

Chapter 18— What Constitutes Interrogation for *Miranda* Purposes?

Brewer v. Williams, 430 U.S. 387 (1977)	261
Rhode Island v. Innis, 446 U.S. 291 (1980)	262
Arizona v. Mauro, 481 U.S. 520 (1987)	264
Chavez v. Martinez, 538 U.S. 760 (2004)	265

Introduction

The *Miranda* warnings must be given whenever there is a “custodial interrogation.” Custodial means that the person is under arrest or is deprived of freedom in a significant way. Interrogation means that the suspect is asked questions by the police that tend to link the suspect to a crime.

There are instances in which the police must give the *Miranda* warnings even if no actual interrogation or questioning takes place. The case that set this rule is *Brewer v. Williams*, 430 U.S. 387 (1977), more commonly known as the “Christian burial” case. In that case, the Supreme Court ruled that the police must give the *Miranda* warnings even if no questioning takes place if the behavior of the police constitutes the functional equivalent of an interrogation, meaning that the behavior is likely to elicit a confession even in the absence of questioning.

In *Brewer*, the officers gave the suspect the “Christian burial” speech in which the officer called the suspect “Reverend” and indicated that the parents of the missing girl ought to have the opportunity to give a Christian burial to their child, who had been kidnapped on Christmas Eve. The suspect then confessed. The Court said that, although there was no actual interrogation, the police officers’ behavior amounted to the “functional equivalent” of an interrogation because it was likely to elicit a confession.

No other Supreme Court case has directly applied the functional equivalent test. Instead, the Court has held in two subsequent cases that the following instances did not constitute the functional equivalent of an interrogation:

1. When officers, who had the suspect in the backseat of the car, talked between themselves about how terrible it would be if one of the handicapped students from a school near the crime scene were to find a loaded shotgun (supposedly the weapon used in the shotgun robbery of a taxicab driver) and get hurt. This led the suspect to interrupt the police and tell them the location of the shotgun; and
2. When the police recorded a conversation, in the presence of an officer, between a suspect and his wife.

In sum, interrogation takes place when the police ask questions of a suspect that tend to link him or her to a crime. There are instances, however, when the *Miranda* warnings must be given even if the police are not asking questions of a suspect, as illustrated in the *Williams* case. Because this case has not been used by the Court in any other case it has thus far decided, its effect as an exception to the interrogation requirement is minimal.

The leading cases briefed in this chapter on custodial interrogation for *Miranda* purposes are *Brewer v. Williams* and *Rhode Island v. Innis*.

Brewer v. Williams **430 U.S. 387 (1977)**

CAPSULE: Under the *Miranda* rule, interrogations can be “actual” (as when questions are asked) or the “functional equivalent” thereof.

FACTS: The day before Christmas, a ten-year-old girl disappeared from a YMCA building in Des Moines, Iowa. A short time later, Williams, an escapee from a mental hospital and a religious person, was seen leaving the YMCA with a large bundle wrapped in a blanket. A 14-year-old boy who helped him carry the bundle reported that he had seen “two legs in it and they were skinny and white.” Williams’ car was found the next day 160 miles east of Des Moines. Items of clothing belonging to the missing child and a blanket like the one used to wrap the bundle were found at a rest stop between the YMCA in Des Moines and Davenport, where the car was found. Assuming that the girl’s body could be found between the YMCA and the car, a massive search was conducted. Meanwhile, Williams was arrested by police in Davenport and was arraigned. Williams’ counsel was informed by the police that Williams would be returned to Des Moines without being interrogated. During the trip, an officer began a conversation with Williams in which he said that the girl ought to be given a Christian burial before a snowstorm, which might prevent the body from being found. As Williams and the officer neared the town where the body was hidden, Williams agreed to take the officer to the child’s body. The body was found about two miles from one of the search teams. At the trial, a motion to suppress the evidence was denied and Williams was convicted of first-degree murder.

ISSUE: Was what the police did in talking to Williams about a “Christian burial” equivalent to interrogating a suspect without giving him his right to counsel? YES.

