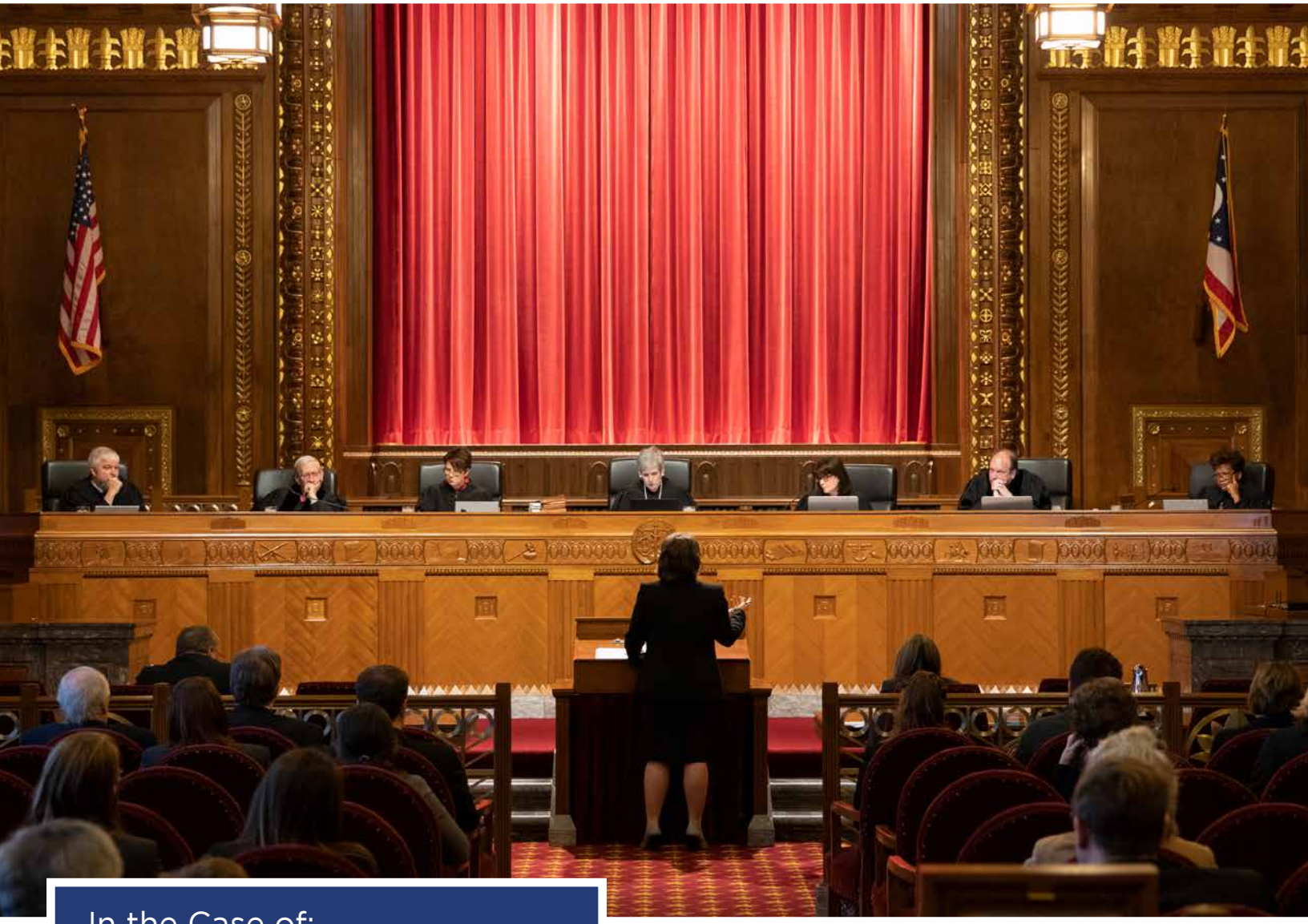
THE SUPREME COURT *of* OHIO

PRESENTS

UNDER ADVISEMENT

Ohio Supreme Court Cases On Demand

STUDENT RESOURCE GUIDE



In the Case of:

City of Cleveland v. Benjamin S. Oles, Case nos. 2016-0172 and 2016-0282

Benjamin Oles was placed in the front seat of a cruiser after being pulled over by an Ohio State Highway Patrol trooper. While seated in the cruiser's front seat, Oles admitted to consuming four alcoholic drinks at a wedding he had just left. The trooper arrested Oles after he failed a field sobriety test. However, at no point was Oles read his *Miranda* rights. The Ohio Supreme Court is asked to decide whether a law enforcement officer is required to provide *Miranda* warnings to a suspect removed from a vehicle and placed in the front seat of a police vehicle for questioning.

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Maureen O'Connor
Chief Justice

Sharon L. Kennedy
Judith L. French
Patrick F. Fischer
R. Patrick DeWine
Michael P. Donnelly
Melody J. Stewart

Justices

Under Advisement was created and written by the Civic Education Section and Office of Public Information at the Ohio Supreme Court, with guidance from the Ohio Center for Law-Related Education.

Contact Us:

The Supreme Court of Ohio
65 South Front Street
Columbus, Ohio 43215-3431

Civic Education Section
614.387.9223
UnderAdvisement@sc.ohio.gov

Introduction

The Supreme Court *of* Ohio

The title of this program, **Under Advisement**, comes from the statement that Chief Justice Maureen O'Connor uses to end each case heard during oral arguments, "Thank you. We'll take the matter under advisement and you'll be notified of our decision." In the Supreme Court setting, taking the matter "under advisement" means the justices will consider the legal arguments of each party in a case before issuing a ruling.

Wood County Courthouse, Bowling Green, Ohio

OHIO'S COURT SYSTEM

The courts oversee and administer the law. They resolve disputes under the law and strive to apply the law in a fair and impartial manner. As in other states, Ohio is served by separate state and federal court systems organized into trial courts, intermediate courts of appeals, and a Supreme Court in each system. State courts primarily deal with cases arising under state law, and federal courts primarily deal with cases arising under federal law.

