

Bobby Vs. Dixon

Bobby Vs. Dixon

SooperKanoon Citation : sooperkanoon.com/108792

Court : US Supreme Court

Decided On : Nov-07-2011

Appeal No. : 10-1540

Appellant : Bobby

Respondent : Dixon

Judgement :

Bobby v. Dixon - 10-1540 (2011)

SUPREME COURT OF THE UNITED STATES

DAVID BOBBY, WARDEN v. ARCHIE DIXON

on petition for writ of certiorari to the united states court of appeals for the sixth circuit

No. 10-1540. Decided November 7, 2011

Per Curiam.

Under the Antiterrorism and Effective Death Penalty Act, a state prisoner seeking a writ of habeas corpus from a federal court must show that the state courts ruling on the claim being presented in federal court was so lacking in justification that there was an error well understood and comprehended in existing law beyond any

possibility for fairminded disagreement. *Harrington v. Richter*, 562 U. S. ____, ____ (2011) (slip op., at 13). The Court of Appeals for the Sixth Circuit purported to identify three such grievous errors in the Ohio Supreme Courts affirmance of respondent Archie Dixons murder conviction. Because it is not clear that the Ohio Supreme Court erred at all, much less erred so transparently that no fairminded jurist could agree with that courts decision, the Sixth Circuits judgment must be reversed.

Archie Dixon and Tim Hoffner murdered Chris Hammer in order to steal his car. Dixon and Hoffner beat Hammer, tied him up, and buried him alive, pushing the struggling Hammer down into his grave while they shoveled dirt on top of him. Dixon then used Hammers birth certificate and social security card to obtain a state identification card in Hammers name. After using that identification card to establish ownership of Hammers car, Dixon sold the vehicle for \$2,800.

Hammers mother reported her son missing the day after his murder. While investigating Hammers disappearance, police had various encounters with Dixon, three of which are relevant here. On November 4, 1993, a police detective spoke with Dixon at a local police station. It is undisputed that this was a chance encounter-Dixon was apparently visiting the police station to retrieve his own car, which had been impounded for a traffic violation. The detective issued Miranda warnings to Dixon and then asked to talk to him about Hammers disappearance. See *Miranda v. Arizona*, 384 U. S. 436 (1966). Dixon declined to answer questions without his lawyer present and left the station.

As their investigation continued, police determined that Dixon had sold Hammers car and forged Hammers signature when cashing the check he received in that sale. Police arrested Dixon for forgery on the morning of November 9. Beginning at 11:30 a.m. detectives intermittently interrogated Dixon over several hours, speaking with him for about 45 minutes total. Prior to the interrogation, the detectives had decided not to provide Dixon with Miranda warnings for fear that Dixon would again refuse to speak with them.

Dixon readily admitted to obtaining the identification card in Hammers name and signing Hammers name on the check, but said that Hammer had given him permission to sell the car. Dixon claimed not to know where Hammer was, although he said he thought Hammer might have left for Tennessee. The detectives challenged the plausibility of Dixons tale and told Dixon that Tim Hoffner was providing them more useful information. At one point a detective told Dixon that now is the time to say whether he had any involvement in Hammers disappearance because if Tim starts cutting a deal over there, this is kinda like, a bus leaving. The first one that gets on it is the only one thats gonna get on. App. to Pet. for Cert. 183a. Dixon responded that, if Hoffner knew anything about Hammers disappearance, Hoffner had not told him. Dixon insisted that he had told police everything he knew and that he had [n]othing whatsoever to do with Hammers disappearance. Id., at 186a. At approximately 3:30 p.m. the interrogation concluded, and the detectives brought Dixon to a correctional facility where he was booked on a forgery charge.

The same afternoon, Hoffner led police to Hammers grave. Hoffner claimed that Dixon had told him that Hammer was buried there. After concluding their interview with Hoffner and releasing him, the police had Dixon transported back to the police station.

Dixon arrived at the police station at about 7:30 p.m. Prior to any police questioning, Dixon stated that he had heard the police had found a body and asked whether Hoffner was in custody. The police told Dixon that Hoffner was not, at which point Dixon said, I talked to my attorney, and I want to tell you what happened. State v. Dixon, 101 Ohio St. 3d 328, 331, 2004-Ohio-1585, 805 N. E. 2d 1042, 1050. The police read Dixon his Miranda rights, obtained a signed waiver of those rights, and spoke with Dixon for about half an hour. At 8 p.m. the police, now using a tape recorder, again advised Dixon of his Miranda rights. In a detailed confession, Dixon admitted to murdering Hammer but attempted to pin the lions share of the blame on Hoffner.

