

No.
IN THE
SUPREME COURT OF THE UNITED STATES

DANIAL LEANOS, Petitioner,
-vs-

PEOPLE OF THE STATE OF ILLINOIS, Respondent.

On Petition For Writ Of Certiorari
To The Supreme Court Of Illinois

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED FOR REVIEW

This Court has long held that, for a suspect's statement to be used against them at trial, when considering the totality of the circumstances, the suspect must have knowingly and voluntarily waived their *Miranda* rights. *Fare v. Michael C.*, 442 U.S. 707, 724-725 (1979). Other jurisdictions universally apply the totality-of-the-circumstances test. *See e.g., People v. Salmon*, 2022 IL 125722 ¶78; *State v. O.D.A.-C.*, 273 A. 3d 413, 421 (N.J. 2022).

However, here, the Illinois Appellate Court ignored the totality-of-the-circumstances test in deciding an issue of first impression – the impact a promise of confidentiality has on a suspect's *Miranda* waiver. The court created a rule that a promise of confidentiality does not negate a suspect's *Miranda* waiver unless it immediately induces a confession and acknowledged that many of the interrogators' tactics, in addition to the promises of confidentiality, were problematic. However, it held that the suspect knowingly and voluntarily waived his *Miranda* rights because, individually, none of the problematic tactics invalidated his *Miranda* waiver. The court never analyzed the cumulative impact of the interrogators' problematic tactics.

Thus, the question is: **Should an interrogator's promise of confidentiality invalidate a suspect's *Miranda* waiver only if it immediately induces them to confess, or should it be considered as part of the totality of the circumstances?**

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The petitioner, Danial Leanos, respectfully prays that a writ of certiorari issue to review the judgment below.

OPINION BELOW

The decision of the Illinois Appellate Court (Appendix A) is reported at *People v. Leanos*, 2023 IL App (1st) 191079, and is published. The order of the Illinois Supreme Court denying leave to appeal (Appendix B) is reported at *People v. Leanos*, 2023 WL 6444750 (Table) (Ill. Sept. 27, 2023).

JURISDICTION

On June 13, 2023, the Illinois Appellate Court issued an opinion. No petition for rehearing was filed. The Illinois Supreme Court denied a timely filed petition for leave to appeal on September 27, 2023. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1257(a).

CONSTITUTIONAL PROVISION INVOLVED

Fifth Amendment to the United States Constitution

No person . . . 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.

STATEMENT OF THE CASE

On February 1, 2012, a shooting occurred that resulted in death of Henry Martinez. (C. 49-63). About two hours after the shooting, Danial Leanos was arrested for drinking on the public way. (R. 635-636). At the time of his arrest, Leanos was a senior in high school and had just turned 18 years old. (R. 852). Leanos was brought into the Cicero Illinois Police Station and Detectives David Leuzzi and Steven Struska attempted to interrogate him early in the morning. (R. 295-297). However, Leanos was too intoxicated to be questioned. The detectives returned to question him in the afternoon. (R. 282-284, 286). When detectives re-entered the room, they asked Leanos how his mother and brother were doing and how he was doing in school. Leanos responded that he was about to graduate high school and wanted to get a job. Detective Leuzzi responded “You’ve gotta get that job. You want to take care of your mom, right? You want to take care of your brother? Whatever you can do for them.” (St. Ex. 62 at 12:22:10). Throughout the interview, Leuzzi repeatedly referenced Leanos’ family. Leuzzi later testified, at the suppression hearing, that he had “quite a bit of contact” with Leanos prior to this interview through a boot camp at Leanos’ school.

Leuzzi shifted the conversation and told Leanos “my partner just wants to talk to you about some things, okay?”. (St. Ex. 62 at 12:22:20). Detective Struska told Leanos “just like we do with everybody, we are going to read you your *Miranda* rights.” (St. Ex. 62 at 12:22:31). Leuzzi later testified that he read Leanos his *Miranda* rights from a preprinted form. (R. 286). Leanos initialed next to each right and signed the bottom of the form, indicating he understood his rights. (St. Ex. 62 at 12:24:30). Leuzzi and Struska then started to question Leanos about the shooting.

