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ADMINISTRATION OF JUSTICE MEMORANDA

PUBLISHED BY THE INSTITUTE OF GOVERNMENT
The University of North Carolina at Chapel Hill

September 1983

No. 83/05

Juvenile Interrogation Warnings Required for Sixteen- and Seventeen-Year-Olds

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The North Carolina Supreme Court has ruled, in *State v. Fincher* (No. 453A82—Mecklenburg, filed August 9, 1983), that juvenile custodial interrogation warnings set out in G.S. 7A-595(a) of the Juvenile Code must be given to sixteen- and seventeen-year-olds. This memorandum will discuss the ruling and its effect on the duties of law enforcement officers and the admissibility of evidence at trial.

BACKGROUND

G.S. 7A-595(a) provides that:

- (a) Any juvenile in custody must be advised prior to questioning:
- (1) That he has a right to remain silent; and
 - (2) That any statement he does make can be and may be used against him; and
 - (3) That he has a right to have a parent, guardian or custodian present during questioning; and
 - (4) That he has a right to consult with an attorney and that one will be appointed for him if he is not represented and wants representation.

G.S. 7A-595(b) provides that if a juvenile is less than fourteen years old, an admission or confession that results from a custodial interrogation is admissible at trial only

if his parent, guardian, custodian, or attorney was present when it was made. If an attorney is not present during the custodial interrogation, the parent, guardian, or custodian who is present also must be advised of the juvenile's rights; however, only the juvenile may waive these rights.

The rights in G.S. 7A-595(a) are the same as these contained in the *Miranda* warning except for the additional right in subdivision (3), which advises the juvenile that he is entitled to have his parent, guardian, or custodian present during custodial questioning.

THE COURT'S RULING

Most law enforcement officers have been taught that the warning of rights in G.S. 7A-595(a) need be given only to juveniles who are younger than sixteen, since a "delinquent juvenile" is defined in the Juvenile Code [G.S. 7A-517(12)] as a juvenile less than sixteen years old who has committed a criminal offense. However, the Supreme Court¹ in the *Fincher* case ruled that the word "juvenile"

1. The Court's opinion strongly relied on the preface to the Juvenile Code's definitional section, which states that "[u]nless the context clearly requires otherwise, the following words have the listed meanings . . ." (emphasis added by the Court). The Court stated that "the term juvenile as it is used

in G.S. 7A-595(a) has the same meaning as in the Juvenile Code [G.S. 7A-517(20)]. The Code defines "juvenile" as a "person who has not reached his eighteenth birthday and is not married, emancipated or a member of the armed services . . ." (A juvenile is "emancipated" automatically when he marries or when a judge grants him a decree of emancipation under G.S. 7A-722.)

The defendant in the *Fincher* case was seventeen years old at the time custodial interrogation occurred. The police gave him only the *Miranda* warning, and therefore they did not advise him of his right to have his parent, guardian, or custodian present during questioning. The Court ruled that the defendant could not knowingly waive this right if it was not explained to him, and therefore his inculpatory statements should not have been admitted at trial.²

in G.S. 7A-595 must be given this 'listed meaning' for the context does not require, nor even suggest, a different interpretation."

Justice Martin dissented. He asserted that G.S. 7A-595 applies to juvenile delinquency proceedings but not to criminal cases. (Fincher was prosecuted as an adult, since he committed the offense when he was seventeen.) Justice Martin noted that G.S. 7A-595 is included in Chapter 7A, Article 48, which is entitled "Law-Enforcement Procedures in *Delinquency Proceedings*" (emphasis added). He also noted that the definition of "juvenile" (on which the Court rested its opinion) also defines a juvenile—for the purpose of being a juvenile delinquent—as one who has not reached his sixteenth birthday. Justice Martin stated that if the legislature had intended that sixteen- and seventeen-year-olds should be given additional rights in criminal prosecutions, it would have expressed that intent in G.S. Chapter 15A (applicable to adult prosecutions). The Court's ruling, he said, was an "unwarranted extension of the juvenile delinquency statute to criminal prosecutions."

2. Since the violation of G.S. 7A-595(a) was not a constitutional violation, the Court applied the standard of appellate review in G.S. 15A-1443(a)

SUMMARY

1. When a law enforcement officer wants to question a defendant in custody who is younger than eighteen and is *not* married, emancipated, or a member of the armed services, the officer must advise him of his rights as provided in G.S. 7A-595(a). In addition, the person must knowingly, willingly, and understandingly waive these rights before questioning may begin.

2. If the person is less than fourteen years old, a law enforcement officer may not question him unless his parent, guardian, custodian, or attorney is present. If an attorney is not present, the parent, guardian, or custodian who is present must be told about the juvenile's rights, although only the juvenile may waive them and agree to answer questions.

3. If a confession or admission is obtained during custodial interrogation when no warning and waiver or an improper warning or waiver of rights occurs, it may not be introduced at trial.

to determine whether the erroneous admission of the defendant's inculpatory statements required a new trial. G.S. 15A-1443(a) requires the defendant to show that "there is a reasonable possibility that, had the error in question not been committed, a different result would have been reached at trial . . ." The Court concluded that a new trial was not warranted because evidence of the defendant's guilt was overwhelming; a different result was not a reasonable possibility even if the defendant's inculpatory statements had not been admitted at trial.