

South Carolina Court of Appeals addresses proper Miranda warnings in DUI cases

In State vs. Hoyle, a decision filed April 4, 2012, by the South Carolina Court of Appeals, the Appellate Court reversed the lower circuit court decision rendered overturning a previous DUI/drunk driving conviction in a South Carolina summary court. The Circuit Court decision to reverse the jury conviction was based upon an “incomplete and inadequate” Miranda warning. In overruling the circuit court and reinstating the conviction, the South Carolina Court of Appeals addressed the needed form and sufficiency of a Miranda warning in DUI/drunk driving cases in South Carolina. In Hoyle, the state argued on appeal that the circuit court had erred in ordering the suppression of the incident site field video recording in the DUI case against Hoyle because the arresting officer had given Hoyle sufficient Miranda warnings that were fully compliant with South Carolina Code § 56-5-2953. Ultimately, the South Carolina Court of Appeals agreed.

The basic facts of the Hoyle case are as follows: On March 21, 2009, Hoyle was arrested and charged with DUI/drunk driving. Upon his arrest, the arresting officer advised the Defendant of the following:

- (1) That he had the right to remain silent;
- (2) Anything he said could be used against him in a court of law;
- (3) That he had the right to an attorney; and
- (4) If he could not afford an attorney one would be appointed for him prior to questioning.

The officer did not advise the Defendant (Hoyle) that he had the right to terminate the interrogation at any time and to not answer any further questions. At the summary court level Hoyle was tried by a jury and convicted of DUI/drunk driving. Hoyle then appealed his conviction to the South Carolina Circuit Court arguing that the summary court judge erred in refusing to dismiss the charge; or alternatively, to suppress certain evidence because he was not fully advised of his Miranda warnings.

At the hearing before the South Carolina Circuit Court, Hoyle relied exclusively on State v. Kennedy, 325 S.C. 295, 479 S.C. 2d 838 (Ct. App. 1996). The basis for arguing under the Kennedy opinion for an inadequate Miranda warning was that in the Kennedy opinion, the South Carolina Court of Appeals stated: “A suspect in custody may not be subjected to interrogation unless he is informed that: he has a right to remain silent; anything he says can be used against him in a court of law; he has the right to the presence of an attorney; if he cannot afford an attorney, one will be appointed for him prior to any questioning, if he so desires; and he has the right to terminate the interrogation at any time and not to answer any further questions”. Relying on the language present in the Kennedy opinion as it recited a Miranda warning, the South Carolina Circuit judge agreed with Hoyle and overturned his summary court conviction for DUI/drunk driving.

As noted above, the South Carolina Court of Appeals reversed the circuit court and reinstated Hoyle’s conviction. In its opinion, the court noted that South Carolina Code § 56-5-

2953(A) provides; in part,... “the video recording at the incident site must include the arrest of a person for a violation of Section 56-5-2930 or Section 56-5-2933, or a probable cause determination in that the person violated Section 56-5-2945, and show the person being advised of his Miranda rights. The court also reviewed the language from the Kennedy opinion. The court went on to cite State v. Cannon, 260 SC 537, 197 S.C. 2d 678 (1973). In the Cannon opinion, the South Carolina Supreme court specifically found that Miranda does not require an officer to inform a suspect of his right to stop answering questions at any time. Reviewing the actual Miranda opinion itself, the South Carolina Court of Appeals stated “the language in Miranda is clear. That the right to terminate the interrogation at any time and to not answer any further questions is not a required Miranda warning. Miranda only requires four (4) warnings, and the United States Supreme Court did not include the right to terminate the interrogation at any time as one of the enumerated four warnings. The South Carolina Court of Appeals went on to cite Berghuis v. Thompkins, 130, S. Ct. 2250 (2010) and Florida v. Powell, 130 S.Ct. 1195 (2010) to further buttress its conclusion that the above referenced “terminal element” is not required or mandated under the Miranda opinion.

The closing portion of the Hoyle opinion states as follows: “Based on the forgoing, we find that the South Carolina Supreme Court does not interpret Miranda to require an oral or written warning on the right to terminate an interrogation at any time and to not answer any further questions... a review of the video recording in this case indicates that the officer gave the

Defendant all four warnings required by Miranda...therefore, we reverse the circuit court's order and reinstate Hoyle's conviction".