Leanos initially denied having any knowledge of the shooting and claimed he was with family the night it occurred. (St. Ex. 62 at 12:26:00). Prior to taking a break, Leuzzi told Leanos “be honest with me, I’ve always been honest with you.” (St. Ex. 62 at 12:23:00). After returning from a break, the detectives told Leanos his story was inconsistent with what witnesses had said. (St. Ex. 62 at 12:52:45). Leanos continued to deny involvement in the shooting and added that he was also with a friend named Nellie at the time of the shooting. Leuzzi told Leanos multiple times “right now is the time to be honest with me.” (St. Ex. 62 at 12:51:10; 12:55:10). Leuzzi repeatedly referenced his relationship with Leanos, stating “We’ve always been cool with each other. We’ve always gotten along... Even in the streets I talk to you and you know, be straight with you. Because right now, that’s all we have is our word.” (St. Ex. 62 at 12:54:55).

Multiple times during the interrogation, Leuzzi made promises of confidentiality. Throughout the interview, Leuzzi told Leanos “what you tell us, is staying here.” (St. Ex. 62 at 12:55:20, 13:00:05). Leuzzi insisted, because he had a relationship with Leanos and his family, that statements made during the interrogation would not be used against him. Leuzzi told Leanos “We’ve always been cool. I know you. I know your mom, I know your brother. Other people I am not going to be as cool, I don’t know them bro... what you say here, stays here.” (St. Ex. 62 at 12:59:00).

A few minutes later, Struska left the room and Leuzzi told Leanos “Right now let’s be honest. It’s me and you.” (St. Ex. 62 at 13:09:50). After Leanos told Leuzzi that he was scared and had been honest, Leuzzi told him “Don’t be scared because it is me

talking... the only thing that is going to help you is telling the truth.” (St. Ex. 62 at 13:10:10; 13:11:00). The interrogation continued for hours, where the detectives repeatedly told Leanos to think of his mother and brother.

Sitting next to Leanos, Leuzzi put his hand on Leanos’ forearm and said “come on bro, just let it all out. It will make you feel better.” (R. 311). Leuzzi and Struska physically touched Leanos multiple times throughout the interview in an attempt to comfort him. (St. Ex. 62 at 15:49:05). Leuzzi told him to think about his family and told him to “be a man”. (R. 314). Leuzzi told him,

I've known you for how long? Three or four years? Bro, I am more loyal to you than your friends are. I have been more loyal to you and your family than those guys you call your brothers. I have looked out for you and your little brother when you mom asked us to. . . . Did you do the shooting? If it was an accident, or it was a mistake, you wanted to scare somebody and it went wrong, now is the time to tell us. . . . The only way I can help you is if you tell us the truth. Let it out man. I am telling you it is a weight that is on your chest right now. Once you tell me, it is going to be gone. (St. Ex. 62 at 15:39:30).

Leanos then confessed to being the shooter. The detectives then took him back to the scene of the shooting so he could show them where he allegedly shot from and discarded the gun. Officers were never able to recover a gun. (R. 293); (St. Ex 62 at 15:49:20).

Leanos was charged with multiple counts of murder, attempt murder, aggravated discharge of a weapon, and aggravated unlawful use of a weapon. (C. 49-63). The trial judge denied Leanos’ motion to suppress the confession and determined that the detectives did not intend to trick Leanos into confessing. (R. 309). The trial judge reasoned that the detectives did not know Leanos was the shooter and their statements were meant to inform Leanos that they would not tell other gang members

if he cooperated.¹ (R. 369).

On January 18, 2019, Leanos waived his right to a jury trial and proceeded to a bench trial. Adiel Ponce Ramirez testified that on February 1, 2012, he lived in a second-story apartment with Henry Martinez located at 2931 S. 48th Court in Cicero. (R. 564-565). Around 11:00 p.m., Ramirez was in his room and heard whistling coming from out on the street followed by three or four gunshots. (R. 567). Ramirez went out into the living area and saw Martinez walking toward him saying “They shot me. They shot me.” (R. 568). Martinez fell down in the kitchen and Ramirez went to see if he had any wounds. (R. 569). Ramirez lifted his shirt to see a small wound with blood pouring out. (R. 570). The parties stipulated that Martinez was killed by a gunshot wound to the back. (R. 830).

Mary Wong was the trace evidence analyst who tested the right and left cuffs of two jackets that Daniel was wearing on the night of the shooting. (R. 603-604). She testified that three of the four cuffs had been in the vicinity of a discharged firearm. (R. 603-604).

Leanos testified that he did not shoot Martinez and that he confessed because he was hung over, mistreated, and scared. (R. 850, 856). Leanos testified that he was a Maniac Latin Disciple and that the gang maintains the code “snitches get stitches.” (R. 851). He further testified that he did not want to tell on anyone in the gang and face retaliation. (R. 851). He then testified that he admitted to the murder because his family had previously been split apart and it scared him when the detectives

¹During the interrogation, neither detective told Leanos that they were referring to gang members when they made promises of confidentiality.

mentioned protecting his siblings. (R. 870). After closing arguments, the trial judge found Leanos guilty of murder. (R. 942). Leanos was sentenced to 45 years in prison. (R. 993-994).