STATE COURTS

Ohio Trial Courts

In Ohio, most cases begin and are resolved in trial courts, which are the workhorses of the state's judicial system. Ohio has several kinds of trial courts and each has venue and jurisdiction over cases. Simply stated, venue is the geographical location where a case is heard. Jurisdiction is the power and authority to hear and decide certain types of cases. Ohio's trial courts include common pleas courts, municipal and county courts, and mayor's courts.

- Common pleas courts have countywide venue and jurisdiction to decide all levels of civil and criminal cases. The common pleas court is Ohio's court of general jurisdiction, which means that it has the authority to hear almost any civil or criminal matter. The most serious civil or criminal cases must be heard in common pleas court. Each of the state's 88 counties has a common pleas court.
- Municipal and county courts have more limited jurisdiction than common pleas courts, and the authority to only decide less serious civil and criminal cases.
- Mayor's courts do not have civil jurisdiction and only have limited authority to hear minor criminal matters that occur within a city or village. Mayor's courts are not courts of record because they are not required to keep a record of their proceedings.

Ohio Courts of Appeals

The goal of every judicial system is to achieve complete and equal justice with every trial, but trial courts sometimes make mistakes or parties may disagree about the outcome of a particular case. This is why the courts of appeals were established. Ohio's courts of appeals review questions brought from common pleas courts, municipal courts, and county courts.

Only a final judgment or order can be appealed, and appeals generally must be on questions of law and not the facts of a case. Appeals court judges generally do not hear new testimony. They review transcripts from the lower court's hearings to determine if the law was interpreted and applied correctly. The party appealing the lower court's decision is the appellant, and files a written argument explaining why the trial court erred. The party that won the case in the trial court is the appellee, and also may file a written brief, but is not required to do so. The court then may hold oral arguments, at which time the judges can ask questions about the case before making a decision. Ohio's appeals court system is divided into 12 districts.

The number of judges in each district varies based on population, but each district has a minimum of four appellate judges. A panel of three of the district's judges hear cases challenging decisions made by a lower trial court located within its district. Although many cases end with a decision by a district court of appeals, such courts are not the last resort; rather they are an intermediate step from the trial courts to the Supreme Court of Ohio.

To qualify for election, court of appeals judges must be licensed attorneys with at least six years' experience. Once elected, they serve six-year terms.

The Supreme Court of Ohio

The Supreme Court of Ohio's main purpose is to serve as a court of appeals and Ohio's court of last resort. The Court is empowered to review final judgments and orders of lower courts; to affirm, reverse, remand (send back to a lower court), or modify judgments. Appeals to the Supreme Court generally are from the 12 district courts of appeals, rather than from the trial courts. The Court is required to hear some types of cases (cases involving the death penalty, some appeals from state agencies, cases involving state constitutional issues, and others), but most of its jurisdiction is discretionary and it selects cases of great importance or public interest to resolve.

The Supreme Court of Ohio has original (trial) jurisdiction for certain special remedies that permit a person to file an action in the Supreme Court. These extraordinary remedies include writs of habeas corpus (involving the release of persons allegedly unlawfully imprisoned or committed), writs of mandamus and procedendo (ordering a public official to do a required act), writs of prohibition (ordering a lower court to cease an unlawful act), and writs of quo warranto (against a person or corporation for usurpation, misuse, or abuse of public office or corporate office or franchise).

The Supreme Court of Ohio also has other important duties. These duties include prescribing rules of procedure for and providing general oversight of all lower courts, and overseeing the practice of law by attorneys.

The Supreme Court of Ohio consists of a chief justice and six justices. To qualify for election, candidates must be licensed attorneys with at least six years' experience. Once elected, they serve six-year terms. The Supreme Court of Ohio is located in downtown Columbus.

OHIO JUDICIAL STRUCTURE

SUPREME COURT
CHIEF JUSTICE AND SIX JUSTICES
Court of last resort on state constitutional questions, and questions of public or great general interest; appeals from the Public Utilities Commission; all death sentences; original jurisdiction in select cases.

COURT OF APPEALS
TWELVE DISTRICTS, THREE-JUDGE PANELS
Appellate review of judgments of common pleas, municipal, and county courts; appeals from Board of Tax Appeals; original jurisdiction in select cases.

COURTS OF COMMON PLEAS
IN EACH OF 88 COUNTIES

GENERAL DIVISION
Civil and criminal cases; appeals from most administrative agencies.

DOMESTIC RELATIONS DIVISION
Divorces and dissolutions; support and custody of children.

JUVENILE DIVISION
Offenses involving minors; most paternity actions.

PROBATE DIVISION
Decedents' estates; mental illness; adoptions; marriage licenses.

MUNICIPAL AND COUNTY COURTS
Misdemeanor offenses; traffic cases; civil actions up to $15,000.

COURT OF CLAIMS
JUDGES ASSIGNED BY THE CHIEF JUSTICE
All suits against the state for personal injury, property damage, contract, and wrongful death; compensation for victims of crime. Three-judge panels upon request.

MAYOR'S COURTS
Not courts of record.
Violations of local ordinances and state traffic laws.
Matters can be reheard in municipal or county courts.

Oral Argument Preview

City of Cleveland v. Benjamin S. Oles, Case nos. 2016-0172 and 2016-0282

KEY TOPICS FROM THIS CASE

- What are the rights of people questioned by police?
- What is a *Miranda* warning?
- What is a custodial interrogation?
- What happens when appeals courts have conflicting decisions?
- What is the significance of Ohio's constitution?
- What is the role of amicus briefs?

Glossary of Legal Terms

Admissible: Allowed to be considered as evidence by a judge or jury.

Amicus curiae: Latin, meaning "friend of the court." A person or group that is not a party in a case, but who asks a court or is requested by a court to file a brief because of a special interest in the subject of the case.

Appeal: A request made by a party that has lost on one or more issues for a higher court to review the decision for correctness.

Appellant: The party who appeals a court's decision and seeks to have the decision overturned.

Appellee: The party who opposes an appeal and seeks to have an earlier court decision affirmed.

Arrest: To keep a person in lawful custody. A warrant, crime, or statute can authorize this.

Brief: A written statement submitted to a court that explains legal and factual positions.

Bright-Line rule: A legal rule that resolves issues simply and straightforwardly.

