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Due Process

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However, since New York's regulation did not violate a fundamental right or impinge on a suspect class, it is almost certain that the result would have been the same under the Federal Constitution.

WYOMING COUNTY

People v. Ayers¹⁴⁰
(decided January 6, 1995)

The defendant claimed that statements he made to the sheriff's department were obtained in violation of the Due Process Clauses of the Federal¹⁴¹ and New York State¹⁴² Constitutions. The defendant contended that his motion to suppress should have been granted because the statements he made to the Sheriff were involuntary and/or untrustworthy, by virtue of the defendant's deficient mental state.¹⁴³ The Supreme Court, Wyoming County, found that, absent official coercion, the defendant's mental condition alone did not render the statements involuntary.¹⁴⁴ Furthermore, the People had proven the voluntariness of his statements beyond a reasonable doubt, thus vitiating any violation of the defendant's due process rights.¹⁴⁵

The defendant was interviewed after a homicide team investigation labeled him a suspect in the murder of Charles

programs remain within the discretion of appropriate state boards, and are not within federal cognizance under 42 U.S.C. § 1983 unless the regulations deny an athlete a constitutionally protected right or classify him or her on a suspect basis." *Albach*, 531 F.2d at 985.

140. 163 Misc. 2d 739, 622 N.Y.S.2d 212 (Sup. Ct. Wyoming County 1995).

141. U.S. CONST. amend. XIV, § 1. This provision states in relevant part: "No State shall . . . deprive any person of life, liberty, or property, without due process of law" *Id.*

142. N.Y. CONST. art. I, § 6. This provision states in relevant part: "No person shall be deprived of life, liberty or property without due process of law." *Id.*

143. *Ayers*, 163 Misc. 2d at 740, 622 N.Y.S.2d at 213.

144. *Id.*

145. *Id.* at 745, 622 N.Y.S.2d at 216.

Wells.¹⁴⁶ Two detectives went to the defendant's home, informed him that he was a suspect in the murder and asked if he would answer some questions.¹⁴⁷ The defendant accompanied the officers to the Sheriff's Department voluntarily.¹⁴⁸

Although the defendant was not taken into custody, the officers gave him his *Miranda* warnings as a matter of precaution.¹⁴⁹ The defendant acknowledged that he understood his rights and, thereafter, decided not to have an attorney present during the interview.¹⁵⁰ In response to the officers' questions, the defendant gave "rambling" answers to some questions and refused to answer others.¹⁵¹ After the interview, the defendant was escorted home by one of the officers.¹⁵²

The investigation into the homicide continued and, approximately two weeks later, the defendant was interviewed a second time.¹⁵³ At this interview, the defendant's answers were similar to those of the first interview, however, he was more "communicative" and made statements that tended to incriminate

146. *Id.* at 740, 622 N.Y.S.2d at 213.

147. *Id.*

148. *Id.* The defendant did not contest the fact that the interviews were non-custodial. *Id.* at 741, 622 N.Y.S.2d at 213. *See* *People v. Yukl*, 25 N.Y.2d 585, 590-91, 256 N.E.2d 172, 176, 307 N.Y.S.2d 857, 861 (1969) (holding that the fact the defendant was interviewed at the police station did not mean he was in custody, and that the determinative standard was whether a "reasonable man, innocent of any crime" would have believed he was in custody).

149. *Ayers*, 163 Misc. 2d at 741, 622 N.Y.S.2d at 213. When a defendant is merely being interviewed, voluntarily accompanies the officers, and is not taken into custody, *Miranda* warnings are not required. *Id.* *See* *People v. Stebbins*, 152 A.D.2d 946, 543 N.Y.S.2d 598 (4th Dep't 1989); *see also* *People v. Flint*, 151 A.D.2d 964, 965, 542 N.Y.S.2d 63, 64 (4th Dep't 1989) ("Although defendant may have felt obligated to cooperate with the police in order to appear innocent, that subjective view by defendant does not require a finding that he was in custody"); *People v. McNeely*, 77 A.D.2d 205, 433 N.Y.S.2d 293 (4th Dep't 1980).

150. *Ayers*, 163 Misc. 2d at 741, 622 N.Y.S.2d at 213.

