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Baynor v. State

Maryland Rule 4-263 Requires the State to Produce Relevant Information Regarding the Acquisition of Statements Made During a Custodial Interrogation that the State Intends to Use at Trial

By Anabelle Berges

The Court of Appeals of Maryland held that Maryland Rule 4-263(a)(2)(B) requires the state to disclose relevant information regarding the acquisition of inculpatory statements made during a custodial interrogation. *Baynor v. State*, 355 Md. 726, 736 A.2d 325 (1999). The court held that the State was not required to produce information regarding the circumstances of an entire one hour and fifty-three minute interrogation, where only a nine minute taped confession was introduced at trial. Rather, the prosecutor was only compelled to disclose relevant information regarding the acquisition of the inculpatory statement the State intended to use at trial.

On September 26, 1996, Gary Baynor ("Baynor") was arrested and charged with murder and other related offenses. At police headquarters, Baynor was interviewed by Detective Michael Glenn and Detective Wayne Jones of the Homicide Unit. Baynor asked the detectives why he was brought to the unit, and Detective Glenn indicated that he was charged with murder. Baynor then asked what punishment he could receive and Detective Glenn stated he could receive life imprisonment or the death penalty. At the suppression hearing the detective testified inconsistently regarding his statement to Baynor. He

first testified that he told Baynor he could "be put to death summarily or life." He later testified, however, that he told Baynor, "he could receive life or the death penalty." Baynor subsequently agreed to answer the detectives' questions without a lawyer present. Although the interrogation started at 1:28 p.m. and ended at 3:21 p.m. the detectives did not begin recording the interrogation until 3:12 p.m. In the recorded portion of the interrogation, Baynor admitted to the shooting and was subsequently indicted.

Baynor was convicted of second degree murder, attempted second degree murder, and other related offenses by a jury in the Circuit Court for Baltimore City, and was sentenced to one hundred years incarceration. The Court of Special Appeals of Maryland affirmed Baynor's conviction. The Court of Appeals of Maryland granted the petition for writ of certiorari.

The court began its analysis by addressing the issue of whether, under Maryland Rule 4-263, the State is required to produce the complete details of an interrogation, including exculpatory statements made by the defendant. *Baynor*, 355 Md. at 735, 736 A.2d at 329-30. Maryland Rule 4-263 states, in pertinent part, that the "State's Attorney shall furnish to the defendant: . . . (2) Any relevant

material or information regarding: . . . (B) the acquisition of statements made by the defendant to a State agent that the State intends to use at a hearing or trial . . ." *Id.* at 735, 736 A.2d at 330.

The court recognized that the statement the prosecutor intended to use at the hearing or trial was the recorded portion of the interrogation that contained Baynor's confession. *Id.* at 736, 736 A.2d at 330. The State had no intention of admitting the exculpatory statements made by Baynor prior to his confession. *Id.* at 737, 736 A.2d at 330. Moreover, the court stated that the recorded portion of the interrogation disclosed the information that was required under Rule 4-263(a)(2)(B), because the tape disclosed the time and place that the statements were made, the persons present during the interrogation, and Baynor's waiver of rights. *Id.* at 737, 736 A.2d at 331. As a result, the court held that information regarding Baynor's exculpatory statements "simply would not be relevant to the statements that the State actually intended to use." *Id.*

Defense counsel argued that the State should disclose the circumstances of the complete interrogation, so as to allow the trier of fact to consider the totality of the circumstances when determining

voluntariness of a confession. *Id.* The court stated that Rule 4-263(a)(2)(B) did not intend to place such a responsibility on the State. *Id.* Furthermore, the State was not required to “disclose essentially a verbatim account of a custodial interrogation that ultimately results in an oral inculpatory statement.” *Id.* The court concluded that the State did not violate Rule 4-263 by not disclosing a complete account of the custodial interrogation. *Id.* at 740, 736 A.2d at 332.

The court also rejected the argument that all interrogations must be tape recorded to determine whether the interrogation was voluntary under a totality of the circumstances. *Id.* at 738, 736 A.2d at 331. The court pointed out that a majority of other jurisdictions do not require that a custodial interrogation be tape recorded in order for a confession to be voluntary. *Id.* The court reasoned that the creation of a rule requiring that all interrogations be recorded is best left in the hands of the legislature. *Id.* at 740, 736 A.2d at 332.

The court next addressed the issue of whether the trial court restricted defense counsel’s cross examination of the detectives during the pretrial hearing and trial, thereby barring him from eliciting evidence of the entire custodial interrogation. *Id.* at 740, 736 A.2d at 332-33. The court noted that Baynor testified at the pretrial suppression hearing, and was questioned by defense counsel regarding the circumstances surrounding the interrogation. *Id.* at 740, 736 A.2d at 333. Therefore,

Baynor could have testified at trial regarding the details of the custodial interrogation. *Id.* He chose, however, not to testify. *Id.*

The court also stated that defense counsel’s examination of the detectives during the pretrial hearing and trial adequately disclosed evidence regarding the complete interrogation. *Id.* at 741, 736 A.2d at 333. This evidence consisted of, *inter alia*, Detective Glenn’s statement to Baynor that he could receive the death penalty, the fact that only nine minutes out of the entire custodial interrogation were recorded, and testimony that Detective Glenn’s notes of the interrogation did not contain all of Baynor’s statements. *Id.*

The court of appeals concluded that the trial court did not limit defense counsel’s examination of the detectives. *Id.* at 749, 736 A.2d at 337. Defense counsel presented to the court and jury, testimony regarding the details of the recorded portion of the custodial interrogation. *Id.* at 741, 736 A.2d at 333. The court concluded that the evidence elicited by defense counsel was sufficient for the court and jury to consider the totality of the circumstances in determining the voluntariness of the confession. *Id.*

As a result of the holding in *Baynor*, the State has no duty to disclose the complete account of a custodial interrogation that results in an inculpatory statement. By strictly construing Rule 4-263 to require the State to only disclose relevant information regarding the portion of the defendant’s statement that the State intends to use at trial, the Court

of Appeals of Maryland has made access to information relating to the entire custodial interrogation more difficult to obtain. More importantly, State agents can continue to interrogate defendants for extended periods of time while only tape recording inculpatory statements made by the defendant.