

DISTRICT COURT OF APPEAL OF FLORIDA
SEVENTH DISTRICT

Opinion Filed August 21, 2025

S.D., a child,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Appeal No. 7D2025-0823

Appeal from the Circuit Court for the Twenty-First Judicial Circuit; Harold T. Stone, Judge; L.T. Case No. 25-008275-CC-01.

DIAZ, Judge.

S.D., a juvenile, appeals from an order adjudicating him delinquent and placing him on probation for violations of section 784.049, Florida Statutes (2024), Florida's sexual cyberharassment statute, and section 827.071(5), Florida Statutes (2024), possession of child pornography. S.D. contends that the trial court erred in denying his motion to suppress where (1) he was in custody and no *Miranda*¹ warnings were given, and (2) even if he was not in custody for purposes of *Miranda*, his

¹ *Miranda v. Arizona*, 384 U.S. 436 (1966).

consent to search his cellular phone was not voluntarily given. We affirm.

I. Factual Background

The following is a recitation of the facts established at the hearing on S.D.'s motion to suppress.

On May 15, 2025, S.D., a sixteen-year-old student at Ray County High School, was in the school's gymnasium for an after-hours activity night hosted by the school. Although the school had a technology policy which prohibited the use of cellular devices during school hours, this prohibition did not extend to after-school functions, off-campus events, or sporting events. While attending the activity night, S.D. received a text notification and, when he opened the text, found that he had been sent a sexually explicit image of a fellow student, J.V., also a minor and student at the school. The image was sent by another student, K.P.—the ex-boyfriend of J.V.—to eight different students. After several students responded to the group text with derogatory comments about K.P., S.D. sent a reply text to the group which stated, "Wow! Is that who I think it is?" Ultimately, feeling uneasy about having the image on his phone and about being involved in the conversation, S.D. deleted the entire text chain.

In the meantime, several students showed the explicit image to other students attending the activity night. One of the students on the original text chain was friends with J.V. and showed J.V. both the text chain and image that had been sent. Distressed, J.V. reported the incident to the vice principal, who then alerted the school resource officer (SRO) who was on site and providing security for the activity night. When asked, J.V. admitted that she sent the explicit image to her ex-

boyfriend, K.P., several months prior but that she intended for the intimate image to remain private.

The SRO and vice principal reviewed the text thread to identify the participants. The SRO then escorted each student individually to the principal's office; the SRO was in uniform and armed. After all of the students were present, the SRO closed the door behind him. The SRO then instructed the students to turn over their cellular phones to him and to provide instructions on how to unlock the phones and message applications. Each of the students, including S.D., complied.

The SRO then told the students, "You all know why you are here. You know what you did." The SRO and the vice principal spoke with each student individually. The SRO questioned S.D. using a both open-ended questions and leading questions, including "just tell me about your participation, okay? I already have the proof. But I need to know details so I can help you." S.D. ultimately made statements admitting that he participated in the group text but claiming that he was faultless because he was not the one who circulated the photograph and he had deleted the texts. The SRO and vice principal looked through S.D.'s phone and found the text message thread in the "deleted" messages folder.

No *Miranda* warnings were given at any point. S.D. was never informed whether he was free to leave or whether he could call his parents. S.D. turned his phone and access information over to the SRO with the thought that he would receive a lesser punishment from the school based upon his compliance; S.D. had no experience with police, interrogations, or other law enforcement procedures.

Although he was not arrested immediately, S.D. was arrested that night.

In his motion to suppress, S.D. argued that the evidence established he was in custody for purposes of *Miranda* and that in the absence of the warnings, his statements and the evidence of any crimes must be suppressed. He alternatively argued that if he was not in custody, he did not voluntarily consent to the search of his cell phone. The trial court denied the motion, finding that S.D. was not in custody and that his consent to access his cellular phone was voluntarily given.

Following denial of his motion to suppress, S.D. pleaded to the charges, reserving the right to appeal the ruling on his motion to suppress.

II. Analysis

"When reviewing a motion to suppress, this court defers to the trial court's factual findings if they are supported by competent, substantial evidence and reviews legal conclusions de novo." *B.M.B. v. State*, 927 So. 2d 219, 222 (Fla. 2d DCA 2006) (citing *Loredo v. State*, 836 So. 2d 1103 (Fla. 2d DCA 2003)).