151. *Id.*

152. *Id.*

153. *Id.* Again, the defendant was given his *Miranda* warnings, although not in official custody, and chose not to have an attorney. *Id.*

him in the murder.¹⁵⁴ Notwithstanding the nature of these statements, the defendant was again released.¹⁵⁵

Thereafter, the defendant was charged with the crime and he moved to suppress the self-incriminating statements at his trial.¹⁵⁶ The motion to suppress was based upon the premise that the defendant's mental incapacity, at the time, rendered the implicating statements involuntary and as a result they could not be introduced at trial without denying him his right to due process.¹⁵⁷

The defendant relied primarily on the United States Supreme Court holding in *Blackburn v. Alabama*¹⁵⁸ for this proposition.¹⁵⁹ In *Blackburn*, the Court found that statements made by a defendant suffering from mental incapacity did not constitute acts of volition,¹⁶⁰ and, therefore, their admission at trial in order to obtain a conviction deprived the defendant of due process.¹⁶¹ The Supreme Court in this case, however, was persuaded by the fact that the circumstances surrounding the defendant's confession made the possibility of its voluntariness remote.¹⁶² Consequently, the Court held that the defendant's history of mental infirmity, together with the unduly coercive circumstances under which the confession was obtained, caused its admission at trial to be an "egregious" denial of due process.¹⁶³

154. *Id.*

155. *Id.*

156. *Id.* at 740, 622 N.Y.S.2d at 213.

157. *Id.* at 740-41, 622 N.Y.S.2d at 213-14.

158. 361 U.S. 199 (1960).

159. *Ayers*, 163 Misc. 2d at 741, 622 N.Y.S.2d at 214.

160. *Blackburn*, 361 U.S. at 211.

161. *Id.* at 210.

162. *Id.* at 205, 207-08. The circumstances among which the Court considered included "the eight to nine-hour sustained interrogation in a tiny room which was upon occasion literally filled with police officers; the absence of Blackburn's friends, relatives, or legal counsel; the composition of the confession by the Deputy Sheriff rather than by Blackburn" *Id.* at 207-08.

163. *Id.* at 208.

The *Ayers* court found that evidence of such overreaching, as displayed in *Blackburn*, was not present in this case.¹⁶⁴ As such, the court began its analysis with the Supreme Court's holding in *Colorado v. Connelly*.¹⁶⁵ In *Connelly*, the Court reasoned that official coercion was a necessary predicate to a finding of involuntariness.¹⁶⁶ A defendant's mental ailment, independent of other evidence that the confession was involuntarily made, is an insufficient basis to suppress the statements and does not amount to a constitutional violation.¹⁶⁷ Moreover, unlike the circumstances in *Blackburn*, *Connelly* did not involve such police overreaching, and while the *Connelly* Court concluded that a defendant's mental condition is among factors to be considered in determining the voluntariness and/or the validity of a confession, it is not dispositive.¹⁶⁸ As such, the *Ayers* court, finding no evidence of coercion on the part of the Sheriff's Department, concluded that the admission of the defendant's statements did not "run afoul the Federal Constitution."¹⁶⁹

Support for the suppression of involuntary confessions under the Due Process Clause of the New York State Constitution is expounded in the case of *People v. Adams*.¹⁷⁰ Relying on the decision in *Blackburn*, the *Adams* court analogized statements made by mentally ill defendants to those made by persons who were intoxicated at the time the statements were made.¹⁷¹ In *People v. Schompert*,¹⁷² wherein the defendant confessed under the influence of alcohol and had a "history of psychosis," the court held that absent coercive tactics by police officers, such

164. *Ayers*, 163 Misc. 2d at 740-41, 622 N.Y.S.2d at 214.

165. 479 U.S. 157 (1986).

166. *Id.* at 167. The Court based its decision on the fact that in order to assert a constitutional violation, state action is required. *Id.* at 165. See *Brown v. Mississippi*, 297 U.S. 278, 284-86 (1936) (finding that murder convictions resting on confessions coerced by official brutality and violence violate the Due Process Clause of the Fourteenth Amendment).

167. *Connelly*, 479 U.S. at 167.

168. *Id.* at 165.

169. *Ayers*, 163 Misc. 2d at 742-43, 622 N.Y.S.2d at 214.

170. 26 N.Y.2d 129, 257 N.E.2d 610, 309 N.Y.S.2d 145 (1970).

171. *Id.* at 137, 257 N.E.2d at 613, 309 N.Y.S.2d at 150.

172. 19 N.Y.2d 300, 226 N.E.2d 305, 279 N.Y.S.2d 515 (1967).

statements may still be suppressed.¹⁷³ Since the facts in *Schompert* indicated that his intoxication was self-induced, the court focused upon the trustworthiness of the defendant's confession and, consequently, found no constitutional violation.¹⁷⁴

In *Ayers*, the court found no evidence that coercive tactics were used by the Sheriff's Department. However, the detectives were found to have taken unnecessary precautions to protect the defendant's rights.¹⁷⁵ The court also found no proof to demonstrate that the defendant's resolve was subjugated or that he did not comprehend the ramifications of his statements.¹⁷⁶ Therefore, the *Ayers* court found no violation of his due process rights under *Adams* or *Schompert*.