On appeal, Leanos argued that based on the totality of the circumstances, including his age and the interrogators' tactics, he did not adequately waive his *Miranda* rights prior to providing his statement. *People v. Leanos*, 2023 IL App (1st) 191079 ¶ 1. Leanos also argued that the sentencing court misapplied the law. *Id.* The court found that the issue of a false promise of confidentiality was an issue of first impression and the court refused to adopt a *per se* rule that any promise of confidentiality invalidates a suspect's *Miranda* waiver, and instead adopted a case-by-case factual analysis. *Id.* at ¶ 3, 55. The appellate court under this test determined that the detectives' promises of confidentiality did not induce Leanos to confess and his confession was knowing and voluntary. *Id.* at ¶ 94. Although the court believed that the interrogators should have more clearly articulated Leanos' constitutional rights when they read them to him, the interrogators' comments did not outright disparage the *Miranda* warnings and, therefore, did not invalidate Leanos' waiver. *Id.* at ¶ 113-114. Finally, the court held that Leuzzi's repeated efforts to ingratiate himself with Leanos were "indeed problematic from the perspective of *Miranda*" but, again, were not egregious enough to invalidate Leanos' waiver. *Id.* at ¶ 121. The appellate court affirmed Leanos' conviction and sentence. *Id.* at ¶ 1.

A petition for leave to appeal was filed to the Illinois Supreme Court on July 11, 2023. The petition was denied by the Illinois Supreme Court on September 27, 2023. *People v. Leanos*, 2023 IL App (1st) 191079, cert. denied, 2023 WL 6444750.

REASON FOR GRANTING CERTIORARI

An interrogator's promise of confidentiality should not invalidate a suspect's *Miranda* waiver only if it immediately induces them to confess; it should be considered as part of the totality of the circumstances, and this case is an appropriate vehicle for this Court to address this issue.

A defendant's inculpatory statement cannot be used against him unless he voluntarily, knowingly, and intelligently waived his *Miranda* rights prior to giving the statement. *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). The relinquishment of the *Miranda* rights must be "voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception." *Moran v. Burbine*, 475 U.S. 412, 421 (1986). Further, the "waiver must [be] made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it." *Id.* Therefore, *Miranda* rights can only be waived if "the totality of the circumstances surrounding the interrogation, reveal both an uncoerced choice and the requisite level of comprehension[.]" *Id.*; see *Fare v. Michael C.*, 442 U.S. 707, 725 (1979); see also *U.S. v. Washington*, 431 U.S. 181, 199 (1977); accord *United States v. Bailon*, 60 F. 4th 1032, 1036-1037 (7th Cir 2023); accord *U.S. v. Vinton*, 631 F. 3d 476, 483 (8th Cir. 2011); accord *Hart v. Attorney General of Florida*, 323 F. 3d 884, 892 (11th Cir. 2003). The totality of the circumstances includes all the circumstances surrounding the interrogation, including the suspect's age, experience, education, background, intelligence, as well as police conduct, and location of the questioning. *Moran*, 475 U.S. at 422; *Fare*, 442 U.S. at 725; *Washington*, 431 U.S. at 189.

Here, Illinois adopted a new rule regarding whether a suspect knowingly and voluntarily waived their *Miranda* rights that is inconsistent with this Court's well-established precedent that, whether a suspect validly waived their *Miranda* rights is

based on the totality of the circumstances. The interrogators employed many problematic tactics, including making false promises of confidentiality, and the impact of false promises of confidentiality was an issue of first impression in Illinois. As a result, the court adopted a new rule – that a promise of confidentiality only invalidates a *Miranda* waiver if it immediately induces a confession. However, in applying the new rule, the court analyzed each of the problematic tactics individually and ignored their cumulative impact. As a result, this Court should grant certiorari to overturn Illinois’ new rule that a promise of confidentiality only invalidates a suspect’s *Miranda* waiver if it immediately induces them to confess and hold, instead, that a promise of confidentiality is part of the totality of the circumstances that a court must consider in determining the voluntariness of a statement.

Danial Leanos, who had just turned 18, was arrested late on February 1, 2012 for underage drinking. (R. 282). At 1:35 a.m. on February 2, he was still too intoxicated to be interrogated. (R. 283-248). Detective David Leuzzi began the interrogation about 12 hours later, at 1 p.m., by asking Leanos how his mother and brother were doing and where he was going to school. (St. Ex. 62 12:22:00). He then told Leanos, “my partner just wants to talk to you about some things, okay?” Detective Steven Struska then told Leanos, “just like we do with everybody, we are going to read you your *Miranda* rights.” (St. Ex. 62 12:22:31). Struska read him his rights and began questioning him about the murder.

