

9th Circuit vacates conviction for Miranda violation

By L.J. Williamson

A 9th U.S. Circuit Court of Appeals panel Monday affirmed a district court's decision to grant the habeas petition of a man who invoked his Miranda rights, but subsequently answered an officer's continued questions and confessed to a crime.

Francisco Alaniz Garcia was brought into the police department for questioning following allegations from his granddaughter that he molested her.

Garcia was read his Miranda rights, and the interrogating officer then asked, "now having [those rights] in mind, do you wish to talk to me?" to which Garcia responded "no."

The officer continued his questioning, and Garcia decided to answer questions, eventually confessing to the crime.

The taped confession was played to a jury at Garcia's trial despite the objection of his counsel, who raised the Miranda invocation, which the judge ruled as equivocal. Garcia was found guilty of all charges against him and sentenced to 35 years to life.

A state appeals court upheld Garcia's conviction, saying that the defendant never unequivocally invoked his right to silence because he "proceeded to provide additional or contrary information despite his initial negative response."

Garcia's habeas petition was subsequently granted by U.S. District Judge Steven V. Wilson of the Central District, however.

Wilson ruled that the state court's use of Garcia's postrequest statements to cast ambiguity on his request to remain silent was contrary to the Supreme Court's decision in *Smith v. Illinois*, 469 U.S. 91 (1984), which found that "an accused's postrequest responses to further interrogation may not be used to cast doubt upon the clarity of his initial request for counsel."

The 9th Circuit panel held that "any reasonable jurist would have to conclude that 'no' meant 'no.'"

"No one here contends, and the state court did not find, that Garcia's 'no' was ambiguous or equivocal on its face," wrote Circuit Judge Jay S. Bybee. "The question asked - 'now, having [your Miranda rights] in mind, do you wish to talk to me?' - was clear as day. So too was Garcia's one-word response."

Circuit Judge Raymond C. Fisher and Elizabeth E. Foote, District Judge for the Western District of Louisiana, concurred.

Though the state appeals court reasoned that Garcia's further statements cast ambiguity on his initial 'no,' Bybee wrote, their decision was contrary to Miranda's "bright-line prohibition" of further questioning after a suspect has invoked their right to silence.

"Mr. Garcia is very happy with the news from the 9th Circuit today," said Margo Rocconi of the Federal Public Defender's Office.

"The opinion strongly reaffirms that the bedrock Miranda principles mean what the Supreme Court said they mean: once a suspect unambiguously invokes his rights, police may not continue to badger him until he finally talks," Rocconi added. "Police must take no for an answer."

Jennifer A. Jadovitz, an attorney with the state attorney general's office, did not return calls requesting comment.

"I always wonder why, almost 50 years since Miranda, why they're still going to the court and having these arguments," said Daniel Yeager, professor at California Western School of Law. "It's amazing to me - it's still a silly game played differently in every police station."

Yeager said he was surprised that legislators have not yet created a system of explicit waivers to make police station confessions subject to clear-cut rules.

Prosecutors were ordered to release Garcia or try him again.