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State v. Rucker:**A Brief Investigatory Stop is Not a Restraint on Freedom of Movement Characteristic of a Formal Arrest and Does Not Require *Miranda* Warnings**

By: Ruthie Linzer

The Court of Appeals of Maryland held a brief investigatory stop is not a restraint on freedom of movement characteristic of a formal arrest and does not require *Miranda* warnings. *State v. Rucker*, 374 Md. 199, 821 A.2d 439 (2003). The court of appeals followed the recent trend of Supreme Court rulings, which require formal custody or restraint on freedom characteristic of a formal arrest as the ultimate inquiry in determining whether a suspect is in custody for *Miranda* purposes. *Id.*

On December 31, 2000, a confidential informant tipped police that Terrance Rucker ("Rucker") was among a number of individuals involved in narcotics trafficking. A few days later, the informant accompanied Detectives Powell and Piazza to a shopping mall parking lot where Rucker was indentified as he went to his car. Powell immediately instructed Corporal Grimes to stop Rucker until they arrived at the scene. Grimes' patrol car pulled up behind Rucker's parked car, leaving space in front of Rucker's car. Grimes asked Rucker for his license and registration. Meanwhile, the two detectives arrived. Detective

Powell asked Rucker, "[d]o you have anything you are not supposed to have?" Rucker replied, "[y]es, I do, it's in my pocket." Powell asked what it was and Rucker replied cocaine, at which point Rucker was arrested.

The trial court held Rucker was in custody, had not been read his *Miranda* rights, and suppressed the confession. The State filed an interlocutory appeal. The court of special appeals affirmed, holding although the stop was valid, what occurred after the stop changed the character of the event and the stop became the functional equivalent of a *de facto* arrest requiring *Miranda* warnings. The court of appeals granted certiorari.

The court of appeals began its analysis by noting the first step in determining whether a *Miranda* warning is required is to determine if the defendant was in custody. *Id.* at 208, 821 A.2d at 444. The court reviewed *Miranda's* history and subsequent case law concerning custodial questioning. *Id.* Custodial questioning is "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." *Id.* (quoting *Miranda v. Arizona*, 384

U.S. 436,444 (1966)).

The court of appeals uses a two-part test to determine whether a defendant was in custody. *Id.* at 210, 821 A.2d at 446. First, the court considers circumstances surrounding the interrogation. *Id.* Second, given those circumstances, the court considers whether a reasonable person would believe he or she was at liberty to terminate the interrogation and leave. *Id.* Since *Miranda*, Supreme Court rulings added a third and final step to the inquiry: whether there was a "formal arrest or restraint on freedom of movement of the degree associated with a formal arrest." *Id.* at 211, 821 A.2d 439, 446.

In the case at bar, the court of appeals held the circumstances of Rucker's stop brief and investigatory and they remained so when Rucker told police he had cocaine. *Id.* at 212, 821 A.2d at 446. Rucker was not in custody for *Miranda* purposes because he was not restrained to a degree associated with formal arrest. *Id.* Rucker was asked a single question in a public parking lot, the stop took less than one hour, and no law enforcement officer drew a weapon. *Id.* at 221, 821 A.2d at 452. Accordingly, *Miranda* warnings

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were not required before police asked Rucker whether he had anything illegal. *Id.*

The court of appeals concluded this particular stop was not a *de facto* arrest. *Id.* at 221, 821 A.2d at 452. The court cited *Berkemer v. McCarty*, which considered questioning during a brief investigatory stop on a public street, where potential eyewitnesses could be drawn to the scene, not custodial for *Miranda* purposes. *Id.* (citing *Berkemer*, 468 U.S. 420 (1984)). Such a stop is only considered custodial if it is of a degree associated with formal arrest or if it develops into a formal arrest. *Id.* at 218-19, 821 A.2d at 450.

In addition, the court cited two Maryland cases that held coercive circumstances similar to the instant case were not custodial for *Miranda* purposes. In *McAvoy v. State*, a suspect's car was pulled over by police and he was asked to perform a lengthy field sobriety test, which he failed. *Id.* at 220, 821 A.2d at 451 (citing *McAvoy*, 314 Md. 509, 551 A.2d 875 (1989)). Next, in *In re David S.*, a suspect was thrown down and handcuffed when he appeared to reach for a gun. *Id.* at 216, 821 A.2d at 449 (citing *In re David*, 367 Md. 523, 789 A.2d 607 (2002)). As in Rucker's situation, each stop was conducted in public, was brief, and did not lead to formal arrests for *Miranda* purposes, despite their seemingly coercive nature.

The *Rucker* decision sends a strong message that despite the authoritative nature of a brief

investigatory stop by law enforcement officers, the standard remains that these types of stops will not require *Miranda* warnings unless the suspect is restrained to a degree associated with formal arrest or placed under formal arrest. If a suspect is restrained to such a degree, the constitutional right against being compelled to make self-incriminating statements comes into play. This ruling preserves the rights of law enforcement officers to investigate illegal activity without *Miranda* warnings and signals defense attorneys to be aware that this standard must be met before a motion to suppress a defendant's statements will be granted.

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