

Legal Updates

Voluntary statements

U. S. v. Richardson, 2011 WL 4350091 (7th Cir. 2011)

The defendant, Jake Richardson, was stopped for speeding by a Deputy Sheriff. Because of the defendant's suspicious behavior during the traffic stop the Deputy Sheriff used his canine to conduct a perimeter search of the vehicle. The dog alerted to the vehicle so the Deputy asked for and received the defendant's consent to search the car. Prior to the search the Deputy conducted a pat down of Richardson and located a significant amount of cash in his pocket. As the search continued Richardson attempted to pull away from the deputy and he was subdued. Subsequently the Deputy located a packet containing an off white substance on the defendant's person. The Deputy arrested and handcuffed Richardson after asking about the packet and why Richardson shirt smelled like marijuana.

A Sergeant arrived and questioned Richardson about the contents of the packet and his offer to make drug purchases for the police. At no time was Richardson advised of his Miranda rights. At the jail during an inventory search additional drugs were found on the defendant. Richardson was charged with possession with intent to distribute and he moved to suppress the drugs, currency, and statements he made to the Sergeant and deputy.

The defendant appealed to the court to suppress his statements, the cash, and drugs. The court granted Richardson's motion to suppress the statements made in direct response to the officers question, but denied the motion to suppress everything else. Richardson was found guilty by a jury and he appealed seeking a new trial on the grounds all his statements should have been suppressed.

Decision: Guilty Verdict Affirmed

Richardson argued that the court should have suppressed all his statements because they were custodial and involuntary.

The appellate court said that the Deputy and Sergeant's questions may have been Miranda violations, but that does not automatically make them inadmissible at trial. The test here was whether later statements were made after voluntary statements by the defendant. Here there "*was a sufficient break in the stream of events to insulate the second confession from the earlier taint.*" The court reasoned that a statement is voluntary if the totality of circumstances is the product of free will and not the result of physical abuse, intimidation, or deceptive tactics overcoming the defendant's free will. The fact that the defendant was nervous and handcuffed does not indicate coercive police tactics. The court also pointed to his "*frequent flyer status with the criminal justice system-evidenced by his career offender status, 24 prior convictions, and 31 years of regular interaction with law enforcement.*" The court found the other statements were admissible as long as they were voluntary. His eager discussion of his knowledge of drug deals and sales in Northwest Indiana plus his offer to purchase drugs for the police were a strong indication the statements were voluntary, and thus admissible.