was] a ‘formal arrest or restraint on freedom of movement’ of the degree associated with a formal arrest.” *California v. Beheler*, 463 U.S. 1121, 1125 (1983)(per curiam)(quoting *Mathiason*, supra, at 495).

Relying extensively on its prior decisions, this Court made in clear in *Stansbury v. California*, that “the only relevant inquiry is how a reasonable man in the suspect’s position would have understood his situation.”, and on that point Stansbury provides guidance in two passages:

**”*Miranda* warnings are required only where there has been such a restriction on a person’s freedom as to render him ‘in custody.’” 511 U.S. 324

**”An officer’s knowledge or beliefs may bear upon the custody issue if they are conveyed, by word or deed, to the individual being questioned.” 511 U.S. at 325

Acknowledging that no one fact is determinative, the relevant circumstances

surrounding the interrogation are as follows. **(Location)** On August 3, 2011, Detective Schroeder of the New Braunfels Police Department met with Marcus Sheffield at Sheffield's home where the detective reasonably could have taken his statement, but instead the Detective asked that Sheffield come to the police station. Although Sheffield voluntarily drove himself to the police station, he did so believing he was a witness, not a suspect. **(Amount of restraint on physical movement)** When Sheffield arrived at the police station he was placed in a locked room under guard. He was not allowed to leave that room absent someone with a key granting him permission. Sheffield's movements were further restricted as evidence by not being allowed to use the restroom without a police officer to escort and monitor him to and from and while inside the restroom. **(Length of interrogation)** The interview lasted over an hour, during which Sheffield provided Detective Schroeder with a statement that he was present on the night in question and that he believed that his male acquaintance had sex with a girl who appeared to be underage. **(Accusatory Non-accusatory nature of the interview)** The detective then raises the accusatory nature of this "voluntary" interview by telling Sheffield that his version of events differed from what the detective was told by others. Approximately forty minutes into the interview, the detective played a video of a witness whose statement contradicted what Sheffield just told the detective. After Sheffield was confronted with the video evidence, he asked Detective Schroeder if he was a witness or a suspect. To which Detective Schroeder replied, that he was both. **(Accused requests an attorney)** At this point Sheffield requests an attorney stating, "As much as I want to continue this interview and to be honest, with my little knowledge of specifically the law, I'm not sure that I want to continue this interview right now without an attorney, just because I don't know what the police department's intentions are or the county's in

terms of charges or whatnot and I believe that I need someone who can tell me what to do or not to do.” (App. B at 6) Sheffield stated further that he did not, “know whether I’m going to be looking at charges or not, and if that’s the case, then regardless of whether I’m being honest or not.” At this point the detective interjects, “That’s what I’m telling you right now. I’m telling you exactly what it is. I understand your hesitance on you not knowing if you want to continue or not.” As the interview proceeded the detective told Sheffield that he had all the evidence he needed and that “I know you’ve already been deceptive with me.” (App. B at 6) The detective points to the “evidence jacket”, photos and witness video stating, “I’ve got everything. I’ve got it all. You were the last piece of the puzzle. So I want you to be honest with me. [The prosecutor] wants you to be honest because he’s going to be watching this right now.” **(Statement made by police regarding the freedom to leave)** At this point that Sheffield stated that he knew it was the detective’s job to “put people away” and that although he wanted to be honest he didn’t want to “nail his coffin shut”. The detective replied that his job is to find the evidence in the case and give Sheffield the opportunity to tell the truth. Sheffield then wondered out loud if he was free to leave the police station absent telling the truth asking, “If I’m honest with you will I be leaving here today?” Detective Schroeder responded, “Yes you are. When you walked in here and I told you, you can come in here and I’ll let you walk out that door, you’re darn right I am. ***That's my word. But you got to tell me the truth. Tell me the truth and tell [the prosecutor] the truth.***” **(emphasis added)** (App. B at 7) At this point in the interview Sheffield made a statement to Detective Schroeder, providing admissions and answering additional questions.

Despite this Court’s clear guidance, the below court decided not to apply *Stansbury*. The court noted that in this case, Detective Schroeder reiterated that Sheffield “can walk right out this

door at any time”, which moments later he did (App. B at 11). Based on this version of facts, the court concluded that a reasonable person would believe he was free to leave. But the court’s conclusion is flawed because Detective’s reassurance that Sheffield was free to leave occurred after he made his admissions, not before it.

The issue before the Court is whether a “freedom to leave” that is conditioned on a confession, is a factor that should be considered under *Stansbury*. As the Court held in *Stansbury*, an interview that begins as non-custodial can become a custodial interrogation warranting *Miranda* warnings if, after considering the totality of circumstances surrounding the confession, a reasonable person would believe he was not free to leave. 511 U.S. at 326. Detective Schroeder told Sheffield, “When you walked in here and I told you, you can come in here and I’ll let you walk out that door, you’re darn right I am. That’s my word. But you got to tell me the truth. Tell me the truth and tell [the prosecutor] the truth.” (App. B at 7) This statement by the detective amounts to a threat that if Sheffield did not provide a truthful statement that met the satisfaction of his inquisitor, he would not be allowed to “walk out that door”. Under these conditions a reasonable person would not believe he was free to leave absent a truthful confession. This is especially so, when considering the restrictive nature of the interrogation.

A thorough assessment by this Court of the District Court’s independent review will not find a single mention of the Detective’s conditional release, much less a consideration of this fact (App. B at 10-11). That is, the below court failed to consider whether the conditional “freedom to leave” affected how Sheffield viewed his situation. Thus, the *Stansbury* test is incomplete.

CONCLUSION

Miranda's familiar warnings have become part of our national lexicon, but this Court's revolutionary decision in *Miranda v. Arizona* only requires a government officer to communicate the Miranda warnings to a suspect under specific circumstances. Unfortunately, this has meant that police officers often do an end run around awarding suspects the Miranda protections. This troubling development allows officers to take wide latitude in conducting interrogations in scenarios without formal restraint and that are only nominally noncustodial to avoid Miranda's requirements. This is troubling given that officers pressure, trick, and intimidate suspects to speak, and elicit false confessions, even in situations where a person may not be in a physical environment like formal arrest. In this case Detective Schroeder coerced a statement from Sheffield under a threat of continued interrogation.

Respectfully submitted,



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