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Recent Development: Williams v. State: A Confession is Voluntary Unless the Defendant Unambiguously Invokes His Constitutional Right to Remain Silent or the Confession is Obtained Through Coercion or Inducement

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RECENT DEVELOPMENT

WILLIAMS V. STATE: A CONFESSION IS VOLUNTARY UNLESS THE DEFENDANT UNAMBIGUOUSLY INVOKES HIS CONSTITUTIONAL RIGHT TO REMAIN SILENT OR THE CONFESSION IS OBTAINED THROUGH COERCION OR INDUCEMENT.

By: Pascale Cadelien

The Court of Appeals of Maryland held that “I don’t want to say nothing. I don’t know,” is an ambiguous invocation of the right to remain silent. *Williams v. State*, 445 Md. 452, 455, 128 A.3d 30, 32 (2015). The court reasoned that the defendant’s addition of “I don’t know” to his initial assertion “I don’t want to say nothing” created uncertainty about whether he intended to invoke his right to remain silent. *Id.* at 477, A.3d at 44. This allowed a reasonable officer to interpret his statement as an “ambiguous request to remain silent.” *Id.* Furthermore, the officers’ implication that the defendant should confess to a “robbery gone bad,” instead of premeditated murder, did not induce his confession. *Id.* at 477-483, A.3d at 45-48. Accordingly, the defendant’s confession was voluntary. *Id.* at 483, A.3d at 48.

On January 10, 2011, Justin DeSha-Overcash was shot and killed in College Park, Maryland. Detective Harris and Sergeant McDonald, from the Prince George’s County Police Department, interrogated Deandre Ricardo Williams (“Williams”) in connection with the shooting. Williams continuously denied having knowledge of the incident. Nevertheless, the officers made several attempts to read Williams his rights and to inform him that he was not obligated to talk. Williams eventually stated, “I don’t want to say nothing. I don’t know.” Sergeant McDonald interrupted him by responding, “But you don’t have to say nothing.”

Then, one of the officers read Williams the entirety of his rights and gave him a copy, which Williams read and signed. Thereafter, Detective Harris described two possible charges, one of premeditated murder and the other of a “robbery gone bad.” Detective Harris mentioned that Williams “may never see outside again” if convicted of premeditation. Williams responded, “No matter what you all find out, they’re going to smoke my boots anyway.” Williams then confessed.

Williams was indicted in the Circuit Court for Prince George’s County for first-degree murder, use of a handgun in the commission of a crime of violence, and several other related offenses. Before trial, Williams filed a motion to suppress his confession. He argued: (1) he invoked his right to remain silent when he expressed, “I don’t want to say nothing. I don’t know” and (2) his confession was involuntary because it was coerced.

The trial court denied Williams’s motion to suppress, finding that Williams’s invocation of his right to remain silent was “ambiguous and

equivocal.” The circuit court also found that Williams’s confession was voluntary. Williams was subsequently convicted of first-degree murder and use of a handgun in the commission of a crime of violence. He was sentenced to life in prison, with all but 49 years suspended and a concurrent 20 years, respectively.

Williams appealed to the Court of Special Appeals of Maryland, which affirmed both trial court holdings. Williams then petitioned the Court of Appeals of Maryland for writ of certiorari, which the court granted. The court was tasked with determining the ambiguity of Williams’s invocation of his right to silence and the voluntariness of Williams’s confession.

The Court of Appeals of Maryland began its analysis by discussing the right to remain silent articulated in *Miranda v. Arizona*. *Williams*, 445 Md. at 469, 128 A.3d at 40 (citing *Miranda v. Arizona*, 384 U.S. 436 (1966)). The court explained that pursuant to the Fifth Amendment, a detainee must be advised by law enforcement, prior to questioning, of his rights to remain silent and to have an attorney present. *Williams*, 445 Md. at 469-70, 128 A.3d at 40 (citing *Miranda*, 384 U.S. at 479).

