

No. 68517-1-I

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

JESUS S., D.O.B. 10/27/96

Appellant.

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR KING COUNTY, JUVENILE DEPARTMENT

The Honorable Barbara Mack

BRIEF OF APPELLANT

Susan F. Wilk
Attorney for Appellant

WASHINGTON APPELLATE PROJECT
1511 Third Avenue, Suite 701
Seattle, Washington 98101
(206) 587-2711

2017 OCT 11 PM 4:52
COURT CLERK
STATE OF WASHINGTON
JUVENILE DEPARTMENT
W

TABLE OF CONTENTS

A. ASSIGNMENTS OF ERROR..... 1

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR..... 3

C. STATEMENT OF THE CASE..... 5

D. ARGUMENT..... 12

Jesus’s confession was rendered involuntary, in violation of the Fifth and Fourteenth Amendments, by the combination of police threats, promises, and his developmental disability..... 12

1. The Fifth Amendment and the Fourteenth Amendment’s due process clause protect against the admission of coerced statements 12

2. The pressures that may cause a confession to be involuntary are especially acute where juveniles are concerned 14

3. The totality of the circumstances establish that Jesus’s confession to Hoover was involuntary..... 16

4. The State failed to prove a valid waiver of Jesus’s *Miranda* rights 21

5. The remedy is suppression of Jesus’s statements and reversal of his conviction..... 24

E. CONCLUSION 25

TABLE OF AUTHORITIES

Federal Cases

<u>State v. Adams</u> , 76 Wn.2d 650, 458 P.2d 558 (1969)	22
<u>State v. Armenta</u> , 134 Wn.2d 1, 948 P.2d 1280 (1997)	17
<u>State v. Terrovona</u> , 105 Wn.2d 632, 716 P.2d 295 (1986).....	22

Washington Court of Appeals Decisions

<u>State v. Campos-Cerna</u> , 154 Wn. App. 702, 226 P.3d 185 (2010)	22
---	----

Washington Constitutional Provisions

Const. art. I, § 9	12
--------------------------	----

United States Supreme Court Decisions

<u>Dickerson v. United States</u> , 530 U.S. 428, 120 S.Ct. 2326, 147 L.Ed.2d 405 (2000)	13
<u>Graham v. Florida</u> , -- U.S. --, 130 S.Ct. 2011, 176 L.Ed.2d 825 (2010)	14
<u>J.D.B. v. North Carolina</u> , -- U.S. --, 131 S.Ct. 2394, 180 L.Ed.2d 310 (2011)	13, 14
<u>Miranda v. Arizona</u> , 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1967)	1-4, 8, 13, 19, 21-24
<u>Missouri v. Seibert</u> , 542 U.S. 600, 124 S.Ct. 2601, 159 L.Ed.2d 643 (2004)	21, 23, 24
<u>Schneckloth v. Bustamonte</u> , 412 U.S. 218, 93 S.Ct. 2041, 36 L.Ed.2d 854 (1973)	14
<u>State v. Unga</u> , 165 Wn.2d 95, 196 P.3d 645 (2008).....	15

United States Constitutional Provisions

U.S. Const. amend. V..... 3, 12
U.S. Const. amend. XIV 3, 12, 13

Rules

CrR 3.5..... 20

A. ASSIGNMENTS OF ERROR

1. Law enforcement failed to secure a knowing, voluntary, and intelligent waiver of Jesus S.'s Miranda rights before interrogating him.

2. To the extent that the finding suggests that he did so voluntarily, the trial court erred in entering Finding of Fact A44, which states, "The respondent agreed to show Detective Hoover the location of the house he had broken into and where he had taken the change from."

3. The trial court erred in entering Finding of Fact A45, which states,

Detective Hoover told the respondent's parents that the respondent was going to show him locations in which the respondent had broken into and then he was going to take the respondent to be booked.

4. The trial court erred in entering Finding of Fact C2, which states, "Detective Hoover did not tell the respondent he would not be charged or taken to juvenile detention if he did not cooperate."

5. The trial court erred in entering Finding of Fact C6, which states, “The respondent appeared to be sullen but he did not invoke his right to silence.”

6. The trial court erred in entering Finding of Fact C7, which states, “The respondent understood his Miranda rights.”

7. To the extent that the finding suggests Jesus S. did so voluntarily, the trial court erred in entering Finding of Fact C9, which states,

Jorge Dominguez asked the respondent whether he wanted to speak to Detective Hoover alone[.] Detective Hoover then asked the respondent if he wanted to speak outside[.] The respondent agreed to speak in the carport.

