

IN THE INTEREST OF M.C., C.P. Fulton County Branch,
Juvenile Court Division, No. 31 of 2000-J

Juvenile Act — Confession — Interested Adult

1. Juvenile Act provides, in its definition of “child,” that one who commits an act at the age of seventeen but is not interviewed by law enforcement officials until he is eighteen, may still be adjudicated as a delinquent juvenile under the Act.
2. To determine voluntariness of a juvenile confession, the court must weigh all accompanying facts and circumstances, to include the juvenile’s youth, experience, comprehension and presence of an interested adult.
3. The McCutchen Rule, or interested adult rule, no longer exists as a per se rule. Now, it is simply one of the several factors for the court to consider.
4. A juvenile’s confession is voluntary and admissible when he is eighteen at the time of the confession, he has cognitive deficiencies that allow him to follow spoken directions and the Trooper does in fact explain the statement form and his rights audibly and no interested adult is present.

Appearances:

Dwight C. Harvey, District Attorney
Travis Kendall, Esq.

OPINION AND ORDER

Walker, P.J., September 29, 2000

Case History

On April 4, 2000, two (2) orange construction signs and twelve (12) barricades owned by Pennsylvania Department of Transportation were damaged in Wells Township, located in Fulton County, Pennsylvania. During the course of his investigation, Trooper James Lupey of the Pennsylvania State Police acquired information concerning M.C.’s involvement in the incident. Trooper Lupey thereafter proceeded to M.C.’s residence in Hustontown, Pa., on May 11, 2000, where he spoke to M.C.’s mother. After leaving the residence, Trooper Lupey then proceeded unaccompanied to Forbes Road High School to directly speak to M.C. about his involvement in the April 4, 2000, criminal mischief. M.C. was interviewed by Trooper Lupey in a room located adjacent to the school office for less than one hour, and thereafter signed a statement in which he was conspicuously and solely inculcated.

At the time of the interview, M.C. was eighteen (18) years old, having had a birthday on May 5, 2000. However, M.C.’s age at the time of the alleged delinquent act on April 4, 2000, was seventeen (17). Accordingly,

it is now asserted that the signed statement rendered by M.C. is constitutionally inadmissible because it was not knowingly and voluntarily given under the standards of the Juvenile Act. The Commonwealth, conversely, maintains that the statement is constitutionally acceptable because M.C. was over the age of eighteen (18) at the time of the interview and thus outside the parameters of the Juvenile Act.

A hearing was held on the matter on August 22, 2000, at the Fulton County Courthouse and counsel have both submitted briefs on the issues involved.

Discussion

The threshold inquiry is whether M.C. is a juvenile. The Commonwealth makes much of the distinction between those that are under eighteen (18) years of age and those that are over the age of eighteen (18). The court recognizes that turning eighteen (18) is a watershed for most minors symbolically in that most feel liberated upon graduation from high school at that age. More importantly, turning eighteen (18) also carries legal significance inasmuch as minors may, for example, finally participate in the electoral process, go off to war and even buy tobacco products free of the fear that the Sheetz cashier will “card” them.

But the distinction is of no consequence instantly, as the Juvenile Act has removed any doubt by defining “child” as an individual who “is under the age of 21 years who committed an act of delinquency before reaching the age of 18 years.” 42 Pa.C.S.A. §6302. The facts at bar initially appeared to present a novel and thorny issue; however, M.C. clearly fits within the above definition because the alleged acts were committed on April 4, 2000, when he was seventeen (17) years old.

In determining whether a juvenile’s confession was knowing, intelligent and voluntary, a court must weigh all the accompanying facts and circumstances surrounding the confession, to include “the juvenile’s youth, experience, comprehension and the presence of an interested adult.” *Commonwealth v. Williams*, 504 Pa. 511, 475 A.2d 1283, 1288 (1984). *Williams*’ primary significance rests upon its departure from a rebuttable presumption set forth in *Commonwealth v. Christmas* that a confession was defective absent the presence of an “interested adult.” *Id.* at 504 Pa. 521, 475 A.2d 1287; see also, *Commonwealth v. Christmas*, 502 Pa. 218, 465 A.2d 989 (1983). Prior to the *Christmas* decision, Pennsylvania followed the “interested adult” rule or the McCutchen Rule, a per se rule which absolutely required the presence of an adult in order for a juvenile confession to be valid. See *Commonwealth v. McCutchen*, 463 Pa. 90, 343 A.2d 669

(1975). Now, however, adult presence is but one factor to be weighed in the totality of the circumstances test set forth in *Williams*.

As detailed above, M.C.'s advanced age barely makes him eligible for proceedings under the Juvenile Act. Secondly, however, the court has not been made aware of any prior record which would have perhaps given M.C. an advantage or at least some appreciation of the consequences of his signed statement. In weighing the factor of comprehension, it is quite apparent that the major thrust of the defense is M.C.'s cognitive deficiencies. At the suppression hearing, for example, one of his teachers testified that M.C. has difficulty following written instructions, such as those contained on the police statement form. The teacher also testified, however, that M.C. is able to understand directions when presented to him audibly. Therefore, since Trooper Lupey testified that he verbally explained his rights during the interview, the major defense argument has less value. Finally, there is no dispute that neither of M.C.'s parents nor any other interested adult were present during the interview, but Pennsylvania jurisprudence in the last three (3) decades has seriously eroded the magnitude of this defect.

Notwithstanding his mental ineptness, M.C. was an eighteen (18) year old young man interviewed by a trooper who orally read his rights contained on the police statement. Further, the length of the interview was relatively short. Finally, it is of note that although the trooper was in uniform, the interview took place at M.C.'s high school. Such an environment is much less hostile or intimidating than the police barracks. Upon review of the *Williams* factors and the context of the immediate confession, this court finds that the confession was knowing, intelligent and voluntary.

ORDER OF COURT

September 29, 2000, having considered the evidence presented at the suppression hearing and the briefs submitted by the parties, it is hereby ordered that the suppression motion is denied and the signed statement rendered on April 11, 2000, is admissible.

Lawyers Concerned for Lawyers of Pennsylvania Inc.

**Toll-free
Confidential
Helpline**

800-472-1177

24 Hours a Day, 7 Days a Week

Franklin County Legal Journal

The Franklin County Legal Journal is published weekly by the Franklin County Bar Association, 173 Lincoln Way East, Chambersburg, PA 17201. Subscriptions are \$30 per year.

Legal notices and all other materials must be received by noon on the Tuesday preceding the publication date. Send all materials to Carolyn Seibert-Drager, editor, at the above address or e-mail to <fcba@cvn.net>.

POSTMASTER: Send address changes to the Franklin County Legal Journal, 173 Lincoln Way East, Chambersburg, PA 17201.