Capital offense: A crime punishable by death.

Certified conflict: When two or more courts of appeals offer conflicting opinions on the same issue.

Custodial interrogation (as defined in *Miranda*): Questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.

Defendant: In a civil case, someone against whom a lawsuit is filed. In a criminal case, someone accused of a crime.

Due process: A party's right to notice and to be heard. In criminal law, the constitutional guarantee that a defendant will receive a fair and impartial trial.

Evidence: Information presented in testimony or in documents, according to specific court rules, and used to prove a case to the judge or jury.

Grand jury: A group of citizens called for jury service to listen to evidence of criminal allegations presented by prosecutors to determine whether there is probable cause to believe someone has committed a crime.

Inadmissible: Not able to be allowed or considered in a legal case.

Indictment: The grand jury's formal statement that a person is alleged to have committed a specific crime or crimes.

Justice: One of the seven members of the Supreme Court of Ohio.

***Miranda* warnings:** Statements that must be made before the police question a suspect in custody. These statements notify a suspect of the right to remain silent, the right to have an attorney present during questioning, and the right to have an attorney appointed if a suspect cannot afford one. Derived from the U.S. Supreme Court decision *Miranda v. Arizona* (1966).

Municipal court: Trial court created by the Ohio General Assembly that has the authority to conduct preliminary hearings in felony cases and has jurisdiction over traffic and non-traffic misdemeanors.

Opinion: A judge's written explanation of the decision of the court in a case.

Oral argument: An opportunity for lawyers to argue their positions and answer questions from the judges or justices who will decide the case being appealed.

Glossary of Legal Terms

Party: In court proceedings, one who files a civil or criminal case, one against whom a case is filed, or one with a direct interest in a case.

Precedent: A decision in an earlier case – with facts and legal issues similar to a dispute currently before a court – that should be followed unless there is good reason to depart from the earlier ruling.

Presentment: An informal statement in writing, by the grand jury, representing to the court that a public offense has been committed which is triable in the county, and that there is reasonable ground for believing that a particular individual named or described therein has committed it.

Prosecutor: One who represents the government in cases against criminal defendants.

Suppression of evidence: Court ruling where evidence is excluded from the trial because it was obtained illegally.

***Terry* stop:** In the United States, a *Terry* stop is a brief detention of a person by police on reasonable suspicion of involvement in criminal activity, but short of probable cause to arrest.

Trial: A formal court proceeding in which a judge or a jury decides disputed facts and determines guilt or liability based upon the evidence presented.

Witness: A person called on during a trial to give testimony before the judge or jury.

Background

SUSPECT ALMOST SWIPES CRUISER

- In September 2014, an Ohio State Highway Patrol trooper was monitoring traffic on Interstate 90 in Cleveland with a laser speed-measuring device.
- His cruiser was parked in an area where Interstate 90 and Interstate 71 diverge, known as a gore. The gore is a triangular area covered with hash marks indicating traffic isn't permitted.
- The trooper was standing near his cruiser when Benjamin S. Oles cut across the gore to change lanes from Interstate 90 West to Interstate 71 South, nearly striking the cruiser. The trooper pursued and stopped Oles.
- When the trooper approached the driver's side of Oles' vehicle, he advised Oles of the reason for stopping him and asked where he was coming from.
- Oles responded that he had left a wedding. The trooper noticed the odor of alcohol, but couldn't detect if it was coming from Oles or somewhere else in the vehicle.
- The trooper asked Oles to step out of the car and sit in the front seat of the cruiser.
- In the cruiser's front seat, the trooper asked Oles how much alcohol he consumed that evening.
- Oles said he had four mixed drinks. Oles was asked by the trooper to perform field sobriety tests and failed.
- The trooper arrested Oles, placed him in the back seat of the patrol car, and cited him for operating a motor vehicle while under the influence (OVI) and for a marked-lanes violation.
- At no time was Oles provided *Miranda* warnings while seated in the front seat of the cruiser.
- The *Miranda* warnings are statements that must be made before police question a suspect in custody that notify the suspect of the right to remain silent, the right to have an attorney during questioning, and the right to have an attorney appointed if the suspect cannot afford one.

I-71 North
I-90 West
Gore

The Cleveland Municipal Court at the Cuyahoga County Justice Center

CASE PROCEEDINGS

Driver Challenges Charges

Charges against Oles are filed in Cleveland Municipal Court.

- Oles wants to suppress, or keep the trial court from considering, the evidence from the stop, including his statements to police about drinking and the results of the sobriety tests.
- A "motion to suppress evidence" is a formal request made to the court to exclude certain evidence at a criminal trial because the evidence was obtained illegally.
- Oles argues that he wasn't given the *Miranda* warnings. Therefore, he argues that his statements shouldn't be allowed in court because they violated his rights against self-incrimination under the Fifth Amendment to the U.S. Constitution and Article I, Section 10 of the Ohio Constitution.
- The trial court suppresses the evidence.

Prosecutors Appeal Decision

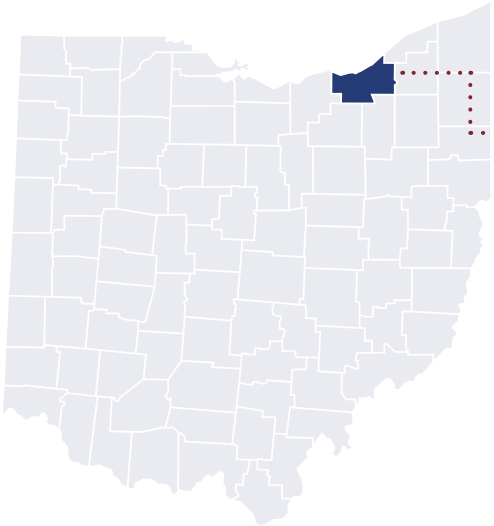
Parties that oppose a key decision by the trial court can appeal the decision to a higher court before any further action is taken.

- Ohio has 12 district courts of appeals that review and consider arguments in cases from trial courts in their region of the state.
- Prosecutors from the City of Cleveland appeal to the Eighth District Court of Appeals, located in Cleveland.
- The Eighth District upholds the trial court's ruling. The prosecutors can proceed in municipal court with their case against Oles. However, they cannot use his statements to law enforcement or the results of his sobriety tests.

