

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

May 18, 1999

Marilyn L. Graves  
Clerk, Court of Appeals  
of Wisconsin

**NOTICE**

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A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

**No. 98-3123**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT III**

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**IN THE INTEREST OF CLIFFORD L.H., JR., A PERSON  
UNDER THE AGE OF 17:**

**STATE OF WISCONSIN,**

**PETITIONER-PETITIONER,**

**V.**

**CLIFFORD L.H., JR.,**

**RESPONDENT-RESPONDENT.**

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APPEAL from an order of the circuit court for Chippewa County:  
THOMAS J. SAZAMA, Judge. *Affirmed.*

MYSE P.J. The State appeals an order suppressing oral statements Clifford L.H., Jr., made to a police officer while being questioned in a high school principal's office concerning his participation in an arson at the school. The State contends the trial court erred when it suppressed Clifford's confession based on its conclusion that, although Clifford was not in custody, the interrogation was

coercive and therefore Clifford's statements were not voluntarily made. This court affirms but on different grounds. This court concludes that because a juvenile in Clifford's circumstances would have reasonably believed he was required to stay to answer the officer's questions, Clifford was "in custody" and should have been informed of his *Miranda*<sup>1</sup> rights before the officer's interrogation. Because Clifford was in custody and was not informed of his constitutional rights before interrogation, his statements must be suppressed. Accordingly, the trial court's suppression order is affirmed on different grounds.

In a juvenile petition, the State charged Clifford with criminal damage to property, contrary to § 943.01(1), STATS., and contributing to the delinquency of a minor, contrary to § 948.40(1), STATS. These charges stemmed from a series of fires at Cadott High School. The State alleged Clifford set a fire in a garbage can at the school. Clifford was summoned to the principal's office where he was questioned by John Gazda, a Village of Cadott police officer. When Clifford arrived, the principal left the office and shut the door. Gazda was dressed in his uniform and seated at one end of the desk. Clifford sat in a chair by the door at the other end of the desk. During the twenty-minute interview, Gazda asked Clifford if he knew anything about the fires started at the school. Clifford denied any involvement. Gazda then informed Clifford he had statements from witnesses implicating him in one of the fires. Clifford continued to deny his involvement. Eventually, Clifford admitted setting one fire at the school.

In granting Clifford's motion to suppress the statements he made during this interview, the trial court concluded that his oral statements were not

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<sup>1</sup> *Miranda v. Arizona*, 384 U.S. 420 (1984).

voluntary. Upon reconsideration, the trial court again suppressed the statements concluding that because the interrogation was coercive, Clifford's statements were not voluntary. The trial court also concluded that Clifford was not in custody based on Gazda's testimony that Clifford was not in custody.

In reviewing a suppression order, this court upholds the trial court's findings of fact unless they are clearly erroneous. Section 805.17(2), STATS.; *see also State v. Eckert*, 203 Wis.2d 497, 518, 553 N.W.2d 539, 547 (Ct. App. 1996). However, the application of constitutional principles to the facts as found is a question of law this court decides independently. *State v. Patricia A. P.*, 195 Wis.2d 855, 862, 537 N.W.2d 47, 49-50 (Ct. App. 1995).

The trial court made two distinct determinations requiring distinct analyses: (1) that Clifford was not in custody for *Miranda* purposes; and (2) that regardless of the custody question, the interrogation was coercive so as to render Clifford's admission involuntary. This court concludes that the trial court erred in its determination that Clifford was not in custody, but was ultimately correct in granting Clifford's motion to suppress. It is well established that if a trial court reaches the proper result for the wrong reason, it will be affirmed. *State v. Holt*, 128 Wis.2d 110, 124-25, 382 N.W.2d 679, 687 (Ct. App. 1985). Therefore, this court affirms the trial court's order on different grounds and does not address whether the interrogation was coercive so as to render the admission involuntary. *See Sweet v. Berge*, 113 Wis.2d 61, 67, 334 N.W.2d 559, 562 (Ct. App. 1983) (only dispositive issues need be addressed).

This court now considers whether Clifford was effectively in custody when Gazda interrogated him. Whether a person has been "seized" and is in custody is a question of constitutional fact. *State v. Nash*, 123 Wis.2d 154, 161,

366 N.W.2d 146, 152 (Ct. App. 1985). When the facts are undisputed, as they are in this case, whether a defendant is under arrest is a question of law this court resolves independently of the trial court's determination. *State v. Clappes*, 117 Wis.2d 277, 280-81, 344 N.W.2d 141, 143 (1984).

In *Miranda*, the Supreme Court held that custodial interrogation is questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). An objective test is used to determine whether an interrogated suspect is in custody. *State v. Swanson*, 164 Wis.2d 437, 446-47, 475 N.W.2d 148, 152 (1991). The relevant inquiry is how a reasonable person in the suspect's position would have understood the situation. *Id.* The totality of the circumstances, including what has been communicated by the police officer, either by words or action, is controlling. *Id.* Because the test is an objective one, neither the belief of the person detained nor the officer's belief are determinative in deciding whether the defendant was placed in custody. *Id.*

Applying this objective test, the question is how a reasonable high school student in Clifford's position would have understood his situation. The totality of the circumstances test permits an inquiry into all of the circumstances surrounding the interrogation including the juvenile's age and experiences as well as such elements as the time and location of the interrogation, the conduct of the officers, and the nature and manner of the questions asked. *See State v. Medrano*, 844 P.2d 1364, 1368 (Idaho App. 1992) (citation omitted); *see also State v. Doe*, 948 P.2d 166, 171-73 (Idaho App. 1997). The high school principal summoned Clifford to his office at officer Gazda's request. The office, located inside the general high school administrative offices, is a small eight-foot-by-eight-foot room filled with furniture. Upon arriving, Clifford was met by the principal and a police

officer in full uniform. When Clifford entered the office, the principal left and shut the office door. Clifford was therefore alone in the office with the officer, and Gazda proceeded to question Clifford about the fires. He did not inform Clifford that he was not under arrest, that he could leave if he wanted, or that he did not have to answer any questions. When Clifford initially denied his involvement, Gazda presented Clifford with witness statements implicating Clifford in one of the fires. Only after Clifford admitted to setting the fire did Gazda inform him that he could leave.

This court further notes the particularly restrictive environment of a school setting. In the general course of school discipline, a student summoned to a principal's office for questioning on a disciplinary matter would not feel free to leave and would in fact be subject to disciplinary measures if he did not come to the office. This restraint becomes more compelling when the interrogation is conducted alone by a fully uniformed police officer who questions a student about an alleged criminal matter. The record is devoid of any circumstances which would have indicated to Clifford that he was free to leave the principal's office and refuse to answer Gazda's questions. In light of the restrictive school setting, Clifford's youth, the isolated location of the interrogation, the officer's imposing appearance in full uniform and sole adult presence in the room, and the officer's failure to inform Clifford he was free to leave, this court is persuaded that a reasonable person in Clifford's position would have considered himself to be in custody.

Because this court concludes Clifford was in custody and because Clifford was not informed of his *Miranda* rights before being interrogated, the trial court's order suppressing Clifford's statements is affirmed.

*By the Court.*—Order affirmed.

This opinion will not be published. RULE 809.17(2)(b)4, STATS.

