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Casual Miranda Rights – Eighth Circuit

By **Daigle Law Group**

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DAIGLE LAW GROUP

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In today's case out of the Eighth Circuit Court of Appeals we encounter two known drug users and *Miranda* rights. As a reminder, you are required to provide *Miranda* warnings when conducting a "custodial interrogation". A person is in "custody" for *Miranda*, purposes, when there is a formal arrest, or you are restraining the person's freedom of movement to the degree associated with a formal arrest. To determine whether a person was in custody, the court asks, "whether given the totality of the circumstances, a reasonable person would have felt at liberty to terminate the interrogation and leave or cause the [officers] to leave." Also, a "seizure is a necessary prerequisite to *Miranda*." A Fourth Amendment seizure occurs when a "reasonable person in the same circumstances would not feel free to leave."

In today's case our suspect willingly chats with officers and is told that he is not under arrest. But as the night goes on Parker goes to the police station with officers and begins casually relaying information to officers even after he is given *Miranda* warnings. So, does the court feel that *Miranda* rights should have been fully read in this situation? Let's find out.

FACTS

Shortly after midnight on April 17, 2017, Richard Parker called 911 from a friend's apartment on to report that his girlfriend was not breathing. Officers from the Dubuque Police Department arrived at the apartment, which was shared by Donte Richards and Ashley Ostrander, both known narcotics users. As Officer Richard Walker interviewed Parker, Parker would pause briefly to answer a question, and then continue to walk around the apartment, where other officers, Ostrander, Richards, and paramedics were either speaking, moving about, or caring for Parker's girlfriend.

Eventually, Officer Walker told Parker to "just kinda stay here." Parker stopped for a moment and then continued to roam throughout the apartment. Officer Walker asked him whether his girlfriend had drunk alcohol or used drugs. Parker replied that she had been drinking and used cocaine. At this point, another officer asked Officer Walker and Parker to continue their conversation outside.

Outside, Officer Walker continued asking Parker about the events that led up to his girlfriend's medical emergency and the 911 call. Officer Walker also asked whether Parker had used drugs that day, which Parker denied. As they spoke, Parker tried to reenter the apartment a few times, but each time Officer Walker told him to "just wait here" and remain outside, including when paramedics brought a stretcher

through the apartment's back door. Eventually, Officer Walker was able to get Parker to stand inside a vestibule just outside the apartment door. Here, Officer Walker asked Parker about his own drug use and this time, Parker admitted to using drugs earlier that evening. He also told Officer Walker that he last saw his girlfriend alert roughly thirty minutes before he called 911. Following this conversation, Parker reentered the apartment and sat in the dining room. While Parker sat, officers learned that his girlfriend had died at the hospital.

Investigator David Randall arrived at the apartment around 2:45 a.m. and asked whether Parker, Ostrander, and Richards would voluntarily accompany him to the police station. He told them that they were not under arrest. Parker was the only one who agreed. Before asking any questions at the station, Investigator Randall again informed Parker that he was not under arrest and also advised him of his *Miranda* rights. Parker waived those rights and admitted that he and his girlfriend snorted something he believed was heroin. Later that morning, Parker was arrested for a parole violation and police executed a search warrant at apartment. Officers recovered baggies containing four grams of heroin from a living room chair.

The government charged Parker with several drug-related charges. The district court denied Parker's motion to suppress statements he made at the apartment and later at the police station. After being convicted at trial, Parker appealed.

EIGHTH CIRCUIT OPINION

Parker brought his argument to the Eighth Circuit Court of Appeals and claimed that the statements he made at the apartment should have been suppressed because he was in custody when Officer Walker told him "just kinda stay here" without providing him *Miranda* warnings.

The court held that Parker's initial interaction with the officers was a consensual encounter. After waking up, Parker called 911 to report that his girlfriend needed medical assistance. Once the paramedics and officers arrived, it was reasonable to expect that officers would talk to individuals at the apartment. Afterward, the court noted that Officer Walker and Parker's conversation occurred as Parker paced throughout the apartment while paramedics attended to his girlfriend and other officers spoke with Ostrander and Richards. The court concluded that Officer Walker's request that Parker "just kinda stay here" did not by itself constitute a seizure or a significant restraint on his movement requiring *Miranda* warnings because it was "spoken as a colloquialism to be understood by the reasonable person to mean something more on the order of 'be patient while we finish up here,' not 'you are being detained.'"

Parker argued that even if he was not seized inside the apartment, a seizure occurred outside when Officer Walker told him to “just wait here.” Again, the court disagreed. Officer Walker and Parker continued their conversation outside at another officer’s request. During this conversation, Parker moved toward the back door and each time, Officer Walker told him to remain outside. Viewed in context, Officer Walker telling Parker to wait outside was not a command indicating compliance was necessary; instead, he was ensuring that neither he nor Parker got in the way of paramedics or other conversations inside. The court added that Officer Walker’s statement to Parker outside would be understood by the reasonable person to mean, “let’s just stay here and out of the way,” rather than an order indicating something akin to, “you are being detained.”

In addition, the court found that while Parker was never explicitly told the questioning was voluntary, his continued walking around the apartment shows he possessed virtually unrestrained freedom of movement during the questioning. By merely following Parker inside and saying they should wait outside, the court held that Officer Walker did not restrain Parker’s “freedom of movement to the degree associated with formal arrest.”

The court also held that Parker voluntarily waived his *Miranda* rights before being interrogated by Investigator Randall at the police station. A *Miranda* waiver must be made voluntarily, knowingly, and intelligently. The waiver must be voluntary in the sense that “it was the product of a free and deliberate choice rather than intimidation, coercion, or deception.”

In this case, Parker and Officer Walker’s conversation ended around 12:48 a.m. Afterward, Parker sat in the dining room until 2:45 a.m. and, during this time, fell asleep. There was no suggestion that officers intimidated, coerced, or deceived Parker following his conversation with Officer Walker. To the contrary, once Investigator Randall arrived, he informed Parker that he was not under arrest. Investigator Randall then asked Parker if he would accompany him to the station and reiterated that Parker was not under arrest. Even if Parker’s contention that Officer Walker demanded that he provide a statement to Investigator Randall were accurate, Investigator Randall made it clear that Parker was not under arrest and was not required to accompany him to the station (if you remember from the facts of the case Parker was the only one who voluntarily came to the station, neither of the other individuals that were asked did). Based on these facts, the court concluded that Parker went to the police station voluntarily and was not in custody; consequently, a *Miranda* warning was unnecessary. However, the court added that even assuming that Parker was seized and in custody at the police station, it was clear from the totality of the circumstances that Parker voluntarily waived his *Miranda* rights.

TAKEAWAYS

Officers did all of the right things here. They kept Parker talking and kept things casual. They also reiterated throughout the conversation that Parker was not under arrest and that he was free to go as he pleased. *Miranda* warnings were given to Parker, but he voluntarily waived them. It is important in these types of situations that you both bring up the point that the suspect is not under arrest and allow them to move freely to ensure that *Miranda* rights do not need to be read. But as the court said in this case, Parker did voluntarily waive his rights and he voluntarily came to the police station. In keeping things cool, calm and collected these officers ensured that this case followed proper policy and they got all of the information they needed without needing to fully arrest the suspect.

United States v. Parker, 993 F.3d 595 (8th Cir. 2021)

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