

DPS TRAINING BULLETIN

LEGAL BULLETIN NO.301

November 29, 2005

RIGHT TO REMAIN SILENT DURING CUSTODIAL INTERROGATION

Reference: Paul David Munson v. State of Alaska Alaska Supreme Court Opinion No. 5959 _____P.3d____ November 18, 2005

FACTS:

Anchorage police went to Portland, Oregon to take custody of Munson. He had been arrested for a homicide that occurred in Anchorage. Prior to his extradition to Alaska, the Anchorage officers interviewed Munson at the Portland police station. Munson was informed of his <u>Miranda</u> rights prior to the interview. Munson was one of four defendants charged with the murder of Morgan Gorche, who had been killed in retaliation for allegedly molesting a three-yearold girl.

A few minutes into the interview, Munson expressed fear that a co-defendant, Samuel Camanga, might learn of his discussion with police and indicated he did not want to discuss the crime. Munson asked the officer, "Is Sam gonna know what I'm saying?" The officer responded, "Maybe Sam's already talked to me;" he went on to say that the answer is "yes"--everybody involved is going to know eventually. Munson then said, "<u>Well, I'm done talkin' then.</u>" Rather than ceasing questioning at this point, the officers continued with questions and said, "Before you make a final decision on that, let me play this tape from him." The questioning continued and Munson eventually confessed to his participation in the murder.

Munson argued that his confession should be suppressed.

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ISSUE:

Was Munson's statement, "Well, I'm done talkin' then," adequate to invoke the right to silence protected by the Fifth Amendment to the Federal Constitution and Article I, Section 9, of the Alaska Constitution?

HELD: Yes--once a suspect makes "an attempt to cut off questioning entirely," his request must be "scrupulously honored."

REASONING:

<u>1.</u> A proper invocation of the privilege against selfincrimination under <u>Miranda</u> requires only three things: (a) custodial interrogation; (b) a statement that would reasonably be understood as an invocation of the privilege; and (c) the clear possibility from the context of the interrogation that a responsive answer "might be dangerous because injurious disclosure could result."

<u>2.</u> A reasonable officer in these circumstances would have understood Munson's statement that he was "done talkin'," without condition or qualification, to be an unequivocal invocation of his right to silence.

<u>3.</u> <u>Miranda</u> makes clear that a defendant can invoke his right to silence and end interrogation "in any manner, at any time, prior to or during questioning."

NOTES:

Once a suspect who is in custody indicates he does not want to talk, you must cease all questioning. If, at some time later, the suspect initiates contact with you, it is okay to conduct another interview after proper warnings are given. Refer to <u>Edwards v. Arizona, Legal Bulletin No. 48;</u> <u>Sheakley v. State, Legal Bulletin No. 55; Hampel v. State, Legal Bulletin No. 97; and Rhode Island v. Innis, Legal</u> <u>Bulletin No. 153</u>.

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