At Dixons trial, the Ohio trial court excluded both Dixons initial confession to forgery and his later confession to murder. The State took an interlocutory appeal.

The State did not dispute that Dixon's forgery confession was properly suppressed, but argued that the murder confession was admissible because Dixon had received Miranda warnings prior to that confession. The Ohio Court of Appeals agreed and allowed Dixon's murder confession to be admitted as evidence. Dixon was convicted of murder, kidnaping, robbery, and forgery, and sentenced to death.

The Ohio Supreme Court affirmed Dixon's convictions and sentence. To analyze the admissibility of Dixon's murder confession, the court applied *Oregon v. Elstad*, 470 U. S. 298 (1985). The Ohio Supreme Court found that Dixon's confession to murder after receiving Miranda warnings was admissible because that confession and his prior, unwarned confession to forgery were both voluntary. *State v. Dixon*, supra, at 332-334, 805 N. E. 2d, at 1050-1052; see *Elstad*, supra, at 318 (We hold today that a suspect who has once responded to unwarned yet uncoercive questioning is not thereby disabled from waiving his rights and confessing after he has been given the requisite Miranda warnings).

Dixon then filed a petition for a writ of habeas corpus under 28 U. S. C. 2254 in the U. S. District Court for the Northern District of Ohio. Dixon claimed, inter alia, that the state court decisions allowing the admission of his murder confession contravened clearly established federal law. The District Court denied relief, but a divided panel of the Sixth Circuit reversed. *Dixon v. Houk*, 627 F. 3d 553 (2010).

The Sixth Circuit had authority to issue the writ of habeas corpus only if the Ohio Supreme Court's decision was contrary to, or involved an unreasonable application of, clearly established Federal law, as set forth in this Court's holdings, or was based on an unreasonable determination of the facts in light of the state court record. 2254(d); see *Harrington*, 562 U. S., at ___ (slip op., at 10). The Sixth Circuit believed that the Ohio Supreme Court's decision contained three such egregious errors.

First, according to the Sixth Circuit, the Miranda decision itself clearly established that police could not speak to Dixon on November 9, because on November 4 Dixon had refused to speak to police without his lawyer. That is plainly wrong. It is undisputed that Dixon was not in custody during his chance encounter with police

on November 4. And this Court has never held that a person can invoke his Miranda rights anticipatorily, in a context other than custodial interrogation. *McNeil v. Wisconsin*, 501 U. S. 171, 182, n. 3 (1991); see also *Montejo v. Louisiana*, 556 U. S. 778, ____ (2009) (slip. op., at 16) (If the defendant is not in custody then [Miranda and its progeny] do not apply).

Second, the Sixth Circuit held that police violated the Fifth Amendment by urging Dixon to cut a deal before his accomplice Hoffner did so. The Sixth Circuit cited no precedent of this Court-or any court-holding that this common police tactic is unconstitutional. Cf., e.g., *Elstad*, supra, at 317 ([T]he Court has refused to find that a defendant who confesses, after being falsely told that his codefendant has turned States evidence, does so involuntarily). Because no holding of this Court suggests, much less clearly establishes, that police may not urge a suspect to confess before another suspect does so, the Sixth Circuit had no authority to issue the writ on this ground.

Third, the Sixth Circuit held that the Ohio Supreme Court unreasonably applied this Courts precedent in *Elstad*. In that case, a suspect who had not received Miranda warnings confessed to burglary as police took him into custody. Approximately an hour later, after he had received Miranda warnings, the suspect again confessed to the same burglary. This Court held that the later, warned confession was admissible because there is no warrant for presuming coercive effect where the suspects initial inculpatory statement, though technically in violation of Miranda, was voluntary. The relevant inquiry is whether, in fact, the second [warned] statement was also voluntarily made. 470 U. S., at 318 (footnote omitted).

As the Ohio Supreme Courts opinion explained, the circumstances surrounding Dixons interrogations demonstrate that his statements were voluntary. During Dixons first interrogation, he received several breaks, was given water and offered food, and was not abused or threatened. He freely acknowledged that he had forged Hammers name, even stating that the police were welcome to that information, and he had no difficulty denying that he had anything to do with Hammers disappearance. *State v. Dixon*, 101 Ohio St. 3d, at 331, 805 N. E. 2d, at

1049. Prior to his second interrogation, Dixon made an unsolicited declaration that he had spoken with his attorney and wanted to tell the police what had happened to Hammer. Then, before giving his taped confession, Dixon twice received Miranda warnings and signed a waiver-of-rights form which stated that he was acting of his own free will.