Conflict Among Appellate Courts

The Eighth District notifies the Ohio Supreme Court that its decision conflicts with cases from other Ohio courts of appeals.

- According to Article IV, Section 3 of the Ohio Constitution, "Whenever the judges of a court of appeals find that a judgment upon which they have agreed is in conflict with a judgment pronounced upon the same question by any other court of appeals of the state, the judges shall certify the record of the case to the supreme court for review and final determination."
- Any interested party to the proceedings may file a notice of certified conflict in the Supreme Court. The Supreme Court then reviews and decides if there is a conflict.
- The Supreme Court's decision then becomes the position for all lower courts in Ohio to follow.



The Eighth District: Cuyahoga County.

- The Court accepts the city's appeal for the following:
  - To decide the question of whether *Miranda* warnings must be given when a person is placed in the front seat of a police vehicle.
  - To decide how this issue applies to Oles.

Fifth Amendment

The Fifth Amendment to the U.S. Constitution states: "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence [sic] to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."

- The amendment's phrase "nor shall be compelled in any criminal case to be a witness against himself" is known as the "self-incrimination clause."

We the People

Article 1

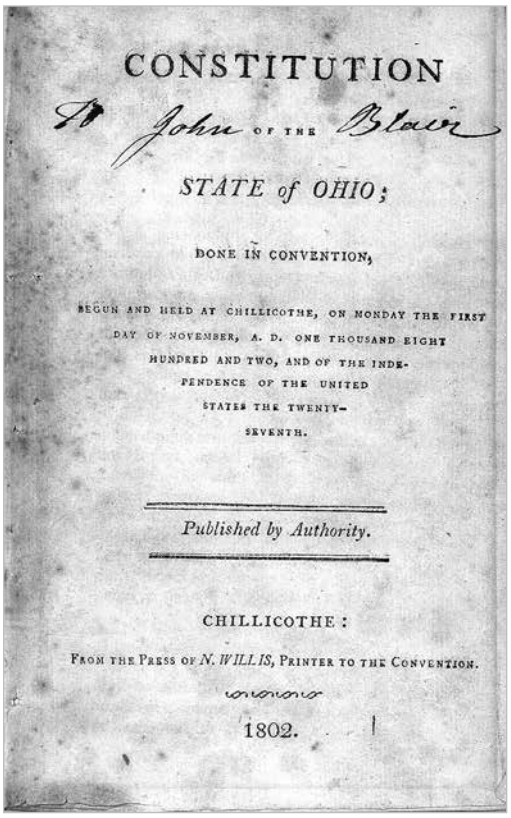
Miranda Warnings Explained

The U.S. Supreme Court's decision in *Miranda v. Arizona* (1966) created protections to secure the right against self-incrimination. This right is guaranteed by the Fifth Amendment to the U.S. Constitution. The Fourteenth Amendment to the U.S. Constitution applies this right to state proceedings. A similar right is recognized in Article I, Section 10 of the Ohio Constitution. The *Miranda* decision explained that a "custodial interrogation" is "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way."

Ohio Constitution Explained

In a 2006 case, *State v. Farris*, the Ohio Supreme Court determined that Article I, Section 10 of the Ohio Constitution provides greater protection to criminal defendants than the Fifth Amendment to the U.S. Constitution. This applies to whether a court or jury can consider any physical evidence obtained as a result of a statement made by a person in custody who wasn't read *Miranda* warnings. The Court found that such evidence cannot be used in court under Article I, Section 10.

This is different from the U.S. Supreme Court's ruling that the admission of such evidence doesn't violate the Fifth Amendment's self-incrimination clause if the person voluntarily makes a statement.


CONSTITUTION

To John Blair of the

STATE of OHIO;

DONE IN CONVENTION,

BEGUN AND HELD AT CHILLICOTHE, ON MONDAY THE FIRST DAY OF NOVEMBER, A. D. ONE THOUSAND EIGHT HUNDRED AND TWO, AND OF THE INDEPENDENCE OF THE UNITED STATES THE TWENTY-SEVENTH.

Published by Authority.

CHILLICOTHE:

FROM THE PRESS OF *N. WILLIS*, PRINTER TO THE CONVENTION.

1802.

CITY OF CLEVELAND'S ARGUMENTS

Suspect Wasn't in Police Custody

- Custodial interrogation is the point when law enforcement must give *Miranda* warnings. The city argues that questioning a suspect in the front seat of a police vehicle is not a custodial interrogation.
- The city asks the Ohio Supreme Court to create a bright-line rule. The rule would define that being held in the front seat of a police vehicle for a short time during an investigation for OVI isn't a custodial interrogation. A bright-line rule is a legal rule that simply and straightforwardly resolves issues.
- The U.S. Supreme Court ruled in a similar matter in another Ohio case: *Berkemer v. McCarty* (1984). The Court found that the person in *Berkemer* was only temporarily held during a traffic stop. It was decided that the person wasn't in custody and didn't need to be "Mirandized."
- The city states that the trooper smelled alcohol when he first talked to Oles. He then moved Oles to his cruiser to determine the source of the alcohol odor and asked Oles a few questions. The city describes Oles' stop as routine and not the same as an arrest. The stop included initial roadside questioning and field sobriety tests, which the city claims does not require reading *Miranda* warnings.

Other Cases Not as Similar

- The Eighth District used the Ohio Supreme Court's *State v. Farris* decision to uphold the suppression of evidence from Oles' traffic stop. The city disagrees with the Eighth District's use of *Farris*, arguing it isn't similar to Oles' situation.
- The officer in *Farris* did a pat-down of the suspect, took his car keys, told him to sit in the police vehicle, and planned to search the suspect's car. The Ohio Supreme Court ruled in *Farris* that a reasonable person in Farris' position would have considered himself to be in police custody. In that case, police needed to give *Miranda* warnings before questioning Farris.
- The city maintains that the Eighth District incorrectly extended the *Farris* ruling. The city agrees with rulings from the Eleventh and Seventh District Courts of Appeals. In those cases, the courts allowed evidence to be considered in court when obtained during traffic stops where *Miranda* rights weren't read.
- The city also contends that the field sobriety test results should be presented in court because the trooper had reasonable suspicion to conduct the tests even before he questioned Oles in the cruiser.

