

**[J-182-2000]**  
**IN THE SUPREME COURT OF PENNSYLVANIA**  
**MIDDLE DISTRICT**

IN THE INTEREST OF R.H.	:	No. 96 M.D. Appeal Docket 2000
	:	
	:	Appeal from the Order of the Superior
	:	Court entered April 3, 2000 at No. 2500
	:	EDA 1999, affirming the Order of the
	:	Court of Common Pleas of Monroe
	:	County entered June 9, 1999 at No. 0031
	:	JUVENILE 1999
APPEAL OF R.H.	:	
	:	
	:	ARGUED: December 5, 2000

**OPINION ANNOUNCING THE JUDGMENT OF THE COURT**

**MR. JUSTICE NIGRO**

**DECIDED: February 21, 2002**

In this appeal, Appellant R.H., a minor, argues that the Superior Court improperly affirmed the order of the trial court denying his motion to suppress the statements he made during questioning by a school police officer. We agree with Appellant that he was entitled to receive Miranda warnings before being questioned by the school police officer and therefore, we reverse the Superior Court's order affirming Appellant's adjudication of delinquency.

The relevant facts and procedural history of this case are as follows. On December 7, 1998, the Monroe County Sheriff notified the East Stroudsburg Area School District Police Department that someone had broken into and vandalized a classroom at East Stroudsburg High School. After entering the classroom, East Stroudsburg School police officers discovered that someone had written graffiti on the blackboards, overturned desks, and discharged the room's fire extinguisher. In addition, small sneaker footprints were observed in fire extinguisher residue on the floor and on the desktops.

The school police officers subsequently obtained a list of students with classes in the vandalized classroom and looked for a person small in stature to match the footprints found in the fire extinguisher residue. After reviewing the student list, the school police suspected that Appellant had been involved with the break-in because he had classes in the room, he was a person of small stature and because his discipline record indicated that he had exhibited unruly behavior in the past. One of the school police officers escorted Appellant to the main building of the school, where Appellant was asked to remove his shoe for comparison with the footprints found in the fire extinguisher residue. After observing the bottom of Appellant's shoe, the officer concluded that the print matched those found in the classroom. The officer then informed Appellant that he was keeping the shoe as evidence and that he was going to question Appellant about the break-in.

The school police officer did not give Appellant Miranda warnings<sup>1</sup> prior to the questioning, nor was Appellant allowed to leave the room until the questioning was completed twenty-five minutes later. During the questioning, Appellant admitted that he was involved in the break-in. The school called the municipal police department and Appellant's mother. The municipal police questioned Appellant and then permitted him to leave with his mother. Subsequently, Appellant was charged with various offenses in juvenile court.

Prior to his juvenile delinquency hearing, Appellant filed a motion to suppress any statements he made during the questioning by the school police officer. Appellant's motion was denied and an adjudication hearing was held, wherein Appellant was adjudicated of burglary, criminal trespass, theft by unlawful taking, criminal mischief, institutional vandalism, and criminal conspiracy. Appellant was then sent to a residential treatment

---

<sup>1</sup> Miranda v. Arizona, 384 U.S. 436 (1966) (holding that a defendant who is subject to custodial interrogation must be advised, in clear and unequivocal language, of his constitutional right to remain silent and his right to a lawyer).

center for nine months, to be followed by one year of probation. The Superior Court affirmed.

On appeal to this Court, Appellant asserts that his Fifth Amendment rights were violated when he was compelled to give evidence against himself. Appellant argues that he should have been given Miranda warnings prior to any questioning by the school police. According to Appellant, school police are constitutionally indistinguishable from municipal police because they are permitted to exercise the same powers as the municipal police while on school property and because they wear uniforms and badges. Consequently, Appellant contends that his confession, given during custodial interrogation by a school police officer, should have been suppressed. We agree.

When reviewing a challenge to the denial of a suppression motion “we must consider only the evidence of the prosecution and so much of the evidence for the defense which remains uncontradicted when read in the context of the record as a whole. Where the record supports the findings of the suppression court, we are bound by those facts and may reverse only if the legal conclusions drawn therefrom are in error.” Commonwealth v. Hall, 701 A.2d 190,197 (Pa. 1997)(citing Commonwealth v. Cortez, 491 A.2d 111, 112 (Pa. 1985)).

To safeguard an uncounseled individual's Fifth Amendment privilege against self-incrimination, suspects subject to custodial interrogation by law enforcement officers must be warned that they have the right to remain silent, that anything they say may be used against them in court, and that they are entitled to the presence of an attorney. See Thompson v. Keohane, 516 U.S. 99, 107 (1995) (citing Miranda v. Arizona, 384 U.S. 436, 444 (1966)). Juveniles, as well as adults, are entitled to be apprised of their constitutional rights pursuant to Miranda. See In re Gault, 387 U.S. 1, 57 (1967). If a person is not advised of his Miranda rights prior to custodial interrogation by law enforcement officers, evidence resulting from such interrogation cannot be used against him. See Miranda, 384

U.S. at 436, 444, 478-79; Commonwealth v. Chacko, 459 A.2d 311, 314-15 (Pa. 1983). A person is deemed to be in custody for Miranda purposes when "[he] is physically denied of his freedom of action in any significant way or is placed in a situation in which he reasonably believes that his freedom of action or movement is restricted by the interrogation." Commonwealth v. Williams, 650 A.2d 420, 427 (Pa. 1994) (citations omitted).

