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Montejo v. Louisiana

--- U.S. --- (2009)

FACTS: Montejo was arrested on murder or robbery charges in Louisiana. He was initially interrogated, and changed his story several times. He was brought before a judge for his state-mandated 72-hour hearing. He was appointed counsel as he appeared indigent, even though he apparently did not request counsel, or even speak, at that time.

Later that same day, two detectives visited Montejo, and after some discussion, he was given his Miranda warnings and agreed to go on an excursion to attempt to locate the murder weapon. During the trip, he “wrote an inculpatory letter of apology to the victim’s widow.” When they returned, Montejo’s court appointed attorney “was quite upset that the detectives had interrogated his client in his absence.”

Ultimately, Montejo was convicted, and sentenced to death. His appeals through the Louisiana state court system were unsuccessful, with the Louisiana Supreme Court holding that the protections of Michigan v. Jackson¹, did not apply, as Montejo did not actually request an attorney or otherwise assert his Sixth Amendment right at the hearing or before. (The Louisiana court ruled that “if the court on its own appoints counsel, with the defendant taking no affirmative action to invoke his right to counsel, then police are free to initiate further interrogations provided that they first obtain an otherwise valid waiver by the defendant of his right to have counsel present.”)

Montejo requested certiorari and the U.S. Supreme Court accepted review.

ISSUE: When an indigent defendant’s right to counsel has attached and counsel has been appointed, must the defendant take additional affirmative steps to “accept” the appointment in order to secure the protections of the Sixth Amendment and preclude police-initiated interrogation without counsel present?

HOLDING: Yes

DISCUSSION: The Court initially noted that the issue was complicated by the fact that some states do not appoint counsel for an eligible defendant until that individual affirmatively requests counsel, while other states do so automatically. In Jackson, the defendant had properly requested counsel. The Court reviewed all of the questions that might arise in determining whether Jackson is triggered, including, for example, the mysterious notion of how a defendant would “affirmatively accept” counsel that is automatically appointed by the court. The possible ways to do so would be, at best, impractical, and at worst, virtually impossible, according to the Court. It would also mean that “[d]efendants in States that automatically appoint counsel would have no opportunity to invoke their rights and trigger Jackson, while those in other States, effectively instructed by the court to request counsel, would be lucky winners.”

¹ 475 U. S. 625 (1986).

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The court then addressed whether a Miranda² warning and waiver was sufficient to also waive the right to counsel, and agreed “that typically does the trick, even though the Miranda rights purportedly have their source in the Fifth Amendment. Under Edwards v. Arizona, the Court had “decided that once ‘an accused has invoked his right to have counsel present during custodial interrogation . . . [he] is not subject to further interrogation by the authorities until counsel has been made available,’ unless he initiates the contact.”³

Further, the Court noted:

The Edwards rule is “designed to prevent police from badgering a defendant into waiving his previously asserted Miranda rights.”⁴ It does this by presuming his postassertion statements to be involuntary, “even where the suspect executes a waiver and his statements would be considered voluntary under traditional standards.”⁵ This prophylactic rule thus “protect[s] a suspect’s voluntary choice not to speak outside his lawyer’s presence.”⁶

Jackson represented a “wholesale importation of the Edwards rule into the Sixth Amendment.”⁷ The Jackson Court decided that a request for counsel at an arraignment should be treated as an invocation of the Sixth Amendment right to counsel “at every critical stage of the prosecution,” despite doubt that defendants “actually inten[d] their request for counsel to encompass representation during any further questioning,” because doubts must be “resolved in favor of protecting the constitutional claim,” Citing Edwards, the Court held that any subsequent waiver would thus be “insufficient to justify police initiated interrogation.” In other words, we presume such waivers involuntary “based on the supposition that suspects who assert their right to counsel are unlikely to waive that right voluntarily” in subsequent interactions with police.⁸

The Court noted that “[w]hen a court appoints counsel for an indigent defendant in the absence of any request on his part, there is no basis for a presumption that any subsequent waiver of the right to counsel will be involuntary.” The Court found:

No reason exists to assume that a defendant like Montejo, who has done *nothing at all* to express his intentions with respect to his Sixth Amendment rights, would not be perfectly amenable to speaking with the police without having counsel present. And no reason exists to prohibit the

² Miranda v. Arizona, 384 U.S. 436 (1966).

³ 451 U. S. 477 (1981).

⁴ Michigan v. Harvey, 494 U.S. 344 (1990).

⁵ McNeil v. Wisconsin, 501 U. S. 171 (1991).

⁶ Texas v. Cobb, 532 U. S. 162 (2001)

⁷ Id.

⁸ Harvey, *supra*.

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police from inquiring. Edwards and Jackson are meant to prevent police from badgering defendants into changing their minds about their rights, but a defendant who never asked for counsel has not yet made up his mind in the first instance.

As part of its decision, the Court was compelled to decide if Michigan v. Jackson was still valid law, or if it should be overturned. The Court asked “What does the Jackson rule actually achieve by way of preventing unconstitutional conduct?” The Court noted that there were already three prophylactic rules in place to protect defendants: Miranda’s protections against “compelled self-incrimination” and its right to have an attorney present during custodial interrogations if desired, Edwards, which holds that once a defendant invokes the right, all interrogation must stop, and finally Minnick v. Mississippi, which states that “no subsequent interrogation may take place [following invocation] until counsel is present, ‘whether or not the accused has consulted with his attorney.’”⁹

The Court continued:

These three layers of prophylaxis are sufficient. Under the Miranda-Edwards-Minnick line of cases (which is not in doubt), a defendant who does not want to speak to the police without counsel present need only say as much when he is first approached and given the Miranda warnings. At that point, not only must the immediate contact end, but “badgering” by later requests is prohibited. If that regime suffices to protect the integrity of “a suspect’s voluntary choice not to speak outside his lawyer’s presence” before his arraignment,¹⁰ it is hard to see why it would not also suffice to protect that same choice after arraignment, when Sixth Amendment rights have attached. And if so, then Jackson is simply superfluous.

In particular, the Court noted it had “praised Edwards precisely because it provides ‘clear and unequivocal’ guidelines to the law enforcement profession.”¹¹ The Court ruled that “when the marginal benefits of the Jackson rule are weighed against its substantial costs to the truth seeking process and the criminal justice system, we readily conclude that the rule does not “pay its way.”¹² As such, the court overruled Michigan v. Jackson.

The Court concluded:

This case is an exemplar of Justice Jackson’s oft quoted warning that this Court “is forever adding new stories to the temples of constitutional law, and the temples have a way of collapsing when one story too many

⁹ 498 U.S. 146 (1990).

¹⁰ Cobb, supra.

¹¹ Arizona v. Roberson, 486 U.S. 675 (1988).

¹² U.S. v. Leon, 468 U. S. 897 (1984).

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is added.”¹³ We today remove Michigan v. Jackson’s fourth story of prophylaxis.

Because certain issues were not fully addressed during Montejo’s criminal case, the Court agreed that the case would be remanded for a further consideration, on the state level, as to whether Montejo did, in fact, affirmatively assert his right to counsel prior to agreeing to accompany law enforcement on the “excursion for the murder weapon,” agreeing that had he done so, “no interrogation should have taken place unless Montejo initiated it.”

FULL TEXT OF OPINION: <http://www.supremecourtus.gov/opinions/08pdf/07-1529.pdf>

¹³ Douglas v. City of Jeannette, 319 U. S. 157 (1943).