8. The trial court erred in entering Finding of Fact C10, which states, “Detective Hoover did not tell the respondent that if he did not cooperate he would take the respondent’s “ass” to jail.”

9. The trial court erred in entering Finding of Fact C12, which states, “The respondent is capable of understanding spoken Miranda rights.”

10. The trial court erred in entering Finding of Fact C13, which states, “The respondent’s learning issues did not affect his ability to understand what was happening.”

11. The trial court erred in entering Finding of Fact C14, which states, “The respondent’s will was not overcome by Detective Hoover’s actions looking at the totality of the circumstances.”

12. The trial court erred in entering Finding of Fact C17, which states, “The respondent confessed almost immediately outside. Detective Hoover did not wear down his will.”

13. The trial court erred in entering Finding of Fact C19, which states, “The respondent had the capacity to understand his rights.”

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

The Fifth Amendment and the Fourteenth Amendment guarantee of due process require the State to prove a knowing, voluntary, and intelligent waiver of Miranda rights. A coerced or involuntary confession violates due process and is inadmissible. In assessing whether a confession was

involuntary, the court examines the totality of the circumstances, including the “crucial element of police coercion;” the length of the interrogation; its location; its continuity; and the defendant’s maturity, education, physical condition, and mental health. In a case involving a juvenile, the child’s age is a relevant factor that must be considered, as children are more susceptible to the coercive effect of custodial interrogation than adults.

Appellant Jesus S. is developmentally delayed, with borderline cognitive functioning and poor verbal comprehension. Where a police detective interrogated Jesus outside the presence of his parents, promised beneficial treatment if Jesus confessed, and threatened to take him to juvenile detention if he did not, should this Court conclude that under the totality of the circumstances, Jesus’s confession was involuntary?

2. The State bears a “heavy burden” of proving a valid waiver of Miranda rights. In this case, the interrogating detective deliberately omitted the waiver portion from his reading of Miranda rights to a 14-year-old, developmentally

disabled child. Should this Court conclude that the State failed to sustain its burden of proving a valid waiver?

C. STATEMENT OF THE CASE

Jesus S. was born in Mexico and moved to the United States in September 2003, when he was seven years old. Ex. 10.¹ From early childhood, Jesus needed extra help due to speech delays and behavioral problems. Ex. 10. Indeed, within four months of Jesus's move to the United States, the Bellevue School District recognized that he needed an Individualized Education Program (IEP) because of reading and behavioral difficulties. Id.

At the age of 14, Jesus read at a first-grade level. Id. His cognitive functioning is borderline. Id. Jesus also suffers from Attention Deficit Hyperactivity Disorder (ADHD), which, if not controlled by medication, adversely affects his focus and emotional stability. Id.

In early 2011, Detective Steven Hoover of the Bellevue Police Department was investigating a residential burglary that involved the theft of approximately \$400 worth of

¹ Jesus's IEP records were admitted as Pretrial Exhibit 10 and have been supplementally designated for purposes of appeal.

Chinese money. 1RP 13.² On March 17, 2011, based upon information that he received from Jesus's school that Jesus might be involved in the crime, Hoover went to Jesus's home with an officer he believed would assist him with English-Spanish translation. 1RP 13-14.

Jesus's mother, Olga Robirosa, and Jesus's stepfather, Jorge Dominguez, were home. Robirosa can neither read nor understand English. 2RP 22. The officer that Hoover brought with him spoke "very, very little" Spanish, so Dominguez, who speaks some English, translated for his wife. 1RP 106, 108.

Hoover told Dominguez that Jesus had been seen at school with some Chinese money. 1RP 106. Dominguez and Robirosa were cooperative, but knew nothing about any criminal activity by Jesus. 1RP 15-16. Hoover sought and obtained permission from Robirosa to search Jesus's room but found nothing of significance to his investigation. 1RP 15-16.

² Two volumes of transcripts are cited herein as follows: a volume containing a hearing on February 7, 2012, is cited as "1RP" followed by page number. A volume containing hearings on several subsequent dates is cited as "2RP" followed by page number.

According to Dominguez and Robirosa, Hoover said that if Jesus cooperated he would not be charged with a crime. 2RP 30. Hoover acknowledged that he told Jesus's parents it would be beneficial if Jesus cooperated, in that it would look better in court if he talked to police about the offense and if the victims were made whole. 1RP 18, 44.