In the instant case, it is uncontested that Appellant did not receive Miranda warnings before he was taken into custody for purposes of interrogation. It is also uncontested that Appellant was in custody during the interrogation.<sup>2</sup> Thus, the issue becomes whether school police officers should be considered "law enforcement officers" within the purview of Miranda.

Pennsylvania common pleas courts may appoint school police officers to serve in the school districts within their jurisdiction. See 24 P.S. § 7-778. The court may grant a school police officer the authority to exercise the same powers while on school property as the municipal police, including the power to arrest, issue summary citations, and detain individuals until local law enforcement is notified. Id. § 7-778(a), (c)(2), & (c)(3). By an order dated July 14, 1998, the Court of Common Pleas of Monroe County granted East Stroudsburg school police officers the authority to exercise the same powers as the municipal police within the East Stroudsburg Area School District. The court also granted these school police officers the power to issue summary citations and to detain individuals until local law enforcement is notified.

---

<sup>2</sup> Although Justice Castille's dissent goes through a lengthy analysis regarding its belief that Appellant was not "in custody" for purposes of Miranda, we note that the Commonwealth itself does not raise that argument and in fact, concedes in its brief that Appellant was in custody for purposes of Miranda. See Cmwlth. Br. at 6 (students are "always in custody during school hours").

In affirming the trial court's denial of Appellant's suppression motion in the instant case, the Superior Court concluded that school police officers are more akin to school officials than municipal police officers because school police officers are considered employees of the school district. See 24 P.S. § 7-778(g). The Superior Court noted that Miranda warnings are not required when school officials detain and question a student about conduct that violates school rules. Thus, since Appellant was questioned by a school police officer, i.e, a school official, about an incident involving "a flagrant violation of school rules," the Superior Court found that Appellant was not entitled to Miranda warnings.

While it is true that the East Stroudsburg school police officers involved in the instant matter were employees of the school district, they were also judicially appointed and explicitly authorized to exercise the same powers as municipal police on school property. See 24 P.S. § 7-778(c)(2). Furthermore, as Appellant observes, the school police officers were wearing uniforms and badges during Appellant's interrogation, and the interrogation ultimately led to charges by the municipal police, not punishment by school officials pursuant to school rules. In light of these circumstances, we agree with Appellant that the East Stroudsburg police officers were "law enforcement officers" within the purview of Miranda. Thus, Appellant was entitled to be read his Miranda rights before the school police questioned him and, given their failure to do so, we find that Appellant's Fifth Amendment privilege against self incrimination was violated.<sup>3</sup> Accordingly, the Superior

---

<sup>3</sup> Justice Castille's dissent indicates that both this Court's plurality decision in Commonwealth v. Cass, 709 A.2d 350 (Pa. 1998), and our decision in In the Interest of F.B., 726 A.2d 361 (Pa. 1999), support a conclusion that students are not entitled to Miranda warnings before being questioned by school police officers. Those cases, however, dealt with a completely different situation than the one before the Court today and did not in any way seek to address the issue at bar, i.e. whether the East Stroudsburg school police were required to give Appellant Miranda warnings before questioning him. Nothing in Cass or F.B., contrary to what the dissent infers, precludes this Court from holding that Appellant's Fifth Amendment rights were violated in the instant case.

Court's order is reversed and the matter is remanded to the trial court for proceedings consistent with this opinion.<sup>4</sup> Jurisdiction relinquished.

Former Chief Justice Flaherty did not participate in the decision of this case.

Mr. Justice Cappy files a dissenting opinion.

Mr. Justice Castille files a dissenting opinion.

Madame Justice Newman files a concurring opinion.

Mr. Justice Saylor files a concurring opinion.

Mr. Justice Eakin did not participate in the consideration or decision of this matter.

---

<sup>4</sup> In addition to his Fifth Amendment claim, Appellant also claims that Article I, Section 9 of the Pennsylvania Constitution requires that the school police officers give Miranda warnings. Appellant does not present a separate argument based on Article I, Section 9, but merely asserts that Miranda warnings by school police officers are required under both the federal and state constitutions. However, since we find that Appellant is entitled to relief under the Fifth Amendment, there is no need to reach his Article I, Section 9 claim. See Gondelman v. Commonwealth, 554 A.2d 896, 898 (Pa. 1989)(if appellant prevails on federal constitutional claim, this Court does not need to address the arguments predicated upon the Pennsylvania Constitution).