State of Washington v. C.G.
101 Wn. App. 1053 (Wa. App. 2000)

JUDGES: Authored by Carroll C. Bridgewater. Concurring: Karen G. Seinfeld, Elaine M. Houghton.

BRIDGEWATER, J.

C.G. appeals the juvenile court's disposition order finding him guilty of unlawful delivery of a controlled substance, arguing that the court erred in refusing to suppress statements he made to a middle school vice principal without the benefit of Miranda warnings. We affirm.

Shelton Middle School Vice Principal Steve Warner found marijuana in the possession of M.M., a student at the school. When questioned, M.M. told Warner that she got the marijuana from C.G., a fellow student. After the police arrested M.M. and took her from school, Warner went to C.G.'s class and brought him to his office. Once in his office, Warner asked C.G. about the marijuana, and C.G. admitted giving it to M.M. Warner did not advise C.G. of his constitutional rights under Miranda before questioning him. Warner then called a police officer who came to school and advised C.G. of his Miranda rights. C.G. waived those rights and admitted giving marijuana to M.M.

The State charged C.G. with one count of unlawful possession of marijuana under 40 grams and one count of unlawful delivery of a controlled substance. C.G. filed a motion to suppress his statements to Warner, arguing that they were obtained in violation of his Miranda rights. The court denied the motion after finding that the vice principal was not an agent of the state and that a custodial interrogation did not occur. C.G. argues that the juvenile court erred in finding that in questioning him, Vice Principal Warner was not a state agent who conducted a custodial interrogation sufficient to trigger Miranda.

Miranda warnings are designed to protect a defendant's right not to make self-incriminating statements while in police custody. A juvenile has the same rights against self-incrimination as an adult. See RCW 13.40.140(8). To trigger the protections afforded by Miranda, there must be a custodial interrogation by a state agent. State v. Warner, 125 Wn.2d 876, 884, 889 P.2d 479 (1995).

C.G. contends that in questioning him about his possible drug possession, the vice principal resembled the probation officer found to be a state agent in State v. Sargent, 111 Wn.2d 641, 652, 762 P.2d 1127 (1988). The Sargent court held that when a probation officer is assigned by the Department of Corrections to prepare a sentencing statement at the request of a superior court judge, he becomes an officer of the State. Sargent, 111 Wn.2d at 652.

> "The probation officer is the employee of the State which seeks to prosecute the alleged offender. He is a peace officer, and as such is allied, to a greater or lesser extent, with his fellow peace officers. He owes an obligation to the State, notwithstanding the obligation he may also owe the juvenile under his supervision." Sargent, 111 Wn.2d at 652 (quoting Fare v. Michael C., 442 U.S. 707, 720 (1979)).

C.G. argues that a vice principal's primary allegiance is to the State rather than the student, and that school officials thus must comply with Miranda before questioning students.

As support for this argument, C.G. points to the expansion of the "state agent" definition beyond criminal law enforcers in Mathis v. United States, 391 U.S. 1 (1968) and Estelle v. Smith, 451 U.S. 454 (1981). In Mathis, the Court held that an IRS agent working as a civil investigator was a state agent for Miranda purposes, and in Estelle, the Court applied the state agent label to a psychiatrist designated by the trial court to conduct a competency examination. See Mathis, 391 U.S. at 4; Estelle, 451 U.S. at 467.

As one commentator has pointed out, however, these cases cannot be read as settling that all public-official interrogation of those in custody is governed by Miranda. W. Lafave Et Al, Criminal Procedure § 6.10(c), at 623 (2d ed. 1999). At most, they support the conclusion that questioning by a government employee comes within Miranda when prosecution of the defendant is among the purposes for which the information is being elicited. 2 id. § 6.10, at 623. Moreover, while Mathis and Estelle may extend Miranda protections beyond the criminal law enforcement setting, there is no recognition by courts that Miranda applies to questioning by school officials. 2 id. § 6.10, at 622.