OLES' ARGUMENTS

Suspect Not Free to Leave When Questioned in Cruiser

- In *Berkemer*, the U.S. Supreme Court ruled an ordinary traffic stop doesn't automatically trigger the need for *Miranda* warnings. Oles responds that they must be read "as soon as a suspect's freedom of action is curtailed to a 'degree associated with formal arrest.'"
- As in *Farris*, Oles states he was stopped for a traffic violation, questioned, moved to the cruiser, and questioned further. A reasonable person who is ordered into a police vehicle and questioned would think he was being detained and wasn't free to leave until the officer released him.

Officers Should Read Rights

- The decisions in conflict with the Eighth District – from the First, Fifth, Seventh, and Eleventh District Courts of Appeals – didn't apply the reasonable person standard. Instead, the courts focused on certain facts in the *Farris* case (the suspect was patted down and handcuffed, and his keys were taken away).
- Oles notes that a police vehicle is an intimidating place by its nature. He agrees that handcuffs, pat-downs, seizure of car keys, and length of time make a detention more custodial-like. However, he notes that the lack of these actions doesn't make it a non-custodial detention.
- Oles states that the conversation with the trooper may have been different if he had been read his *Miranda* rights. He may not have told the trooper how much he drank that night and may not have agreed to the field sobriety tests.
- The trooper testified that the field tests were conducted after Oles answered the trooper's questions in the cruiser. Because of this, Oles argues that his statements in the vehicle along with the field sobriety test results must be suppressed.

FRIEND-OF-THE-COURT BRIEFS

- Amicus curiae briefs were filed by organizations with a high level of interest in the outcome of the case.
  - The Supreme Court allows these groups to submit written briefs, but doesn't generally allow them to present oral arguments.
  - In some cases, a party will agree to split oral argument time with one of the amicus groups supporting their position.
- Groups that filed amicus briefs in this case:
  - The Ohio Prosecuting Attorneys Association and Cuyahoga County Prosecutor's Office jointly submitted an amicus brief supporting the city of Cleveland.
  - The Ohio Association of Criminal Defense Lawyers filed an amicus brief supporting Oles.

Observing the Oral Argument

City of Cleveland v. Benjamin S. Oles, Case nos. 2016-0172 and 2016-0282

Attorneys Will Refer to Previous Federal and Ohio Court Decisions

U.S. Supreme Court Decisions:

Miranda v. Arizona, 384 U.S. 436 (1966)

Under the Fifth Amendment, any statements that a defendant in custody makes during an interrogation are admissible as evidence at a criminal trial only if law enforcement informed the defendant of the right to remain silent and the right to speak with an attorney before the interrogation started, and the rights either were exercised or waived in a knowing, voluntary, and intelligent manner.

Berkemer v. McCarty, 468 U.S. 420 (1984)

A person subjected to custodial interrogation is entitled to the benefit of the procedural safeguards enunciated in *Miranda*, regardless of the nature or severity of the offense of which he or she is suspected or for which he or she was arrested.

Ohio Supreme Court Decision:

State v. Farris, 109 Ohio St.3d 519, 2006-Ohio-3255

A suspect was questioned about a crime while in police custody without being given *Miranda* warnings, and he admitted to unlawful conduct. The subsequent administration of a *Miranda* warning followed by the repetition of the prior question and admission did not "cure" the constitutional infirmity of the initial questioning. In this situation, the trooper took Farris' car keys and ordered him to get into the front seat of the patrol car. The Ohio Supreme Court ruled further that, under the anti-self-incrimination provision of the Ohio Constitution, physical evidence obtained by police acting on either the suspect's pre- or post-*Miranda* admission was not admissible at trial.

Ohio Eleventh District Court of Appeals Decision:

State v. Serafin, 2012-Ohio-1456

After pulling over a driver for speeding, a state trooper possessed reasonable suspicion of further wrongdoing, which justified the removal of the driver from the vehicle. The subsequent questioning of the driver in the front seat of the police cruiser did not constitute custodial interrogation that would require the *Miranda* warnings. The Eleventh District Court of Appeals denied the driver's appeal to suppress from court the evidence obtained during the stop.

- This is one of the cases the Eighth District certifies is in conflict with its decision in *Cleveland v. Oles.*