Law enforcement officers must provide *Miranda* warnings to a suspect subject to custodial interrogation. *State v. Pitts*, 936 So. 2d 1111, 1123 (Fla. 2d DCA 2006). "Custody is determined by an objective, reasonable person standard—whether a reasonable person placed in the same position would believe that his or her freedom of action was curtailed to a degree associated with actual arrest." *State v. E.W.*, 82 So. 3d 150, 151 (Fla. 4th DCA 2012). "[T]he object of our [custody] jurisprudence is not to set forth a bright-line rule but to ensure that in situations when a reasonable person would not feel free to leave, police properly administer *Miranda* warnings." *Myers v. State*, 211 So. 3d 962, 973 (Fla. 2017).

As relevant to the custody inquiry, we consider the four factors set forth in *Ramirez v. State*, 739 So. 2d 568 (Fla. 1999):

(1) the manner in which police summon the suspect for questioning; (2) the purpose, place, and manner of the interrogation; (3) the extent to which the suspect is confronted with evidence of his or her guilt; [and] (4) whether the suspect is informed that he or she is free to leave the place of questioning.

Id. at 574.

Considering the totality of the circumstances and the above *Ramirez* factors, we conclude that S.D. was not in custody at the time he admitted to receipt of and participation in the text chain. S.D. was escorted to the principal's office of the school S.D. attended by the school resource officer. S.D. was not restrained, and there was no evidence presented at the suppression hearing that the SRO raised his voice or otherwise asserted pressure on S.D. *See Pitts*, 936 So. 2d at 1125. Other students were also present in the principal's office, and "police questioning about criminal conduct or activity alone, does not convert an otherwise consensual encounter into a custodial interrogation." *Ramsey v. State*, 731 So. 2d 79, 81 (Fla. 3d DCA 1999); *see also State v. S.G.*, 379 So. 3d 584, 589 (Fla. 6th DCA 2024) ("[A] police officer can initially approach a suspect to collect information without rendering any admissions involuntary."). Finally, although the SRO closed the door, he did not tell S.D. that S.D. was not free to leave. While "it is certainly true that a suspect who has been advised that he is free to leave is less likely to be deemed to be in custody than a suspect who has not been so advised," *Pitts*, 936 So.2d at 1125, "a suspect need not be advised that he or she is free to leave in order for the court to determine that the suspect was not in custody," *State v. Shell*, 932 So.2d 628, 633 (Fla. 2d DCA 2006).

S.D.'s second basis for suppression is that his consent to the search of his phone was not voluntary. "The initial burden on a motion to suppress an illegal search is on the defendant to make an initial showing that the search was invalid." *State v. K.C.*, 207 So. 3d 951, 953 (Fla. 4th DCA 2016) (citing *Miles v. State*, 953 So. 2d 778, 779 (Fla. 4th DCA 2007)). " '[A] search pursuant to consent' if 'properly conducted, is a constitutionally permissible and wholly legitimate aspect of effective police activity. But the Fourth and Fourteenth Amendments require that a consent not be coerced, by explicit or implicit means, by implied threat or covert force.' " *I.R.C. v. State*, 968 So. 2d 583, 586 (Fla. 2d DCA 2007) (quoting *Schneckloth v. Bustamonte*, 412 U.S. 218, 228 (1973)). "Factors such as age, education, intelligence, or mental condition" or "coercive circumstances or conduct by the police" may provide evidence of that consent was not voluntarily given. *F.C. v. State*, 205 So. 3d 831, 833 (Fla. 2d DCA 2016) (quoting *I.R.C.*, 968 So. 2d at 586).

S.D.'s "assertion that his consent was a 'mere acquiescence to police authority' " is not supported. *See I.R.C.*, 968 So. 2d at 587. S.D. points only to his age and inexperience with police arguing that the SRO asserted his authority over S.D. and he had no choice but to hand his phone and access information to the SRO.

But beyond the lack of evidence supporting S.D.'s argument of acquiescence to authority, suppression is also not required because once S.D. told the SRO that he had deleted the text chain, exigent circumstances existed by which the SRO could search S.D.'s phone.

"The test of whether exigent circumstances exist is an objective one." *State v. Darter*, 350 So. 3d 370, 384 (Fla. 4th DCA 2022) (citing *United States v. Tobin*, 923 F.2d 1506, 1510 (11th Cir. 1991)). And "[a]pplication of the exigent circumstances exception is 'particularly

compelling' in cases involving electronic files, which can easily and quickly be destroyed." *Id.* at 384 (citing *Babcock*, 924 F.3d at 1194). "In determining whether the agents reasonably feared imminent destruction of the evidence, the appropriate inquiry is whether the facts, as they appeared at the moment of entry, would lead a reasonable, experienced agent to believe that evidence might be destroyed before a warrant could be secured." *State v. Darter*, 350 So. 3d 370, 384 (Fla. 4th DCA 2022) (quoting *Gilbert v. State*, 789 So. 2d 426, 429 (Fla. 4th DCA 2001)). "In other words, 'were the police unreasonable in not getting a warrant in the circumstances that confronted them?' " *Id.* (quoting *Gilbert*, 789 So. 2d at 429).

