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Case Summaries: Fourth Circuit Court of Appeals (Jan. 10, 2023)

Brief questioning of defendant in a public park after hours did not rise to the level of custody for purposes of *Miranda;* denial of motion to suppress affirmed

U.S. v. Leggette, 57 F.4th 406 (Jan. 10, 2023). In this case from the Middle District of North Carolina, Winston-Salem police officers noticed a car parked in the lot of a public park around 11:30 pm. The park closed at 10:30 pm, and officers decided to investigate the potential trespass. The defendant and a companion were present in the park and approached the officer. A backup officer arrived and found a gun inside of a nearby trash can. The first officer performed a frisk of the defendant and asked him three times about ownership of the gun. This occurred over the course of around 90 seconds. The defendant denied knowing anything about the weapon in response to the first two questions, but admitted to being a felon. The officer stated that honesty would "go a long way" and asked a third time, at which point the defendant admitted ownership of the gun. At the detention center, officers read the defendant a *Miranda* warning and the defendant again confessed. He was charged with being a felon in possession and moved to suppress his statements, arguing a Miranda violation based on the officer's questions in the park. The district court denied the motion, finding that the defendant was not in custody at the time of his inculpatory statements. The defendant pled guilty, reserving his right to appeal the suppression issue. He was sentenced to 180 months and appealed. A unanimous panel of the Fourth Circuit affirmed.

The court noted that a person may not be free to leave an encounter with police but still may not be considered "in custody" for purposes of *Miranda*. According to the court:

> …[A] *Terry* stop does not constitute *Miranda* custody. Just like the subject of a traffic stop, the person cannot leave. But, like traffic stops, *Terry* stops lack the necessary coercion, and so do not curtail a person's freedom of action to a degree associated with formal arrest. *Leggette* Slip op. at 7 (cleaned up).

The court noted that only one officer questioned the defendant and the officer asked "only a handful of questions," aimed at discovering information about the gun. The officer spoke politely and did not draw his firearm. Other than the frisk, the officer did not touch or restrain the defendant during the questioning. The questioning occurred in a public place, with the defendant's companion beside him, and within a short window of time. These circumstances did not rise to the functional equivalent of an arrest and therefore did not rise to the level of custody for purposes of *Miranda*. The district court was therefore affirmed. Concluding, the court observed:

> *Miranda* warnings are not required every time an individual has their freedom of movement restrained by a police officer. Nor are they necessarily required every time questioning imposes some sort of pressure on suspects to confess. Instead, they are only required when a suspect's freedom of movement is restrained to the point where they do not feel free to terminate the encounter *and* the circumstances reveal the same inherently coercive pressures as the type of stationhouse questioning at issue in *Miranda*. *Id*. at 12-13 (cleaned up) (emphasis in original).