During the interrogation, Leuzzi made Leanos two promises of confidentiality. First, he said, “what you tell us is staying in here.” (St. Ex. 62 12:55:20). He then said, “what you say here, stays here with us right now.” (St. Ex. 62 13:00:05).

Leuzzi continued to ingratiate himself with Leanos by exploiting their prior relationship. He referenced their prior history: "We've always been cool with each other. We've always gotten along... Even in the streets I talk to you and you know, be straight with you. Because right now, that's all we have is our word." (St. Ex. 62 at 12:54:55). He referenced Leanos' family: "You've gotta get that job. You want to take care of your mom, right? You want to take care of your brother?" (St. Ex. 62 12:22:10). He also told Leanos that he should trust him: "Don't be scared because it is me talking... the only thing that is going to help you is telling the truth" and "[r]ight now let's be honest. It's me and you." (St. Ex. 62 at 13:09:50). (St. Ex. 62 at 13:10:10; 13:11:00).

Just before Leanos confessed, Leuzzi switched sides of the table so he was sitting directly next to Leanos and said,

I've known you for how long? Three or four years? Bro, I am more loyal to you than your friends are. I have been more loyal to you and your family than those guys you call your brothers. I have looked out for you and your little brother when you mom asked us to. . . . Did you do the shooting? If it was an accident, or it was a mistake, you wanted to scare somebody and it went wrong, now is the time to tell us. . . . The only way I can help you is if you tell us the truth. Let it out man. I am telling you it is a weight that is on your chest right now. Once you tell me, it is going to be gone. (St. Ex. 62 at 15:39:30).

The Illinois Appellate Court acknowledged that these tactics were problematic. It found that the interrogators' characterization of the *Miranda* rights as "some things" that are "given to everybody" was ambiguous and officers should avoid ambiguous statements that bear on a suspect's understanding of the *Miranda* warnings. *People v. Leanos*, 2023 IL App (1st) 191079 ¶113. According to the court, "there is simply no affirmative reason for the police to make remarks like this in the first place." *Id.*

However, “it goes too far to say that this statement . . . automatically vitiated defendant’s waiver.” *Id.*

It further found that Leuzzi’s efforts to ingratiate himself with Leanos were problematic because “[l]everaging an established relationship of trust” undermines one of key purposes of *Miranda* – “to make the individual more acutely aware that he is faced with a phase of the adversary system.” *Id.* at ¶120. Nevertheless, Leanos’ waiver was not invalidated because he “lied to detectives again and again and again[,]” despite Leuzzi “undermining the efficacy of the *Miranda* warnings,” *Id.*

The court found the promises of confidentiality most problematic. *Id.* at ¶37. According to the court, promises of confidentiality “rank[] among the kind[] of trickery that the *Miranda* rule was designed to guard against.” *Id.* at ¶45 (internal quotations omitted). However, despite the obvious contradiction with *Miranda*, the promises of confidentiality did not vitiate Leanos’ *Miranda* waiver because he did not immediately confess after the interrogators made promises of confidentiality. In other words, because the interrogators continued to catch Leanos in lies after they promised they would keep his comments confidential, their promises of confidentiality did not invalidate his *Miranda* waiver. Having made this holding, the court never went on to address the cumulative impact of the problematic tactics.

In its opinion, the Leanos court effectively created a bright-line rule that for promises of confidentiality to invalidate a suspect’s *Miranda* waiver, they have to be made in temporal proximity to the inculpatory statement. In doing so, the Leanos court avoided applying the well-established totality of the circumstances test. This contrasts with *Hopkins v. Cockrell*, 325 F. 3d 579, 584 (2003), where the Fifth Circuit found that

the suspect's confession in a murder case was involuntary because of various factors in addition to false promises of confidentiality. For example, on top of promises of confidentiality, the interrogator repeatedly referred to the suspect as his "friend," and promised not to tell the suspect's mother about the murder. *Id.* The suspect was also interviewed numerous times over 15 days. *Id.* Based on all of these circumstances, the court held that the suspect's statement was involuntary. See also *Sharp v. Rohling*, 793 F. 3d 1216, 1230-1231 (10th Cir. 2015) (finding the suspect's statement involuntary because the interrogator made promises of confidentiality as well as promised to help the suspect and her kids find a battered woman's shelter to stay at); *U.S. v. Walton*, 10 F. 3d 1024, 1028-1030 (3rd Cir. 1993)(finding that the suspect's statement was coerced because the interrogators made a promise of confidentiality, referenced their prior relationship with the suspect, and made him believe that they did not suspect he committed the crime); .