For the foregoing reasons, the trial court's ruling denying S.D.'s motion to suppress was not erroneous and the adjudication of delinquency is affirmed.

Affirmed.

LOWE, J., Concur.

McCLANAHAN, Judge, Dissenting.

I would reverse. Not only was S.D. in custody for purposes of *Miranda* before he made any incriminating statements, but S.D.'s consent to search his phone was not voluntarily given under the facts established at the hearing.

A reasonable sixteen-year-old in S.D.'s position would not have felt free to leave after the SRO, in uniform and armed, escorted him to the school's principal's office, where the door was closed, S.D.'s phone was taken, and S.D. was questioned about the text chain and presented with evidence of guilt and coercive questions without the benefit of a parent or guardian present. *See D.B. v. State*, 34 So. 3d 224, 227 (Fla. 4th DCA

2010) (reversing suppression order where juvenile was repeatedly confronted with evidence of guilt and was never told he was free to leave); *cf. State v. E.W.*, 82 So. 3d 150, 152 (Fla. 4th DCA 2012) ("E.W. was informed that he was free to leave at any time, was not under arrest, and would not be arrested that day"); *B.M.B.*, 927 So. 2d at 223 (addressing waiver of *Miranda* rights and finding the following facts weighed against voluntary waiver: B.M.B. not provided the opportunity to consult with a parent before being questioned; B.M.B. was questioned by an officer unknown to her; and B.M.B. was questioned at an office at her school, a "setting . . . no less intimidating than a station house"). "An interrogation can turn from noncustodial into custodial as it progresses." *State v. Thompson*, 193 So. 3d 916, 921 (Fla. 2d DCA 2016) (citing *Pierre v. State*, 22 So. 3d 759, 766-71 (Fla. 4th DCA 2009)). When the SRO instructed S.D. to turn over his phone and provide access to it, after having closed the door to the principal's office, it was reasonable for S.D. to believe he was not free to leave. This, along with the SRO's statements and manner of questioning, confronted S.D. with evidence of guilt. Unquestionably, given what the SRO knew at the time he escorted S.D. to the principal's office and began questioning him, S.D. was under suspicion of having committed the crimes at issue. *Cf. State v. S.G.*, 379 So. 3d 584, 589 (Fla. 6th DCA 2024) ("[N]or was she a suspect when the detective initially spoke to her.").

As to the consent, the State's "burden is even heavier when the suspect is a juvenile." *F.C.*, 205 So. 3d at 833 (quoting *B.M.B.*, 927 So. 2d at 222). The totality of the circumstances establish that the State did not meet its burden of proving that S.D.'s consent was voluntarily given.

Moreover, the factual findings of the trial court must be supported by competent substantial evidence. The majority reaches its conclusions

assuming facts not supported: that S.D. knew the SRO and the SRO had a basis upon which he could reasonably believe that items in the "deleted" folder of S.D.'s phone would be permanently unretrievable in a short time. *Cf. I.R.C.*, 968 So. 2d at 588 (concluding that "it is at odds with the structure of the appellate process" to "impl[y] that whenever a defendant moves to suppress evidence, the State has the burden of adducing evidence with respect to every conceivable circumstance that might have a bearing on the defendant's claim that the challenged evidence should be suppressed"). Finally, the majority's reliance on *Darter* for the proposition that exigent circumstances permitted the search of S.D.'s phone is a misreading of the case.

Accordingly, I would reverse the adjudication of delinquency.

SUPREME COURT OF FLORIDA

No. SC2025-2087

S.D., a child, Petitioner

v.

STATE OF FLORIDA, Respondent

ORDER INVOKING JURISDICTION

The Court accepts jurisdiction of this case for briefing and oral argument on the following two issues:

1. Whether S.D.'s motion to suppress should have been granted where S.D. was in custody such that warnings pursuant to *Miranda v. Arizona* should have been given.
2. Whether the search of S.D.'s cellular phone was legal.

A schedule for the submission of briefs and oral argument by the parties on the merits of this case will be entered by separate order of this Court.

Dated: August 21, 2025.

John A. Tomasino
John A. Tomasino
Clerk, Supreme Court