SUPREME COURT DECISION: Interrogation takes place, not only when direct questions are asked, but also when, as in this case, the police officers, knowing the defendant’s religious interest, make remarks designed to appeal to that interest and therefore induce a confession. In this case, the police officer’s “Christian burial” speech was equivalent to an interrogation; therefore, Williams was entitled to the assistance of counsel at that time.

REASON: “There can be no serious doubt . . . that Detective Leaming deliberately and designedly set out to elicit information from Williams just as surely as—and perhaps more effectively than—if he had formally interrogated him. Detective Leaming was fully aware before departing from Des Moines that Williams was being represented in Davenport by [lawyer] Kelly and in Des Moines by [lawyer] McKnight. Yet he purposely sought during Williams’

isolation from his lawyers to obtain as much information as possible. Indeed Detective Leaming conceded as much when he testified at Williams' trial."

CASE SIGNIFICANCE: There are two important principles for the police in this case. The first is that once a suspect has been formally charged with an offense and has a lawyer, he or she should not be interrogated unless there is a valid waiver. The second is that conversations with or appeals to the suspect that may induce a confession constitute an interrogation that then requires both Miranda warnings and the right to counsel.

This case declares that "interrogation" by the police does not simply mean asking direct questions. In this case, the police had been told by the lawyers for the suspect that he was not to be interrogated while being transported from Davenport to Des Moines. The police assured the lawyers that Williams would not be interrogated. There was, in fact, no interrogation, but the police officer gave Williams what became known as the "Christian burial speech" in which he addressed Williams as "Reverend" and pleaded that "the parents of this little girl should be entitled to a Christian burial for the little girl who was snatched away from them on Christmas Eve and murdered." The Court said that the speech was the functional equivalent of an interrogation and therefore violated the suspect's right to counsel.

Rhode Island v. Innis 446 U.S. 291 (1980)

CAPSULE: The conversation in this case was merely a dialogue between police officers and did not constitute the "functional equivalent" of an interrogation, hence no Miranda warnings were needed.

FACTS: Police arrested Innis for the abduction and killing of a taxicab driver. The officer advised Innis of his *Miranda* rights and did not converse with him. When a sergeant and captain arrived at the scene, Innis was again advised of his *Miranda* rights. He replied that he understood his rights and wanted to speak to an attorney. Innis was placed in a police car to be transported to the police station. En route, two of the officers engaged in a conversation between themselves concerning Innis' shotgun, which had not been recovered. When one of the officers expressed concern that children from a nearby school for the handicapped might find the weapon and hurt themselves, Innis interrupted the conversation, saying that the officers should return to the scene so that he could show them where the shotgun was hidden. Upon returning to the scene, Innis was again advised of his *Miranda* rights. He again stated that he understood his rights but wanted to remove the gun before one of the children found it. He then led the police to the shotgun. Innis was charged with and convicted of robbery, kidnapping, and murder.

ISSUE: Did the conversation between the two police officers that prompted Innis to lead them to the shotgun constitute a custodial interrogation in the absence of his lawyer? NO.

SUPREME COURT DECISION: “Interrogation” refers not only to express questioning, but also the “functional equivalent” of questioning that involves any words or actions by the police that they should know are reasonably likely to elicit an incriminating response. In this instance, no such interrogation occurred—the conversation was merely a dialogue between two police officers; therefore, the evidence obtained by the police was admissible.

REASON: “Here there was no express questioning of respondent; the conversation between the two officers was, at least in form, nothing more than a dialogue between them to which no response from respondent was invited. Moreover, respondent was not subjected to the ‘functional equivalent’ of questioning since it cannot be said that the officers should have known that their conversation was reasonably likely to elicit an incriminating response from respondent. There is nothing in the record to suggest that the officers were aware that respondent was peculiarly susceptible to an appeal to his conscience concerning the safety of handicapped children, or that the police knew that respondent was unusually disoriented or upset at the time of his arrest. Nor does the record indicate that, in the context of a brief conversation, the officers should have known that respondent would suddenly be moved to make a self-incriminating response.”