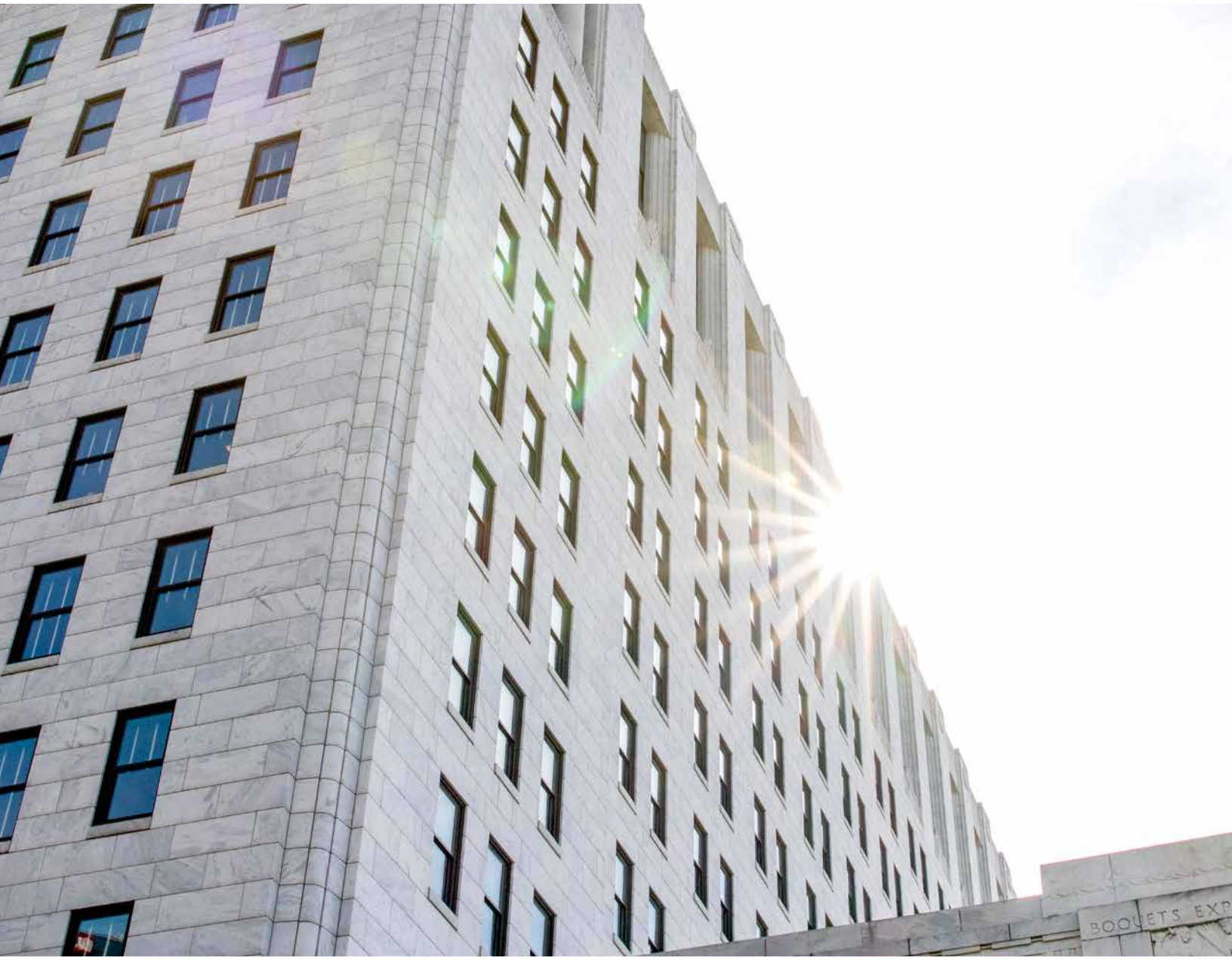
What is a *Terry* stop?

In the United States, a *Terry* stop is a brief detention of a person by police on reasonable suspicion of involvement in criminal activity, but short of probable cause to arrest.

This is your final reading activity until after observing the case.

Decision Summary

City of Cleveland v. Benjamin S. Oles, Case nos. 2016-0172 and 2016-0282



POLICE DON'T NEED TO READ RIGHTS TO QUESTION DRIVER IN PATROL VEHICLE FRONT SEAT

Case: *Cleveland v. Oles*, 152 Ohio St.3d 1, 2017-Ohio-5834

Full Opinion

sc.ohio.gov/rod/docs/pdf/0/2017/2017-ohio-5834.pdf

Placing a suspect in the front seat of a police cruiser during a traffic stop doesn't alone determine if the officer needs to read the suspect his or her rights before questioning, the Ohio Supreme Court ruled.

In a 6-1 decision, the Supreme Court declined to draw a "bright-line rule" that requires an officer to provide *Miranda* warnings to a suspect who has been removed from a stopped vehicle and placed in a police car. Instead, the Court offered some guidelines that help determine if the type of stop requires the warnings.

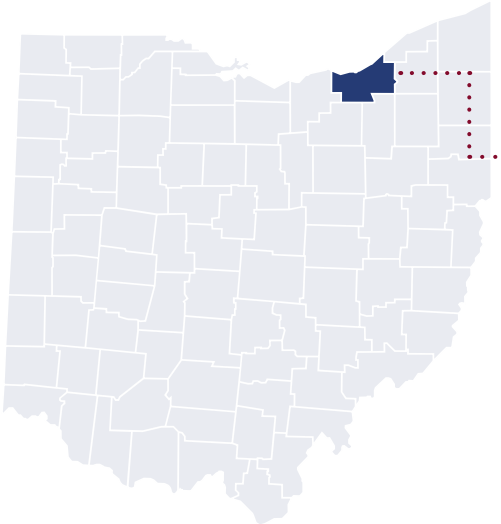
Writing for the Court majority, Chief Justice Maureen O'Connor concluded the trooper only asked questions that are typical of a routine traffic stop where alcohol is suspected to be a factor. The stop wasn't "the kind of interrogation — designed to pressure a suspect to confess to illegal conduct — that was of particular concern" to the U.S. Supreme Court when it decided *Miranda*, the opinion stated.

Oles Asks Court to Suppress Evidence

In 2014, a highway patrol trooper arrested Benjamin S. Oles. He was placed in the front seat of the cruiser. He was cited for operating a motor vehicle while under the influence and for a marked-lanes violation. The trooper did not read the *Miranda* warnings to Oles during the stop.

In Cleveland Municipal Court, Oles requested that the court suppress the evidence from the stop, including his statements to police about drinking and the sobriety test. The trial court agreed. Prosecutors from the City of Cleveland appealed to the Eighth District Court of Appeals. After review, the court decided the statements could not be used in court, upholding the trial court's ruling.

The Eighth District notified the Ohio Supreme Court that its decision conflicted with cases from other Ohio courts of appeals. It asked the Supreme Court to resolve the conflict.



The Eighth District: Cuyahoga County.

Traffic Stop Questioning Is Not Necessarily Interrogation

Chief Justice O'Connor explained the U.S. Supreme Court's landmark 1966 *Miranda v. Arizona* decision created protections against self-incrimination. This decision was intended to protect suspects from coercive pressure by police during a custodial interrogation. The high court defined custodial interrogation as "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." When suspects in custody aren't informed of their *Miranda* rights, the answers they give while in custody cannot be used as evidence in their trials.

The Ohio Supreme Court opinion discussed a 1984 U.S. Supreme Court ruling in an Ohio case (*Berkemer v. McCarty*) that dealt with *Miranda* warnings. The Court found that *Miranda* warnings aren't necessary when an officer pulls someone over and questions the driver by the side of the road. Although the stop limits the "freedom of action," the stop alone doesn't automatically mean the suspect is in custody.