The court then explained that for an individual to properly invoke his *Miranda* rights, the individual must do so “unambiguously.” *Williams*, 445 Md. at 470, 128 A.3d at 40 (citing *Davis v. U.S.*, 512 U.S. 452 (1994)). When the invocation is clear, the constitutional mandates attach and the officer is directed by the law on how to proceed. *Id.* at 470, 128 A.3d at 40 (citing *Davis*, 512 U.S. at 458-59). Otherwise, the officer is not constitutionally required to terminate the interrogation or to seek clarification from the individual. *Id.* at 470, 128 A.3d at 40 (citing *Davis*, 512 U.S. at 458-59).

The court remarked that although the case *sub judice* presented an issue of first impression, it had applied the *Davis* test in the context of the right to counsel. *Williams*, 445 Md. at 471, 128 A.3d at 41, (citing *Ballard v. State*, 420 Md. 480, 24 A.3d 96 (2011)). In that case, the Court of Appeals of Maryland held that “you mind if ...” is a “colloquial []” term used to assert, rather than request, a right to an attorney. *Id.*, (quoting *Ballard*, 420 Md. at 485, 24 A.3d at 99).

The Court of Appeals of Maryland also looked to sister courts for examples of ambiguous and unambiguous invocations of the right to remain silent. *Williams*, 445 Md. at 471-75, 128 A.3d at 41-43. The court determined that the common thread among the persuasive cases was the certainty of the invocations. *Id.* at 475, 128 A.3d at 43. The objective inquiry asks whether a reasonable police officer, under the circumstances, would perceive the individual to be invoking his right to remain silent. *Id.*

Applying the standard to Williams’s statement, the court of appeals agreed with the lower courts that the addition of “I don’t know” to Williams’s statement converted an otherwise clear assertion of his right to remain silent into an “ambiguous and equivocal” invocation. *Williams*, 445 Md. at 475-77, 128 A.3d at 43-44. Accordingly, a reasonable officer could have interpreted Williams’s statement as his contemplation of whether or not he should remain

silent; therefore, the court rejected Williams's argument. *Id.* at 477, 128 A.3d at 44.

The court then held that Williams's confession was voluntary. *Williams*, 445 Md. at 483, 128 A.3d at 48. Maryland criminal law provides that any confession by an accused from an officer's inducement, either expressed or implied, is involuntary and inadmissible. *Id.* at 478, 128 A.3d at 45 (citing *Hillard v. State*, 286 Md. 145, 153, 406 A.2d 415, 420 (1979)). To determine involuntariness, the court applies a two-prong test that examines: 1) whether there was a threat or promise by the officer, and if so 2) whether there was a nexus between the threat or promise and the confession. *Id.*, (citing *State v. Tolbert*, 381 Md. 539, 588, 850 A.2d 1192, 1203 (2004)).

The first prong of the involuntariness test uses a reasonable person standard, ignoring the accused's subjective belief. *Williams*, 445 Md. at 478-79, 128 A.3d at 45 (citing *Hillard*, 286 Md. 145, 406 A.2d 415). If prong one is satisfied, the court must determine whether the accused confessed in reliance on the inducement. *Id.* at 478, 128 A.3d at 45 (citing *Hillard*, 286 Md. 145, 406 A.2d 415). Applying this test, the court of appeals explained that the officers did not induce Williams's statement by offering two conviction scenarios. *Id.* at 481, 128 A.3d at 47. Instead, the officers were advising Williams of the potential legal consequences that he might be facing when they illustrated premeditated murder and a "robbery gone bad." *Id.* Even if the officers did induce Williams, his statement that "they're going to smoke my boots anyway" illustrated his understanding of the situation's severity and a lack of reliance on the officer's statements. *Id.*

In *Williams*, the Court of Appeals of Maryland determined that "I don't know" converted Williams's unambiguous invocation of "I don't want to say nothing" into an ambiguous invocation. The court also found that there was no inducement to render Williams's confession involuntary. The court's decision to adhere to the objective test of unambiguity guides officers and creates consistency. However, this decision may permit officers to take advantage of criminal defendants who are less familiar with their Fifth Amendment right to remain silent.