Robirosa telephoned Victor Sabido, Jesus's father, to tell him that the police were looking for Jesus. 1RP 118. Sabido hurried over. 1RP 119. When Sabido arrived, Hoover was saying that if Jesus "collaborated" they would not arrest him. 1RP 120. He told the parents that if Jesus talked, he would help him. 1RP 125. Sabido told Hoover that Jesus suffered from learning and developmental disabilities and was more like a 10-year-old than a 15-year-old. 1RP 128, 137-38. He explained that Jesus had ADHD and took medication, and did not function at his age level. Id. The parents told Hoover they would notify him when Jesus returned.

When Jesus came home from school Dominguez told him that the police wanted to speak with him and that he

had called them to tell them that Jesus was there. 1RP 112-13. Believing Hoover's promise that Jesus's cooperation would result in no charges being filed, all adults urged Jesus to be forthcoming. 1RP 124, 136; 2RP 6, 31, 33.

Hoover returned to the house alone. He read Jesus his Miranda warnings in English. 1RP 20. Immediately after reading the Miranda warnings, Hoover asked Jesus, "What happened yesterday?"³ 1RP 64. He did not ask Jesus whether he understood his rights and was willing to waive them. Id.

Jesus did not want to answer Hoover's questions and said to his parents, in Hoover's presence, that he did not want to talk. 1RP 114. In response, Hoover said that he would take Jesus to "juvi" (King County Juvenile Detention) and charge him with a crime. 1RP 114-15, 153, 155.

Jesus's parents broke the silence that followed and told him it would be better for him if he talked to Hoover. 1RP 154.

Jesus denied knowing anything about any burglaries. 1RP 49.

³ The day before Jesus and some friends had been detained by police for trespassing in someone's yard. 1RP 72-74. This incident is not at issue in this appeal.

Hoover then suggested that he should talk to Jesus outside. 2RP 8. Sabido asked Hoover if he could accompany them, explaining that Jesus was a minor. 1RP 127. He said that his English might not be perfect but he could understand many things. Id. Hoover told Sabido to remain in the house. Id. Jesus felt he had no choice but to accompany Hoover, and went outside with him. 2RP 58.

Hoover walked with Jesus to the carport, out of earshot of his parents. Once outside, according to Jesus, Hoover told Jesus that if he did not talk, “your ass is going to Juvi,” which Jesus understood to mean he would go to jail. 1RP 155-56, 159; 2RP 46, 48. This threat frightened Jesus and he felt he had to speak to Hoover. 2RP 51. He also was persuaded by Hoover’s promise that he would “take off the charges” if he confessed. Id.

Hoover denied making this threat, but he admitted that he repeatedly told Jesus that things would look better for him if he cooperated. 1RP 53. He acknowledged that he probably made this statement inside the house in front of Jesus’ parents, as well as outside. 1RP 53. He agreed that

he could have made this type of comment as many as four times. 1RP 53-54. The juvenile court later found that “something was said about juvi.” 2RP 118.

Jesus admitted to having committed the burglary being investigated by Hoover as well as a few others. 1RP 26-28. He agreed to drive around with Hoover and show him the places he had broken into. 1RP 28. Hoover told Jesus’s parents that he was taking Jesus to the station to be fingerprinted and photographed. *Id.* He acknowledged that Jesus probably heard this, explaining, “I would assume that Jesus was with me because in my mind he was under arrest.” 1RP 29.

Hoover radioed for a patrol car and waited outside with Jesus until the car arrived. 1RP 59. After about 15-20 minutes, Bellevue police officer Jan Auclair, the same officer who had detained Jesus the day before, arrived with a car. 1RP 75. She drove while Jesus, seated in the back seat, pointed out three places he had burglarized. 1RP 60, 76. Hoover then took Jesus to the station. 1RP 62, 82.

On the way home, Hoover told Jesus that he did not believe Jesus had been fully forthcoming with him, and that he believed Jesus had committed other misconduct. 1RP 33, 37-38. He said that he would be checking fingerprints and DNA and that Jesus should tell him if he broke into other places. 1RP 33. Hoover seized Jesus's shoes, claiming they were needed for evidence. 1RP 82.

Back at Jesus's house, Hoover got out of the car to speak with Jesus's parents, leaving Jesus alone with Auclair. Auclair urged Jesus that if there was anything else to tell Hoover he should say it. 1RP 83. She said that she was a mother and she understood how Jesus's mother felt. 2RP 50. She told him Hoover was "a reasonable guy" and Bellevue was "a reasonable police department" and "to get it all behind you so you can start fresh." 1RP 83. She later retrenched on this statement, claiming all she intended by it was that if Jesus cooperated he might get his shoes back. 1RP 84.

The King County Prosecuting Attorney charged Jesus in juvenile court with four criminal counts. CP 15-17.