The Ohio Supreme Court opinion noted that the *Berkemer* decision warned against trying to establish a bright-line rule that all traffic stops require *Miranda* warnings.

"Similarly, here, we decline to adopt the bright-line rule that questioning a suspect in the front seat of a police vehicle during a traffic stop rises to the level of a custodial interrogation," the Court stated. It noted in some, but not all, cases, the "totality of the circumstances" will show that a front-seat questioning can be a custodial interrogation that requires rights be read.

Oles Not in Custody

The Ohio Supreme Court applied *Berkemer* in its 2006 *State v. Farris* decision. In *Farris*, a trooper pulled over a driver for speeding and smelled marijuana in his car. The trooper took the driver out of his car, patted him down, took his keys, placed him in the front seat of the patrol car, and the trooper told the driver that the trooper was going to search the car. The Court found that questioning under these circumstances was a custodial interrogation that required the police to read the *Miranda* warnings to the suspect.

The Court suggested that questioning in the front seat of a police vehicle doesn't require police to read the *Miranda* warnings to a suspect when:

1. The intrusion is minimal
2. The questioning and detention are brief
3. The interaction is non threatening or non intimidating

Unlike the driver in *Farris*, Oles wasn't told his vehicle would be searched, was not patted down, and was allowed to keep his keys. The setting was in public view, the intrusion was minimal, and the questioning and detention were brief. Oles wasn't handcuffed, and there was no indication the officer acted in a threatening or intimidating way.

Oles contended that *Miranda* warnings are required when "a reasonable person would not have felt free to leave." However, the Court majority ruled the issue isn't whether a person feels "free to leave," but rather if the person feels "in custody."

"If the inquiry were whether the driver felt free to leave, then every traffic stop could be considered a custodial interrogation because 'few motorists would feel free either to disobey a directive to pull over or to leave the scene of a traffic stop without being told they might do so,'" the opinion stated.

The Court ruled that Oles' constitutional rights were not violated. His case was returned to the trial court for further proceedings.

Justices Terrence O'Donnell, Sharon L. Kennedy, Judith L. French, Patrick F. Fischer, and R. Patrick DeWine joined the opinion.

Dissent Argues Oles Was in Custody

In his dissent, Justice William M. O'Neill maintained that any reasonable person stopped for a traffic violation and seated in a police car, front seat or back, handcuffed or not, would believe he or she is in custody, and not free to leave.

He noted that technology now gives officers access to a "world of information while seated inside" their vehicles.

"Every police vehicle is now a police station on wheels. Being directed to have a seat in a police vehicle is akin to being taken to the police station," he wrote.

He noted that typical traffic stops begin with preliminary investigations where officers ask seated motorists a few questions. But once a driver is asked to step out of the car, a fundamental change occurs, he suggested.

"Once the suspect is instructed to enter the police vehicle, that person's actions are now being controlled by the police officer. A reasonable person in the suspect's position would feel that he or she is, at that point, under the control of the officer and in custody. The suspect's freedom of action has been curtailed in a significant way," he wrote.

The time has come for a rule that once an officer instructs a suspect into a police vehicle, the *Miranda* warnings are required, he concluded.

Decision News Article

City of Cleveland v. Benjamin S. Oles, Case nos. 2016-0172 and 2016-0282

- *The decision news article explains an Ohio Supreme Court opinion in non-legal language. The article is in news story form and intended to inform Ohioans about a ruling of the Court and how it might be relevant to their lives.*
- *The decision news article is drafted by public information staff and then edited by the justices and attorneys for the justices to ensure the legal accuracy and that the justices' positions on the case are clear. The article also is helpful to Ohio lawyers by giving them the "highlights" of a Court decision. The article always contains a link to the actual opinion for those who wish to read the opinion in its entirety, which is written in traditional legal form and language.*

No Rights Warnings Required to Question Intoxicated Driver in Police Vehicle Front Seat

By Dan Trevas | July 19, 2017

Placing a suspect in the front seat of a police cruiser during a traffic stop does not alone determine if the officer needs to read the suspect his rights before questioning, the Ohio Supreme Court ruled today.

In a 6-1 decision, the Supreme Court declined to draw a "bright-line rule" that requires an officer to provide the commonly known *Miranda* warnings to a suspect who has been removed from a stopped vehicle and placed in a police car. Instead the Court offered some guidelines that help determine if the stop is the type of "custodial interrogation" that mandate the warnings.

The decision reversed an Eighth District Court of Appeals ruling that an Ohio State Highway Patrol trooper improperly questioned a Cleveland motorist about his consumption of alcohol when he pulled the man over and placed him in the front seat of the car. The trooper did not read the man his *Miranda* rights before questioning and the Eighth District ruled the statements were inadmissible evidence.

Writing for the Court majority, Chief Justice Maureen O'Connor concluded the trooper only asked the typical questions of a routine traffic stop where alcohol is suspected to be a factor, and was not "the kind of interrogation —designed to pressure a suspect to confess to illegal conduct —that was of particular concern" to the U.S. Supreme Court when it decided *Miranda*.

In a dissenting opinion, Justice William O'Neill wrote that with onboard computers every police vehicle is "now a police station on wheels," and placing a suspect in the vehicle requires the warning before questioning. Justice O'Neill added that officers may not have to read suspects their rights when questioning suspects still sitting in their cars.

Suspect Almost Swipes Cruiser

In 2014, a trooper was monitoring traffic on Interstate 90 in Cleveland with a laser. His cruiser was parked in an area where two portions of a highway diverge, known as a gore. The gore is a triangular area covered with hash marks indicating traffic is not permitted. The trooper was standing near his cruiser when Benjamin S. Oles cut across the gore to change highways, nearly striking the cruiser. The trooper pursued and stopped Oles.

When the officer approached the driver's side of Oles' vehicle, he advised Oles of the reason for stopping him and asked where he was coming from. Oles responded that he left a wedding, and the officer sensed the odor of alcohol but could not detect if it was coming from Oles or somewhere else in the vehicle. He asked Oles to step out of the car and sit in the front seat of the patrol car.

