

## Mentally Ill in Police Custody: Subjective Standard Denied

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### **Police Are Not Required to Consider the Subjective Experience of an Individual With Mental Limitations While in Questioning to Determine Custodial Status for *Miranda* Purposes**

In *State v. Edwards*, 11 A.3d 116 (Conn. 2011), the Connecticut Supreme Court considered whether statements made to police by a defendant before being arrested and advised of his *Miranda* rights should be admissible in court. In particular, the reasonable-person standard was reviewed to determine whether a mentally ill individual should be held to the objective standard of what a reasonable person in his position would have believed regarding whether he is in police custody or whether a more subjective standard should be used that considers a reasonable person similar to the defendant.

#### *Facts of the Case*

In 2002, Lee Edwards began dating an individual identified as D. The two soon began living together, along with Ms. D's 10-month-old son. In early May, 2003, the infant became ill with fever and poor appetite. When the infant seemed to improve, she cancelled the doctor's appointment that she had made. On May 14, her son again became ill and began to vomit. The following morning, he continued to vomit and appeared unusually calm; his eyes were glassy. Mr. Edwards tried to discourage her from taking the child to the hospital; however, when the baby's breathing became markedly labored, she insisted. The couple began walking to the hospital but flagged a vehicle to drive them the rest of the way when the child stopped breathing. Shortly after he arrived at the hospital, the child was pronounced dead. The infant was found by the medical examiner to have sustained multiple internal injuries, includ-

ing stomach bruises, eight fractured ribs, a tear in the liver, lacerations of the adrenals, and internal bleeding, injuries consistent with blunt-force trauma. There was evidence that the injuries had occurred on two separate occasions: one week before and immediately before the infant's death.

Mr. Edwards and Ms. D. were met at the hospital by two Hartford police detectives who were investigating the infant's death. They voluntarily agreed to meet with the detectives and rode with them to the police station in an unmarked cruiser. According to the detectives, Mr. Edwards was informed repeatedly that his participation was voluntary, and he was allowed to move freely throughout the station.

During the interview, he acknowledged that he had "played rough" with the victim and went on to explain that he had donned toy boxing gloves and hit the child in the stomach earlier that morning. He provided a voluntary statement in writing to this effect after waiving his rights, despite being asked by the police on multiple occasions whether he still wanted to do so. At that point, he was arrested.

Before the trial, Mr. Edwards filed a motion to suppress his statements from evidence, claiming that he was not read his *Miranda* rights before being interviewed (*Miranda v. Arizona*, 384 U.S. 436 (1966)). His motion was denied by the trial court, which asserted that an individual does not need to be advised of his rights until he is formally taken into custody and that he had made his statements while at the police station voluntarily. The trial court further explained that a "reasonable person" in Mr. Edwards' position would have felt free to leave.

The defense countered that Mr. Edwards had mental difficulties, including mental retardation, schizophrenia, and posttraumatic stress disorder, and that another person with similar difficulties could reasonably feel intimidated and confused and conclude that he was not free to leave. The trial court acquitted him of murder because it felt that his intellectual difficulties called into question his intentionally causing the child's death. However, it did not agree with the defense's argument that his limitations precluded statements made to the police before being read his *Miranda* rights from being admissible, and found him guilty of first-degree manslaughter, first-degree assault, and risk of injury to a minor.

The defense appealed, arguing that Mr. Edwards' subjective perception of his custodial status should have been taken into account when considering whether to suppress his statements to the police. It also argued that his statements should be suppressed because they were not videotaped. The defense asserted that although the Connecticut constitution does not require videotaping as a criterion for admissibility of confessions, electronic recording should be mandatory for individuals who appear to have mental impairments that would make them vulnerable to police influence.

#### Ruling and Reasoning

The Connecticut Supreme Court upheld the judgment of the trial court, rejecting Mr. Edwards' claims that his statements to the police should have been suppressed. It declined to consider a subjective interpretation of the reasonable-person standard, citing *State v. Turner*, 838 A.2d 947 (Conn. 2004), in which the court ruled that determination of custody status is based on objective circumstances of the environment in which the interview takes place, rather than the subjective experience of the person being questioned.

The court further supported its reasoning by indicating that it was in line with that of the U.S. Supreme Court in *Yarborough v. Alvarado*, 541 U.S. 652 (2004), in that the objective nature of the custody inquiry enhances its clarity so that police officers do not need to guess about the circumstances when deciding how to proceed with interrogations.

Finally, the court rejected Mr. Edward's assertion regarding the mandatory videotaping of police interviews. Citing its own recent decision in *State v. Lockhart*, 4 A.3d 1176 (Conn. 2010), it concluded that the Connecticut constitution did not require the recording of custodial interrogations. The court declined to exercise its authority to create such a mandate and deferred the decision to the legislature.

Although Justice Palmer concurred with the court's ruling, he advocated for the court to impose a recording requirement. Citing his own prior concurring opinion in *Lockhart*, he emphasized the importance of such a requirement to protect mentally ill persons, because "people with mental illness and mental deficiencies are more prone than others to confess falsely" (*Edwards*, p 131).

