



10-1-2017

## Recent Developments: Brown v. State

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### Recommended Citation

Shields, Edward S. III (2017) "Recent Developments: Brown v. State," *University of Baltimore Law Forum*: Vol. 48 : No. 1 , Article 5.

Available at: <https://scholarworks.law.ubalt.edu/lf/vol48/iss1/5>

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## RECENT DEVELOPMENT

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***BROWN V. STATE: UNDER THE TOTALITY OF CIRCUMSTANCES, A SUSPECT IS IN CUSTODY FOR MIRANDA PURPOSES WHEN HE IS TRANSPORTED DIRECTLY FROM A HOSPITAL TO AN INTERROGATION ROOM.***

**By: Edward S. Shields III**

The Court of Appeals of Maryland held that a suspect was in a custodial environment during the six minutes of his interrogation before he was read his *Miranda* rights. *Brown v. State*, 452 Md. 196, 156 A.3d 839 (2017). The court held that within the totality of the circumstances, a reasonable person would not have felt free to leave. *Id.* Lastly, the significant restraint on Brown's freedom of movement which rose to the level of a formal arrest, further created a custodial environment. *Id.* at 219, 156 A.3d at 852.

In October 2014, there was a reported shooting at Elks Lodge. An anonymous 911 caller reported that he was injured and driving a vehicle to the Hurlock Village Apartments. An officer responded and observed the vehicle in question. The officer witnessed Terrance J. Brown ("Brown") exiting the vehicle. When Brown left the officer's line of vision, the officer approached the car and noticed dried blood in the passenger area. Brown was subsequently transported to the hospital. Because of the dried blood, police towed Brown's vehicle to the station while he was still in the hospital. They also sent Detective Howard ("Howard") to the hospital to obtain information from Brown regarding the shooting.

At the hospital, Howard approached Brown with his weapon and badge clearly visible. Howard told Brown that he was there to "obtain" him. He further asked Brown to consent to coming back to the station to give a statement. Brown was placed in the rear passenger seat, without handcuffs, while wearing hospital scrubs, and a bandage on his head. The marked police car then transported Brown to the station.

Once they arrived at the station, Brown was brought in through an entrance not available to the public and led directly to an interrogation room. A detective interrogated Brown for six minutes before issuing *Miranda* warnings. When Brown was being advised of his rights, he asked if he was under arrest to which the interviewing detective responded in the negative. After the warnings were issued, Brown repeatedly asked if he could go home. At the end of the interview Brown was arrested for homicide.

Brown was charged with two counts of first-degree murder and related charges in the Circuit Court for Dorchester County. He filed and was granted a motion to suppress the statements made before he was read his *Miranda* rights. The State appealed the circuit court's decision. The Court of Special Appeals of Maryland reversed the ruling of the circuit court in an unreported opinion, holding that Brown was not in custody under the totality

of the circumstances. Brown then filed a petition for a *writ of certiorari* which was granted by the Court of Appeals of Maryland.

The issue before the Court of Appeals of Maryland was whether Brown was in custody for the purposes of *Miranda* during the entirety of his interrogation. *Brown*, 452 Md. at 209, 156 A.3d at 846. A confession is inadmissible if it was elicited without conforming to *Miranda*. *Brown*, 452 Md. at 209, 156 A.3d at 846 (citing *Ball v. State*, 347 Md. 156, 173-74, 699 A.2d 1170, 1178). The Court in *Miranda* found that a custodial interrogation's coercive nature makes it difficult to determine whether statements are voluntary. *Brown*, 452 Md. at 210, 156 A.3d at 846 (citing *U.S. v. Dickerson*, 530 U.S. at 435, 120 S.Ct. at 2331). *Miranda* further held that an individual in custody must be informed of certain rights prior to interrogation in order to protect his Fifth Amendment rights. *Id.*

In determining whether an individual is in a custodial environment requiring the reading of *Miranda* rights, an objective inquiry is made based on the totality of the circumstances. *Brown*, 452 Md. at 209, 156 A.3d at 847 (citing *Stansbury v. California*, 511 U.S. 318, 323, 114 S.Ct. 1526, 1529, 128 L.Ed.2d 293). Based on these circumstances, the court must determine whether there is a restraint on an individual's freedom of movement to a degree associated with a formal arrest. *Brown*, 452 Md. at 209, 156 A.3d at 847 (citing *U.S. v. Thompson*, 516 U.S. 99, 112, 116 S.Ct. at 465, 133 L.Ed.2d 383) (1995)). In making this determination, the court will look at the following factors: when and where the interrogation occurred, whether the defendant was questioned as a suspect or witness, the length of the interrogation, the events leading to the interrogation, how the defendant arrived to be questioned, and subsequent events after the interrogation. *Id.* at 211, 156 A.3d at 847. Lastly, the court will evaluate whether a reasonable person would have felt at liberty to terminate the interrogation. *Id.* at 210, 156 A.3d at 847.

The Court of Appeals of Maryland determined that Brown's freedom of movement was restrained to the degree associated with a formal arrest. *Brown*, 452 Md. at 212, 156 A.3d at 848. A reasonable person in Brown's situation, dressed in a hospital gown, suffering from multiple gunshot wounds and without access to his vehicle, would have felt unable to leave or refuse the offer to go to the station. *Id.* at 213-14, 156 A.3d at 849. The court further stated that the lower court's factual finding that Brown's acquiescence to Howard indicated a lack of voluntariness within the totality of the circumstances. *Id.* at 213, 156 A.3d at 848. Based on these findings, the court found that a reasonable person would not have felt free to leave and that Brown's degree of movement was restricted, similar to that of a formal arrest. *Id.* at 219, 156 A.3d at 852.

The dissenting opinion highlighted certain facts and de-emphasized other facts. *Brown*, 452 Md. at 220, 156 A.3d at 852-53. The dissent stated that the following facts should have been given equal weight as those in the majority opinion: Brown being told he was going to the station as a victim, not being handcuffed, repeatedly told he was not under arrest, not being

restrained at any time before or during the interrogation, the interrogator not being armed, and his statements being made very early in the interrogation. *Id.* at 221, 156 A.3d at 853. Furthermore, the dissent attacked the majority's reliance on the circuit court's use of the word "acquiesced" when they described Brown's response to Howard picking him up from the hospital. *Id.* at 224, 156 A.3d at 855. The dissent stated that the majority relied too heavily on the lower court's use of the term acquiesce, rather than consent, when describing how Brown was taken to the police station. *Id.* at 224, 156 A.3d at 855. The dissent also posited that even if Brown felt he was not free to leave, within the totality of the circumstances, that fact did not show the restraint on freedom of movement to the degree of a formal arrest. *Id.* at 225, 156 A.3d at 856.

The Court of Appeals of Maryland held that Brown's freedom of movement was restricted to the degree of a formal arrest and that Brown's interrogation was custodial for *Miranda* purposes. This ruling strengthens the rights of defendants by only allowing legally obtained voluntary statements to be used against them. This holding further emphasizes how important it is for police to read a suspect their *Miranda* rights before interrogation begins. The state should stress to police the importance of handling interrogations with care because the state could lose inculpatory evidence based on police failing to "Mirandize" a suspect. By broadening the definition of custodial interrogation, police may have a harder time following the guidelines set forth in this case. Police often use certain interrogation techniques to quickly obtain information, and this ruling could make it more difficult for police to gather necessary information to solve cases.