The Court of Appeals rejected such an application in State v. Wolfer, 39 Wn. App. 287, 693 P.2d 154 (1984), review denied, 103 Wn.2d 1028 (1985), where it held that a school security officer was not required to give Miranda warnings before questioning students about a theft at their high school. The court noted that although it could be argued that the security officer was an officer of the State, such status alone did not give rise to the duty to provide Miranda warnings. The court cited the applicable test as follows:

> "It does not matter that a particular employee's duties may be confined to the protection of persons and property on his employer's premises or that his employer may be the state, a political subdivision thereof or a local entity. What does matter is whether he is employed by an agency of government, federal, state or local, whose primary mission is to enforce the law." Wolfer, 39 Wn. App. at 294 (quoting People v. Wright, 249 Cal. App. 2d 692, 57 Cal. Rptr. 781 (1967) (emphasis original)).

Although the security officer was responsible for protecting people and property on school district premises, he was not employed by an entity whose primary responsibility was law enforcement, and thus was not required to give Miranda warnings. Wolfer, 39 Wn. App. at 294-95. In so holding, the court cited cases from other jurisdictions concluding that Miranda does not apply to interrogation by school personnel. Wolfer, 39 Wn. App. at 295.

Wolfer and some of those cases were cited, in turn, by In re Corey L., 203 Cal. App. 3d 1020, 250 Cal. Rptr. 359 (1988), where the court rejected the contention that because public school officials are agents of the government to whom the constitutional proscriptions against unreasonable searches and seizures apply, school officials also have a duty to warn students of their constitutional rights before interrogating and searching them. Corey L., 250 Cal. Rptr. at 360-61. 2 The court found no authority holding that school officials must advise students of Miranda rights before questioning them about suspected violations of the law or school rules. Corey L., 250 Cal. Rptr. at 361. "Questioning of a student by a principal, whose duties include the obligations to maintain order, protect the health

and safety of pupils and maintain conditions conducive to learning, cannot be equated with custodial interrogation by law enforcement officers." Corey L., 250 Cal. Rptr. at 361.

A Pennsylvania court reached a similar result in In re D.E.M., 1999 PA Super 59, 727 A.2d 570 (Pa. Super. Ct. 1999). The court recognized that school officials are agents of the state subject to Fourth Amendment protections against unreasonable searches and seizures, but directed its inquiry toward the question whether school officials acted as agents of the police. D.E.M., 727 A.2d at 574 n.11. Even though the interrogation in D.E.M. was precipitated by information provided by the police, the principal and assistant principal did not act as agents of the police because the record contained no evidence that the police coerced, dominated, or directed their actions. D.E.M., 727 A.2d at 574. The court noted that school officials have a substantial interest in maintaining a safe and educational environment on school grounds, and cited the Supreme Court's observation that drug use and violent crime in the schools have become major social problems. D.E.M., 727 A.2d at 576 (citing New Jersey v. T.L.O., 469 U.S. 325, 339 (1985)). The court concluded that Miranda rights do not attach, and warnings are not required, when school authorities detain and question a student about conduct that violates school rules. D.E.M., 727 A.2d at 578.

Thus, while a vice principal may be a state agent subject to Fourth Amendment restrictions, the law of this state and other jurisdictions makes it clear that such an official is not an agent of law enforcement subject to Miranda. The vice principal's responsibility to maintain order and discipline in the schools does not translate into an allegiance with law enforcement sufficient to trigger Miranda. See State v. McKinnon, 88 Wn.2d 75, 81, 558 P.2d 781 (1977) (principal is not law enforcement officer whose job concerns the discovery and prevention of crime). Nor does executing this responsibility by questioning students to determine whether rule violations or even criminal activity has occurred on school grounds turn such questioning into a custodial interrogation subject to Miranda protections. The cases C.G. cites in arguing that a custodial interrogation occurred concern the questioning of students by police officers. See State v. D.R., 84 Wn. App. 832, 930 P.2d 350, review denied, 132 Wn.2d 1015, 943 P.2d 662 (1997); see also In re Killitz, 59 Ore. App. 720, 651 P.2d 1382 (Or. Ct. App. 1982). We decline to apply Miranda to the questioning of a student by a vice principal, and uphold the juvenile court's findings.