Similarly, in *State v. O.D.A.-C.*, 273 A. 3d 413, 421 (2022), the interrogators made promises of confidentiality. Like here, the Supreme Court of New Jersey declined to adopt a bright-line rule that false promises of confidentiality always invalidate a suspect's *Miranda* waiver. *Id.* However, it nevertheless found the suspect did not knowingly and voluntarily waive his *Miranda* rights because "[c]umulatively, the number and significance of the detective's misleading statements undermined the *Miranda* warnings and, by extension, the voluntariness of defendant's waiver." *Id.* at 425. The misleading statements included telling the suspect his confession "could only help" and referring to the *Miranda* warnings as a formality. *Id.* at 422-423. See also *State v. Belton*, 74 N.E. 3d 319, 344-345 (Ohio 2016)(finding that the defendant's

statement was not coerced because, despite his argument, the interrogator's comments did not constitute a promise of leniency and the defendant, among other things, was given food, allowed to smoke, the interrogators did use any other coercive tactics).

However, as stated above, in creating a new rule regarding promises of confidentiality in Illinois, the court overlooked the well-established totality-of-the-circumstances test. The court spent the majority of the opinion addressing promises of confidentiality. *Leanos*, 2023 IL App (1st) 191079 ¶37-94. It found that the impact of promises of confidentiality was an issue of first impression in Illinois, which gave the court two options: (1) it could adopt a bright-line rule that a promise of confidentiality always invalidates a suspect's *Miranda* waiver or, (2) it could adopt a case-by-case test in which the suspect's *Miranda* waiver is invalidates only if the promise of confidentiality immediately induces the confession. *Id.* at ¶54 It purported to follow the majority of jurisdictions in adopting the latter. *Id.* at ¶55.

Yet, in applying the new rule, the court failed to apply the universal totality-of-the-circumstances test. It concluded that the promises of confidentiality did not immediately induce Leanos to confess so they did not invalidate his *Miranda* waiver. *Id.* at ¶94. The interrogators' ambiguous comments regarding the importance of the *Miranda* warnings, while not ideal, was not egregious enough to invalidate Leanos' *Miranda* waiver. *Id.* at ¶113. And, Leuzzi's repeated attempts to ingratiate himself with Leanos by exploiting their prior relationship were "problematic" but, again, not egregious enough to invalidate Leanos' *Miranda* waiver. *Id.* at ¶121.

This case highlights the importance of considering the totality of the circumstances, despite the court's failure to do so. In total, the interrogators suggested


to barely-18-year-old Leanos that the *Miranda* warnings were not important; they were just “some things” that had to be read. (St. Ex. 62 12:22:20). Then, Leuzzi attempted to hide from Leanos that the detectives were building a criminal case against him. Leuzzi instead tried to make Leanos believe they were friends. He said he was “more loyal” to Leanos than Leanos’ friends were and that he “looked out for [Leanos] and [his] little brother.” (St. Ex. 62 15:39:30). Then, Leuzzi made multiple promises of confidentiality. (St. Ex. 62 12:55:20, 13:00:05). Thus, the interrogators downplayed the importance of the *Miranda* warnings, made Leanos think that they were there to help him, and made him promises of confidentiality. All of these factors had a cumulative impact on Leanos’ ability to understand his *Miranda* rights, especially given that he had only legally been an adult for two months. Nevertheless, no reviewing court has ever considered their cumulative impact.

Additionally, from a legal standpoint, the court’s failure to address the totality of the circumstances was particularly significant here because it adopted the new rule for promises of confidentiality in Illinois. Because the court both adopted a new rule and failed to apply the totality-of-the-circumstances test, the opinion can be interpreted to disregard the totality-of-the-circumstances test in cases where the interrogators made a false promise of confidentiality. As a result, this Court should grant certiorari to overturn the Illinois Appellate Court’s new rule that promises of confidentiality only invalidate a suspect’s *Miranda* waiver if they immediately induce a confession and hold that courts must consider such promises as part of the totality of the circumstances when determining whether a suspect knowingly and voluntarily waived their *Miranda* rights.

CONCLUSION

For the foregoing reasons, petitioner, Danial Leanos, respectfully prays that this Court issue a writ of certiorari to review the judgment of the First District of the Illinois Appellate Court.

Respectfully submitted,


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