#### Discussion

In *Edwards*, the objective standard of what a reasonable person in the defendant's position would have believed is used to determine the custodial question. This contrasts with other, more flexible, standards such as that for extreme emotional disturbance, which uses a standard that is, "objective in its overview, but subjective as to the defendant's belief" (*State v. Elliott*, 411 A.2d 3 (Conn. 1979)). Utilizing the solely objective standard, which relies so heavily on the vaguely defined term reasonable person, becomes even more challenging when considering mentally ill persons, whose ability to reason is often inherently altered or limited by their illness.

For example, Mr. Edwards's impaired reasoning is demonstrated in the testimony of forensic psychologist, Madelon Baranoski, who indicated that he saw the boxing gloves' "being a toy as more important than the fact that an adult was using them" (*Edwards*, p 128). Imagining an individual with this level of cognitive processing being able to differentiate between being arrested and being driven to the police station by police officers and interviewed alone in a room with the door closed, but not being arrested, is difficult. One could speculate that he would likely weigh the importance of being interviewed by police in their station in a closed room as more significant than being told he could leave or that the door was unlocked. A standard that expects "average" judgment is by definition beyond the capabilities of an individual with below-average cognitive abilities.

However, before advocating for a more subjective standard, one must consider the practical implications. Police officers would have to become *de facto* competency evaluators for custodial purposes and attempt to determine the state of mind of the individual being interviewed. This would probably not be in accordance with their particular skill set or primary objective of apprehending unlawful individuals.

Given these potential deficits in reasoning of those with cognitive impairments, the more data available to those attempting to interpret their behavior, the more accurate their understanding of that behavior will be. Justice Palmer appreciated this point, stating in a prior concurring opinion, "Because. . .mentally disabled persons are especially vulnerable to police over-reaching—and because. . .they are also more

likely to confess falsely. . . videotaping confessions by such persons would serve an especially salutary purpose ” (*Edwards*, p 131, ellipses in original, citing *State v. Lawrence*, 920 A.2d 236 (Conn. 2007)). Intonation, facial cues, and body language may provide valuable information when trying to understand individuals who do not think or act in a manner similar to most. Mandating the videotaping of police interviews, particularly for mentally ill persons, could provide greater context to their statements and improve the understanding of fact finders.

Of note, shortly after this appeal, the Connecticut General Assembly passed a new act mandating the electronic recording of custodial interrogations in major felony investigations, although the act makes no specific mention of the mentally ill (Public Act No. 11-174, effective Jan. 1, 2014).

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## Ready or Not? Expert Testimony in Competency Proceedings

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### Court Has No Duty to Reorder Successive Competency Evaluations or Allow a Change in Plea Absent Evidence to Support Good Cause

In *Fletcher v. State*, 245 P.3d 327 (Wyo. 2010), the Wyoming Supreme Court reviewed the decision by the District Court of Park County that found Chester D. Fletcher competent to continue to trial and to sentencing and denied his request to be allowed to change his plea to not guilty by reason of mental illness or deficiency.

#### Facts of the Case

During the 1990s, Chester Darral Fletcher was living with Clay Coleman in Sheridan, Virginia. In

1998, their relationship failed. Mr. Coleman obtained a civil judgment against Mr. Fletcher, which led to the seizure of Mr. Fletcher’s car and motorcycle. Twice, in 2004 and 2006, Mr. Fletcher stole and destroyed Mr. Coleman’s car.

On July 9, 2007, Mr. Fletcher fired shots at Mr. Coleman in the parking lot of the Cody, Wyoming, Wal-Mart. Mr. Fletcher fled but was found at home by Cody police. He was charged with one count each of attempted first-degree murder and reckless endangerment.

Before the arraignment, the defense petitioned the court to evaluate Mr. Fletcher’s competence to stand trial. In the motion, the defense “wondered” whether, at the time of the offense, he met the statutory requirements necessary to support a plea of “not guilty by reason of mental illness.” He was evaluated by Dr. Cathy Buckwell, a psychologist at Wyoming State Hospital, who opined that he was competent, did not have a mental disorder, and did not meet the requirements for establishing an insanity defense. He ultimately pleaded not guilty at a video arraignment in November 2007.

In March 2008, a competency evaluation was completed by defense expert Trent Holmberg, MD, and was introduced as evidence to support the motion for another competency evaluation. Dr. Holmberg diagnosed delusional disorder, which the doctor believed interfered with Mr. Fletcher’s capacity to develop a collaborative relationship with his attorney. Mr. Fletcher waived his right to a speedy trial, and the competency hearing was set and continued twice. Dr. Buckwell re-examined him twice in mid-May 2008, and the hearing was finally set for June.

At the hearing, Drs. Buckwell and Holmberg testified at length regarding the findings and their impact on Mr. Fletcher’s competence. Both experts were allowed an opportunity to justify their opinions. After hearing both testimonies, the court found him competent to stand trial.

Two weeks before trial, in September 2008, pursuant to Wyo. Stat. Ann. § 7-11-304 (2009), Mr. Fletcher petitioned the court to change his plea to not guilty by reason of mental illness. The court denied the late motion. He accepted a plea bargain and pleaded guilty to one count of attempted manslaughter. Sentencing was set for January 2009.

However, because of a report of “deteriorating mental health” noted in records from Park County