



## FYI: CLARK v. STATE

*The Georgia Supreme Court holds that the nine-factor test established in Riley v. State is no longer required in determining whether, under the totality of the circumstances, a juvenile knowingly and voluntarily waived his or her Miranda Rights*

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In *Clark v. State*, S23A0950 (1/18/23), Clark was convicted of felony murder and other crimes. At the time of the offenses, Clark was 16 years old. He contended that the trial court applied the “wrong standard” in admitting into evidence the audio recording of his interview with the lead investigator. Specifically, he argued, because he was a juvenile at the time of his interview, the trial court was required to consider each of the nine factors set forth in *Riley v. State*, 237 Ga. 124 (1976), to determine whether he knowingly and voluntarily waived his rights pursuant to *Miranda v. Arizona*, 384 U.S. 436 (86 S Ct 1602, 16 LE2d 694) (1966). The Court disagreed.

The Court noted that almost fifty years ago, the *Riley* Court declined to hold that a waiver of *Miranda* rights was involuntary per se simply because the accused was a juvenile. Instead, the Court stated, “the question of a voluntary and knowing waiver depends on the totality of the circumstances[,] and the state has a heavy burden in showing that the juvenile did understand and waive his rights.” *Riley*, 237 Ga. at 128. Three years later, in *Fare v. Michael C.*, 442 U.S. 707, 725 (99 S Ct 2560, 61 LE2d 197) (1979), the U. S. Supreme Court determined that the “totality-of-the-circumstances approach is adequate to determine whether there has been a waiver even where interrogation of juveniles is involved.” In fact, *Fare* stated that “[t]he totality approach permits—indeed, it mandates—inquiry into all the circumstances surrounding the interrogation. This includes evaluation of the juvenile's age, experience, education, background, and intelligence, and into whether he has the capacity to understand the warnings given him, the nature of his Fifth Amendment rights, and the consequences of waiving those rights.” *Id.* at 725. Thus, the Court reaffirmed the totality-of-the-circumstances test set forth in *Riley* because it is consistent with United States Supreme Court precedent.

But, the Court noted, after *Riley* correctly determined that whether a juvenile knowingly and voluntarily waives his constitutional rights depends on the totality of the circumstances, *Riley* then listed nine specific factors and improperly suggested that in determining whether a juvenile knowingly and voluntarily waived his rights under *Miranda*, trial courts should examine the totality of the circumstances by mechanically applying those nine enumerated factors. However, the Court held,

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proper application of a totality-of-the-circumstances test mandates inquiry into *all* the circumstances surrounding the interrogation. And given that in a number of cases decided after *Riley*, it perpetuated the dicta in *Riley* that set forth the nine-factor framework of analysis as part of a totality-of-the-circumstances inquiry and used language incorrectly suggesting that trial courts are required to analyze each of those factors or are required to analyze those factors exclusively, the Court disapproved any language in those cases indicating that the nine-factor framework is required or exclusive.

In reviewing the facts regarding the custodial interview of Clark, the Court found that even though the trial court did not mechanically apply the nine-factor framework of *Riley*, there was nothing in the record to suggest that the trial court failed to apply a totality-of-the-circumstances test in determining that Clark knowingly and voluntarily waived his rights under *Miranda*. Accordingly, the Court held, the trial court did not abuse its discretion in admitting the audio recording of Clark's custodial interview.

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