

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of Justin Scott Kuhl, Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellant-Cross-
Appellee,

v

JUSTIN SCOTT KUHL,

Respondent-Appellee-Cross-
Appellant.

UNPUBLISHED

October 28, 2004

No. 248261

Huron Circuit Court

Juvenile Division

LC No. 02-003287-DL

Before: Griffin, P.J., and Saad and O'Connell, JJ.

PER CURIAM.

Petitioner appeals by leave granted the order granting respondent's motion to suppress his statement to police. Respondent cross-appeals the portion of the order allowing the use of the statement for impeachment if respondent testifies. We reverse the suppression order. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The sixteen-year-old respondent was questioned by police regarding a false bomb threat phoned into his school. Respondent was questioned in a school office with his parents present, and they were told by police that they were free to end the interview at any time. Police did not give respondent *Miranda*¹ warnings because they did not believe respondent was in custody.

The trial court granted respondent's motion to suppress his inculpatory statement, finding that the totality of the circumstances established a custodial environment, and respondent had not been told that he was the focus of the investigation. We review for clear error a trial court's factual findings following a suppression hearing, but we review de novo the court's application of constitutional standards. *People v Custer*, 465 Mich 319, 325-326; 630 NW2d 870 (2001).

¹ *Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966).

“The admissibility of a juvenile’s confession depends upon whether, under the totality of the circumstances, the statement was voluntarily made.” *People v Givans*, 227 Mich App 113, 120; 575 NW2d 84 (1997). “The test of voluntariness is whether, considering the totality of all the surrounding circumstances, the confession is the product of an essentially free and unconstrained choice by its maker, or whether the accused’s will has been overborne and his capacity for self-determination critically impaired.” *Id.* at 121.

In this case, the trial court held that the police were obliged to read respondent his *Miranda* rights at the second interview because by that time he had become the focus of the investigation. However, in *People v Hill*, 429 Mich 382, 397; 415 NW2d 193 (1987), the Supreme Court expressly rejected the focus test for determining when *Miranda* warnings must be given. Instead, the Court reaffirmed that it is only in the coercive atmosphere of custodial interrogation that a respondent must be protected from improper police tactics. The fact that an individual is the focus of an investigation does not, in and of itself, present any danger that a suspect will make involuntary statements. *Id.* Thus, the trial court erred in granting the motion to suppress on the basis that respondent and his parents did not know he had become the focus of the investigation.

Furthermore, there is no evidence to support a finding that a coercive atmosphere existed. Respondent’s mother admitted that she was told that respondent was not being arrested and that they could end the interview and leave at any time. Respondent was not hungry, sick, in need of medication, or under the influence of drugs or alcohol. The trial court erred in suppressing respondent’s statement on the ground that *Miranda* warnings were not given, where the evidence showed that respondent’s statements were voluntarily given. *In re SLL*, 246 Mich App 204; 631 NW2d 775 (2001).

Because the trial court erred in suppressing respondent’s statements, it is unnecessary to address the cross-appeal.

Reversed and remanded for further proceedings. We do not retain jurisdiction.

/s/ Richard Allen Griffin

/s/ Henry William Saad

/s/ Peter D. O’Connell