Supreme Court of the United States

Martin Rene FRAZIER, Petitioner,
v.
H. C. CUPP, Warden.

Decided April 22, 1969.

Petitioner, who had been convicted of murder in Oregon state court, brought habeas corpus proceeding. The United States District Court for the District of Oregon entered judgment granting the petition. The Court of Appeals of the Ninth Circuit, 388 F.2d 777, reversed. On certiorari, the United States Supreme Court, Mr. Justice Marshall, held that decision that no statement elicited by police during interrogation of suspect who has requested and been denied opportunity to consult with his lawyer may be used against him in criminal trial was not applicable, where questioning officer took remark of defendant that defendant thought he better get a lawyer before he talked any more, not as a request that interrogation cease, but merely as a passing comment, and defendant did not pursue the matter, but continued answering questions.

Judgment of Court of Appeals affirmed.

Mr. Justice MARSHALL delivered the opinion of the Court.

Petitioner was convicted in an Oregon state court of second-degree murder in connection with the September 22, 1964, slaying of one Russell Anton Marleau.***

II.

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Petitioner's second argument concerns the admission into evidence of his own confession. The circumstances under which the confession was obtained can be summarized briefly. Petitioner was arrested about 4:15 p.m. on September 24, 1964. He was taken to headquarters where questioning began at about 5 p.m. The interrogation, which was tape-recorded, ended slightly more than an hour later, and by 6:45 p.m. petitioner had signed a written version of his confession.

After the questioning had begun and after a few routine facts were ascertained, petitioner was questioned briefly about the location of his Marine uniform. He was next asked where he

was on the night in question. Although he admitted that he was with his cousin Rawls, he denied being with any third person. Then petitioner was given a somewhat abbreviated description of his constitutional rights. He was told that he could have an attorney if he wanted one and that anything he said could be used against him at trial. Questioning thereafter became somewhat more vigorous, but petitioner continued to deny being with anyone but Rawls. At this point, the officer questioning petitioner told him, falsely, that Rawls had been brought in and that he had confessed. Petitioner still was reluctant to talk, but after the officer sympathetically suggested that the victim had started a fight by making homosexual advances, petitioner began to spill out his story. Shortly after he began he again showed signs of reluctance and said, 'I think I had better get a lawyer before I talk any more. I am going to get into trouble more than I am in now.' The officer replied simply, 'You can't be in any more trouble than you are in now,' and the questioning session proceeded. A full confession was obtained and, after further warnings, a written version was signed.

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Petitioner also presses the alternative argument that his confession was involuntary and that it should have been excluded for that reason. The trial judge, after an evidentiary hearing during which the tape recording was played, could not agree with this contention, and our reading of the record does not lead us to a contrary conclusion. Before petitioner made any incriminating statements, he received partial warnings of his constitutional rights; this is, of course, a circumstance quite relevant to a finding of voluntariness. Davis v. North Carolina, 384 U.S. 737, 740--741, 86 S.Ct. 1761, 16L.Ed.2d 895 (1966). The questioning was of short duration, and petitioner was a mature individual of normal intelligence. The fact that the police misrepresented the statements that Rawls had made is, while, relevant, insufficient in our view to make this otherwise voluntary confession inadmissible. These cases must be decided by viewing the 'totality of the circumstances,' see, e.g., Clewis v. Texas, 386 U.S. 707, 708, 87 S.Ct. 1338, 18 L.Ed.2d 423 (1967), and on the facts of this case we can find no error in the admission of petitioner's confession.

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Because we find none of petitioner's contentions meritorious, we affirm the judgment of the Court of Appeals.