The Ohio Supreme Court recognized that Dixons first in-terrogation involved an intentional Miranda violation. The court concluded, however, that as in *Elstad*, the breach of the Miranda procedures here involved no actual compulsion and thus there was no reason to suppress Dixons later, warned confession. 101 Ohio St. 3d, at 334, 805 N. E. 2d, at 1052 (citing *Elstad*, supra, at 318).

The Sixth Circuit disagreed, believing that Dixons confession was inadmissible under *Elstad* because it was the product of a deliberate question-first, warn-later strategy. 627 F. 3d, at 557. In so holding, the Sixth Circuit relied heavily on this Courts decision in *Missouri v. Seibert*, 542 U. S. 600 (2004). In *Seibert*, police employed a two-step strategy to reduce the effect of Miranda warnings: A detective exhaustively questioned Seibert until she confessed to murder and then, after a 15- to 20-minute break, gave Seibert Miranda warnings and led her to repeat her prior confession. 542 U. S., at 604-606, 616 (plurality opinion). The Court held that Seiberts second confession was inadmissible as evidence against her even though it was preceded by a Miranda warning. A plurality of the Court reasoned that [u]pon hearing warnings only in the aftermath of interrogation and just after mak- ing a confession, a suspect would hardly think he had a genuine right to remain silent, let alone persist in so believing once the police began to lead him over the same ground again. 542 U. S., at 613; see also *id.*, at 615 (detailing a series of relevant facts that bear on whether Miranda warnings delivered midstream could be effective enough to accomplish their object). Justice Kennedy concurred in the judgment, noting he would apply a narrower test applicable only in the infrequent case . . . in which the two-step interrogation technique was used in a calculated way to undermine the Miranda warning. *Id.*, at 622.

In this case, no two-step interrogation technique of the type that concerned the Court in *Seibert* undermined the Miranda warnings Dixon received. In *Seibert*, the

suspects first, unwarned interrogation left little, if anything, of incriminating potential left unsaid, making it unnatural not to repeat at the second stage what had been said before. 542 U. S., at 616-617 (plurality opinion). But in this case Dixon steadfastly maintained during his first, unwarned interrogation that he had [n]othing whatsoever to do with Hammers disappearance. App. to Pet. for Cert. 186a. Thus, unlike in *Seibert*, there is no concern here that police gave Dixon Miranda warnings and then led him to repeat an earlier murder confession, because there was no earlier confession to repeat. Indeed, Dixon contradicted his prior unwarned statements when he confessed to Hammers murder. Nor is there any evidence that police used Dixons earlier admission to forgery to induce him to waive his right to silence later: Dixon declared his desire to tell police what happened to Hammer before the second interrogation session even began. As the Ohio Supreme Court reasonably concluded, there was simply no nexus between Dixons unwarned admission to forgery and his later, warned confession to murder. 101 Ohio St. 3d, at 333, 805 N. E. 2d, at 1051.

Moreover, in *Seibert* the Court was concerned that the Miranda warnings did not effectively advise the suspect that he had a real choice about giving an admissible statement because the unwarned and warned interrogations blended into one continuum. 542 U. S., at 612, 617. Given all the circumstances of this case, that is not so here. Four hours passed between Dixons unwarned interrogation and his receipt of Miranda rights, during which time he traveled from the police station to a separate jail and back again; claimed to have spoken to his lawyer; and learned that police were talking to his accomplice and had found Hammers body. Things had changed. Under *Seibert*, this significant break in time and dramatic change in circumstances created a new and distinct experience, ensuring that Dixons prior, unwarned interrogation did not undermine the effectiveness of the Miranda warnings he received before confessing to Hammers murder. 542 U. S., at 615; see also *id.*, at 622 (Kennedy, J., concurring in judgment) (For example, a substantial break in time and circumstances between the prewarning statement and the Miranda warning may suffice in most circumstances, as it allows the accused to distinguish the two contexts and appreciate that the interrogation has taken a new turn).

The admission of Dixons murder confession was consistent with this Courts precedents: Dixon received Mi- randa warnings before confessing to Hammers murder; the effectiveness of those warnings was not impaired by the sort of two- step interrogation technique condemned in Seibert; and there is no evidence that any of Dixons statements was the product of actual coercion. That does not excuse the detectives decision not to give Dixon Miranda warnings before his first interrogation. But the Ohio courts recognized that failure and imposed the appropriate remedy: exclusion of Dixons forgery confession and the attendant statements given without the benefit of Miranda warnings. Because no precedent of this Court required Ohio to do more, the Sixth Circuit was without authority to overturn the reasoned judgment of the States highest court.

The petition for a writ of certiorari and respondents motion to proceed in forma pauperis are granted. The judgment of the Court of Appeals for the Sixth Circuit is reversed, and the case is remanded for further proceedings consistent with this opinion.

It is so ordered.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com