Court of Appeals, State of Michigan

ORDER

People of MI v Christopher Fritz

Docket No. 275134

LC No. 06-010666-01

Brian K. Zahra
Presiding Judge

Michael J. Talbot

Kirsten Frank Kelly
Judges

The Court orders that the motion for immediate consideration is GRANTED.

In lieu of granting leave to appeal, pursuant to MCR 7.205(D)(2), the December 15, 2006, order of the Wayne County Circuit Court, which granted defendant's motion to suppress, is REVERSED. *Miranda* warnings are only required when there is a custodial interrogation. *People v Zahn*, 234 Mich App 438, 449; 594 NW2d 120 (1999). According to the trial court's stated findings, which are not contested, defendant voluntarily went to the police station for an interview upon request by the police, and it does not appear that he was restrained in any manner. Although a warrant for his arrest had been issued, Sergeant Ken Walker told defendant that he was not under arrest and that he was free to terminate the interview at any time and go home. It does not affirmatively appear that Walker's intention to arrest defendant upon completion of the interview was conveyed to defendant. Viewing the totality of the circumstances, a reasonable person would have believed that he was free to terminate the interview and leave. *People v Mendez,* 225 Mich App 381, 382-383; 571 NW2d 528 (1997). The trial court in this case erroneously considered the subjective views held by Walker and erroneously stated that defendant's state of mind or knowledge were irrelevant. *Zahn, supra* 449-450; *Stansbury v California*, 511 US 318, 323; 114 S Ct 1526; 128 L Ed 2d 293 (1994). Moreover, the fact that the interview occurred at the station and that defendant was a suspect are irrelevant. *Mendez, supra,* at 383-384; *Oregon v Mathiason*, 429 US 492, 495; 97 S Ct 711; 50 L Ed 2d 714 (1977). Because defendant was not in custody, the police were not required to advise him of *Miranda* rights before questioning him.

Pursuant to MCR 7.215(F)(2), this Court further directs that this order shall take immediate effect. The Court retains no further jurisdiction.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JAN 19 2007
Date

Sandra Schultz Mengel
Chief Clerk