However, in *People v. Howard*,¹⁷⁷ the Fourth Department held that where there is a question as to the defendant's mental state and the sole issue is the voluntariness of his confession, the People still have the burden of proving beyond a reasonable doubt that the confession was voluntarily made.¹⁷⁸ The *Howard*

173. *Id.* at 305, 226 N.E.2d at 307, 279 N.Y.S.2d at 518 (stating that where questions arise as to the trustworthiness of a confession, the court should inquire into whether "subsequent events [] confirm the reliability of the confession").

174. *Id.* at 307, 226 N.E.2d at 308, 279 N.Y.S.2d at 520.

175. *Ayers*, 163 Misc. 2d at 744, 622 N.Y.S.2d at 215.

176. *Id.* The court noted that a defendant who cannot comprehend his *Miranda* warnings logically will not be held to understand the "nature and consequences of his statements . . ." *Id.* (citing *People v. Turkenich*, 137 A.D.2d 363, 369, 529 N.Y.S.2d 385, 389 (2d Dep't 1988)). However, in this case, *Miranda* warnings were not required because the interviews were non-custodial. *Id.* See *People v. Smith*, 62 N.Y.2d 306, 465 N.E.2d 336, 476 N.Y.S.2d 797 (1984); *People v. Oates*, 104 A.D.2d 907, 480 N.Y.S.2d 518 (2d Dep't 1984). Any challenges on this basis would consistently fail. *Ayers*, 163 Misc. 2d at 744, 622 N.Y.S.2d at 215. See *People v. Dorsey*, 118 A.D.2d 653, 499 N.Y.S.2d 806 (2d Dep't 1986).

177. 27 A.D.2d 796, 279 N.Y.S.2d 79 (4th Dep't 1967).

178. *Id.* at 796, 279 N.Y.S.2d at 79-80. See *People v. Witherspoon*, 66 N.Y.2d 973, 489 N.E.2d 758, 498 N.Y.S.2d 789 (1985); *People v. Anderson*, 42 N.Y.2d 35, 364 N.E.2d 1318, 396 N.Y.S.2d 625 (1977); *People v. Huntley*, 15 N.Y.2d 72, 79, 204 N.E.2d 179, 204, 255 N.Y.S.2d 838, 844 (1965) (holding that a defendant who wishes to challenge the voluntariness of

court stated that “[t]he failure of the People to sustain the burden of proving beyond a reasonable doubt that such statements were the product of a rational and meaningful act of volition require[d] the suppression of such statements by the [c]ourt.”¹⁷⁹ Hence, the *Ayers* court found that there was no constitutional violation that would require suppression of the confession under the New York State Constitution and that the People had met their burden of establishing the voluntariness of his statements.¹⁸⁰ Thus, the court denied the defendant’s motion because due process had not been violated.¹⁸¹

Although the *Ayers* court found no federal or state constitutional violations, the court noted that under section 710.70 of the New York Criminal Procedure Law,¹⁸² the defendant was not precluded from challenging the voluntariness of his statements at trial or from requesting a charge to the jury.¹⁸³ Thus, the court may have disregarded his statements if the evidence supported his contention that they were involuntarily made and untrustworthy.¹⁸⁴

In comparing federal decisions such as *Brown*, *Blackburn* and *Connelly* to state decisions such as *Adams* and *Schompert*, there is agreement, whether explicit or implicit, on the issue of a defendant’s constitutional rights and how those due process rights are protected where involuntary confessions are concerned. The

his confession is entitled to a preliminary hearing on the issue); *People v. Reed*, 103 A.D.2d 998, 478 N.Y.S.2d 202 (4th Dep’t 1984).

179. *Howard*, 27 A.D.2d at 796, 279 N.Y.S.2d at 79-80.

180. *Ayers*, 163 Misc. 2d at 745, 622 N.Y.S.2d at 216.

181. *Id.*

182. N.Y. CRIM. PROC. LAW § 710.70(3) (McKinney 1992). This section states in relevant part:

Even though the issue of admissibility of such evidence was . . . determined adversely to the defendant upon motion, the defendant may adduce at trial evidence and otherwise contend that the statement was involuntarily made. In the case of a jury trial, the court must submit such issue to the jury under instructions to disregard such evidence upon a finding that the statement was involuntarily made.

Id.

183. *Ayers*, 163 Misc. 2d at 745, 622 N.Y.S.2d at 216.

184. *Id.*

United States Supreme Court and the New York courts are consistent in that both require suppression of such statements where official misconduct is shown. Once misconduct is established, a defendant's statements may not be used against him in obtaining a criminal conviction. However, when such police coercion is not present, and a defendant's mental state is the determinative factor in ascertaining the voluntariness of pre-trial statements, the question remains as to whether suppression of such statements is required under the New York Constitution or whether it is simply an evidentiary issue under New York Criminal Procedure Law.