In the front seat, the trooper asked Oles how much alcohol he consumed that evening and Oles said he had four mixed drinks. Oles was asked to perform field sobriety tests and failed. The trooper arrested Oles, placed him the back seat of the car, and cited him for operating a motor vehicle while under the influence (OVI) and a marked-lanes violation. At no time was Oles provided *Miranda* warnings.

Oles Seeks to Suppress Evidence

In Cleveland Municipal Court, Oles sought to suppress the evidence from the stop, including his statements to police about drinking and the subsequent field test. He argued he was not given the *Miranda* warnings and that the statements were inadmissible because they violated his rights against self-incrimination under the Fifth Amendment to the U.S. Constitution and Article I, Section 10 of the Ohio Constitution.

The trial court suppressed the evidence, and prosecutors from the city of Cleveland appealed to the Eighth District Court of Appeals, which affirmed the trial court's ruling. The Eighth District concluded that "[u]nder the totality of the circumstances presented in this case, we find that a reasonable person, removed from his or her own vehicle and questioned about their alcohol consumption in the passenger seat of a police cruiser would not feel free to leave." The appellate court concluded that those who do not feel free to leave must be read the *Miranda* warnings before questioning can begin.

The Eighth District certified that its decision conflicted with decisions by five other district courts of appeals and asked the Supreme Court to resolve the conflict. The Court agreed to answer the question of whether front-seat questioning requires *Miranda* warnings and accepted the city's appeal of the Eighth District ruling for Oles.

Traffic Stop Questioning Differs from Interrogation

Chief Justice O'Connor explained the U.S. Supreme Court's landmark 1966 *Miranda v. Arizona* decision established safeguards against self-incrimination intended to protect suspects from coercive pressure during a custodial interrogation. She noted the high court defined custodial interrogation as "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way." The answers suspects in custody provide to questions without being informed of their *Miranda* rights cannot be admitted as evidence in trials.

The opinion noted the U.S. Supreme Court addressed the requirement of *Miranda* warnings during routine traffic stops in a 1984 Ohio case (*Berkemer v. McCarty*). The Court found that when an officer initiates a traffic stop and questions the driver by the side of the road, *Miranda* warnings are not necessary. While the stop does curtail the "freedom of action" in a significant way, the stop alone does not necessarily mean the suspect is in custody, the Court explained.

The opinion noted that the *Berkemer* decision warned against trying to establish a bright-line rule that all traffic stops require *Miranda* warnings.

"Similarly, here, we decline to adopt the bright-line rule that questioning a suspect in the front seat of a police vehicle during a traffic stop rises to the level of a custodial interrogation," the Court stated. It noted in some cases the "totality of the circumstances" will demonstrate a front-seat questioning can be a custodial interrogation that requires rights be read, but not always.

The decision stated that the Ohio Supreme Court applied *Berkemer* in its 2006 *State v. Farris* decision where a trooper pulled over a driver for speeding and smelled marijuana in his car. The trooper took the driver out of his car, patted him down, took his keys, and placed him in the front seat of the patrol car. Without providing *Miranda* warnings the trooper told the driver he was going to search the car and asked directly if he was going to find any drugs in it. The driver responded that he had a marijuana pipe in the trunk, and after a search of the car, the driver was arrested. The Ohio Supreme Court found that placement of the driver in the car and the questioning in that search was a custodial interrogation that required the *Miranda* warnings.

The Court wrote that based on *Farris* and several rulings by Ohio lower courts since then, it identified three factors that may provide guidance on whether the warning must be given before front-seat questioning occurs.

"[Q]uestioning a suspect during a traffic stop in the front seat of a police vehicle does not rise to the level of a custodial interrogation when (1) the intrusion is minimal, (2) the questioning and detention are brief, and (3) the interaction is nonthreatening or nonintimidating," the opinion stated.

Oles Not in Custody

Based on those three factors, the Court found that the admission of Oles' statements made while in the police vehicle did not violate his constitutional rights. Unlike the driver in *Farris*, Oles was not told his vehicle would be searched, was not patted down, and was allowed to keep his keys. And because the setting was in public view, the intrusion was minimal, and since the conversation was short, the questioning and detention was brief. Oles was not handcuffed and there was no indication the officer was overly repetitive with questions or acted in a threatening and intimidating way toward Oles.

Oles contended the Eighth District was correct when it decided *Miranda* warnings are required when "a reasonable person would not have felt free to leave." However, the Court majority ruled the issue is not whether a person feels "free to leave," but rather if the person feels they are "in custody."

"This nuance is important and well reasoned. If the inquiry were whether the driver felt free to leave, then every traffic stop could be considered a custodial interrogation because 'few motorists would feel free either to disobey a directive to pull over or to leave the scene of a traffic stop without being told they might do so,'" the opinion stated, citing *Berkemer*.

The Court concluded the totality of circumstances did not indicate the officer needed to provide *Miranda* warnings to Oles before questioning him, and that his constitutional rights were not violated. The Court remanded the case to the trial court for further proceedings.

Justices Terrence O'Donnell, Sharon L. Kennedy, Judith L. French, Patrick F. Fischer, and R. Patrick DeWine joined the opinion.

Dissent Argues Placement in Vehicle Is Custody

In his dissent, Justice O'Neill maintained that any reasonable person stopped for a traffic violation and asked to be seated in a police car, front seat or back, handcuffed or not, would believe he or she is in custody, and not free to leave.

He noted technology has dramatically changed since *Miranda* was decided more than 50 years ago, and officers have access of to a "world of information while seated inside" their vehicles.

"Every police vehicle is now a police station on wheels. Being directed to have a seat in a police vehicle is akin to being taken to the police station," he wrote.

He noted that typical traffic stops begin with preliminary investigations where officers ask seated motorists a few questions. But once a driver is asked to step out of the car, a fundamental change occurs, he submitted.

"Once the suspect is instructed to enter the police vehicle, that person's actions are now being controlled by the police officer. A reasonable person in the suspect's position would feel that he or she is, at that point, under the control of the officer and in custody. The suspect's freedom of action has been curtailed in a significant way," he wrote.

He concluded the time has come for a rule that finds once an officer instructs a suspect into a police vehicle, the *Miranda* warnings are required.

2016-0172 and 2016-0282. Cleveland v. Oles, Slip Opinion No. 2017-Ohio-5834.

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