CASE SIGNIFICANCE: The *Miranda* case says that the *Miranda* warnings must be given whenever a suspect is subjected to “custodial interrogation.” Subsequent cases have held that there is interrogation not only if questions are asked of a suspect, but also if police behavior amounts to the “functional equivalent” of actual questioning. An example is *Brewer v. Williams*, 430 U.S. 387 (1977), in which the police officers, knowing the defendant’s religious interest, made remarks designed to appeal to that interest and thus induced a confession even without directly asking the suspect questions. What the police did in this case, however, was not the “functional equivalent” of interrogation. As the Court said, “the conversation between the two officers was, at least in form, nothing more than a dialogue between them to which no response from respondent was invited.” It is important for police officers to know that “interrogation” does not necessarily mean asking questions of the suspect. There are situations in which the behavior of the police constitutes the “functional equivalent” of an interrogation (as in *Brewer*), but that was not the case here.

Arizona v. Mauro **481 U.S. 520 (1987)**

CAPSULE: A conversation between a suspect and his wife, which was recorded in the presence of an officer, did not constitute the “functional equivalent” of an interrogation.

FACTS: The police received a call that a man had just entered a store claiming that he had killed his son. When officers reached the store, Mauro admitted to committing the act and directed officers to the body. He was then arrested and advised of his *Miranda* rights. He was taken to the police station where he was again given the *Miranda* warnings. Mauro told officers that he did not wish to make any more statements until a lawyer was present. At that time, all questioning ceased. Following questioning in another room, Mauro’s wife insisted on speaking with him. Police allowed the meeting on the condition that an officer be present and tape the conversation. The tape was used to impeach Mauro’s contention that he was insane at the time of the murder. Mauro was charged with and convicted of murder and child abuse.

ISSUE: Does a conversation between a suspect and a spouse that is recorded by an officer constitute an interrogation under *Miranda v. Arizona*? NO.

SUPREME COURT DECISION: A conversation between a suspect and a spouse, which is recorded in the presence of an officer, does not constitute the functional equivalent of an interrogation under *Miranda* or *Innis*. Evidence obtained during the conversation is, therefore, admissible in court.

REASON: “The purpose of *Miranda* . . . is to prevent the government from using the coercive nature of confinement to extract confessions that would not be given in an unrestrained environment. This purpose is not implicated here, since respondent was not subjected to compelling influences, psychological ploys, or direct questioning. There is no evidence that the police allowed the wife to meet with respondent in order to obtain incriminating statements. Moreover, police testimony, which the trial court found credible, indicated a number of legitimate reasons for an officer’s presence at the meeting, including the wife’s safety and various security considerations. Furthermore, an examination of the situation from respondent’s perspective demonstrated the improbability that he would have felt he was being coerced to incriminate himself simply because he was told his wife would be allowed to speak to him.”

CASE SIGNIFICANCE: This case further explains the meaning of the term “interrogation” as used in *Miranda*. In an earlier case (*Rhode Island v. Innis*), the Court said that “interrogation” does not have to mean the actual asking of questions by the police; rather, it includes instances that amount to the

“functional equivalent” of interrogation, meaning “words or actions by the police which they know are reasonably likely to elicit an incriminating response.” The term “functional equivalent” is subjective and difficult to determine. Whatever its meaning may be, what the police did in this case (allowing the wife to talk with the husband and recording the conversation) was not the “functional equivalent” of an interrogation; hence, anything the suspect said during that conversation could be used against him in court. The police in this case merely “arranged a situation” in which there was a likelihood that the suspect would say something incriminating.

Chavez v. Martinez 538 U.S. 760 (2004)

CAPSULE: “Statements compelled by police interrogation may not be used against a defendant in a criminal case, but it is not until such use that the Self-Incrimination Clause is violated.”

FACTS: Officers were questioning an individual about suspected drug activity when they heard a bicycle approaching on a darkened path. They ordered the rider, Martinez, to dismount the bicycle, spread his legs, and place his hands behind his head. He complied, and an officer found a knife in his waistband during a pat-down search. An altercation ensued with the police and Martinez was shot several times. Chavez, a patrol supervisor, arrived several minutes later and accompanied Martinez to the hospital. Chavez interviewed Martinez in the hospital while he was receiving medical treatment. The interview lasted 10 minutes over a 45-minute period, with Chavez leaving the emergency room periodically to allow medical personnel to attend to Martinez. During the interview, Martinez admitted to taking a gun from one of the officer’s holsters, and he admitted to heroin use. At one point, Martinez stated “I am not telling you anything until they treat me,” but Chavez nonetheless continued the interview. At no point was Martinez given his *Miranda* warnings. Martinez was never charged with a crime and his answers were never used against him in any criminal prosecution. Martinez filed a § 1983 suit against Chavez, claiming his Fifth and Fourteenth Amendment rights were violated by the interrogation.

ISSUE: Do statements taken in violation of *Miranda* violate the Fifth Amendment protection against self-incrimination even if they are not used in a criminal trial? NO.

SUPREME COURT DECISION: “Statements compelled by police interrogation may not be used against a defendant in a criminal case, but it is not until such use that the Self-Incrimination Clause is violated.” Therefore, the police in this case are not liable in a Section 1983 case because no constitutional right of the suspect was violated.

REASON: In this case, the Court reemphasized that statements made in violation of the Fifth Amendment cannot be used against the person in legal proceedings, “but it is not until their use in a criminal case that a violation of the Self-Incrimination Clause occurs. . . . Here, Martinez was never made to be a ‘witness’ against himself in violation of the Fifth Amendment’s Self-Incrimination Clause because his statements were never admitted as testimony against him in a criminal case.” The Court stated that, although conduct by police prior to trial may cause the constitutional violation (such as taking an illegal confession), it is not until the trial itself that the privilege applies. The Court argued that there are several instances where witnesses can be compelled to testify without violating the Fifth Amendment, such as testifying before a grand jury or the compelled testimony of a witness who has been granted immunity. “Even for persons who have a legitimate fear that their statements may subject them to criminal prosecution, we have long permitted the compulsion of incriminating testimony so long as those statements (or evidence derived from those statements) cannot be used against the speaker in any criminal case.” Turning specifically to the facts here, the Court held, “the fact that Martinez did not know his statements could not be used against him does not change our view. . . . [and] Chavez’s failure to read *Miranda* warnings to Martinez did not violate Martinez’s constitutional rights and cannot be the grounds for a § 1983 action.” The Court further stated “our views on the proper scope of the Fifth Amendment’s Self-Incrimination Clause do not mean that police torture or other abuse that results in a confession is constitutionally permissible so long as the statements are not used at trial . . .” What the Court ruled here was simply that the officer’s conduct did not interfere with Martinez’s medical attention to a level where it constituted a violation of Martinez’s constitutional right.

CASE SIGNIFICANCE: This case is best understood as a Section 1983 civil liability case for a possible violation of a suspect’s constitutional right. A Section 1983 case, filed by a plaintiff primarily seeking monetary compensation from a police officer, succeeds only if there is a proven violation of a constitutional right or of a right guaranteed by federal law. The suspect in this case filed a Section 1983 case alleging his constitutional privilege against self-incrimination was violated when he was not given the *Miranda* warnings and the interrogation continued despite his telling the police that “I am not telling you anything until they treat me.” The Court held that “mere compulsive questioning” by the police does not violate the Constitution, neither does police questioning constitute a criminal case. It is true that statements compelled through police interrogation cannot be used against a defendant in a criminal trial, “but it is not until such use that the Self-Incrimination Clause is violated.” The Court concluded that “failure [by the police] to read *Miranda* warnings to Martinez did not violate Martinez’s constitutional rights and cannot be grounds for a Section 1983 action. And the absence of a “criminal case” in which Martinez was compelled to be a witness

against himself defeats his core Fifth Amendment claim.” The police officer in this case could possibly have been held liable administratively for violating agency rules (if agency rules prohibited such type of questioning), but could not be held liable under Section 1983, a civil liability case, which succeeds only if the police violate a constitutional right or a right guaranteed by federal law.

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