Jesus moved to suppress his statements on the basis that they were rendered involuntary by Hoover's threats and promises, taken in conjunction with Jesus's age and developmental disability. CP 28-36. The juvenile court denied Jesus's motion and entered written findings of fact in support of its ruling. CP 71-78. Following a stipulated facts trial, Jesus was convicted of counts I and II of the amended information (the State dismissed the other two counts), and now appeals. CP 55-60, 65-70.

D. ARGUMENT

Jesus's confession was rendered involuntary, in violation of the Fifth and Fourteenth Amendments, by the combination of police threats, promises, and his developmental disability.

1. The Fifth Amendment and the Fourteenth Amendment's due process clause protect against the admission of coerced statements.

The Fifth Amendment and article I, section 9 provide an absolute privilege against self-incrimination in criminal cases. U.S. Const. amend. V; Const. art. I, § 9. This privilege guards against the admission of statements obtained during custodial interrogation without a valid

waiver of Miranda rights. Dickerson v. United States, 530 U.S. 428, 439-40, 120 S.Ct. 2326, 147 L.Ed.2d 405 (2000). The constitutional requirement that a confession be voluntary in order to be admissible is grounded not only in the Fifth but in the Fourteenth Amendment. Id. at 433 (citing cases).

The Supreme Court has recognized that “[b]y its very nature, custodial police interrogation entails ‘inherently compelling pressures,’” which “can ‘undermine the individual’s will to resist and ... compel him to speak where he would not otherwise do so freely.” J.D.B. v. North Carolina, -- U.S. --, 131 S.Ct. 2394, 2401, 180 L.Ed.2d 310 (2011) (quoting Miranda v. Arizona, 384 U.S. 436, 467, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1967)). The due process voluntariness inquiry “examines ‘whether a defendant’s will was overborne’ by the circumstances surrounding the giving of a confession, taking into consideration “the totality of all the surrounding circumstances—both the characteristics of the accused and the details of the interrogation.” Dickerson,

530 U.S. at 434 (quoting Schneckloth v. Bustamonte, 412 U.S. 218, 226, 93 S.Ct. 2041, 36 L.Ed.2d 854 (1973)).

2. The pressures that may cause a confession to be involuntary are especially acute where juveniles are concerned.

“It is beyond dispute that children will often feel bound to submit to police questioning when an adult in the same circumstances would feel free to leave.” J.D.B., 131 S.Ct. at 2398-99. In J.D.B., the Supreme Court reaffirmed that a child’s age “is far more than a chronological fact.” Id. at 2403 (citing cases). “[N]o matter how sophisticated,” a juvenile subject of police interrogation “cannot be compared” to an adult subject.” Id. (citation omitted). Indeed, the Court has cautioned that “the features that distinguish juveniles from adults also put them at a significant disadvantage in criminal proceedings.” Graham v. Florida, -- U.S. --, 130 S.Ct. 2011, 2032, 176 L.Ed.2d 825 (2010).

The Washington Supreme Court recognizes that in applying the “totality of the circumstances” test to whether a confession was voluntary, “both the conduct of law enforcement officers in exerting pressure on the defendant to

confess and the defendant's ability to resist the pressure are important." State v. Unga, 165 Wn.2d 95, 101, 196 P.3d 645 (2008).

Circumstances that are potentially relevant in the totality-of-the-circumstances analysis include the "crucial element of police coercion;" the length of the interrogation; its location; its continuity; the defendant's maturity, education, physical condition, and mental health; and whether the police advised the defendant of the rights to remain silent and to have counsel present during custodial interrogation.

Id. (citation omitted).

Some deception by an officer is permissible, but where "[the interrogating officer's] statements were so manipulative or coercive that they deprived [the suspect] of his ability to make an unconstrained, autonomous decision to confess," the statement must be excluded. Id. at 102. This aspect of the analysis is especially important where a juvenile is concerned. "State courts have a responsibility to examine confessions of a juvenile with special care." Id. at 103.

3. The totality of the circumstances establish that Jesus's confession to Hoover was involuntary.

The juvenile court concluded that Jesus's confession was voluntarily made, but this conclusion assigns insufficient weight to Jesus's age and developmental disability, and fails to account for the threat that accompanied Hoover's promise of lenient treatment. Sabido informed Hoover that because of his ADHD and developmental disability, Jesus functioned at the level of a 10-year-old, not a 14-year-old. 1RP 128, 137-38. Hoover repeatedly told Jesus and his family that cooperation would be beneficial "in court"; he admitted he may have done so as many as four times. 1RP 44, 54. Jesus's parents, as well as Jesus himself, understood that Hoover had promised Jesus would not be charged with a crime if Jesus confessed. 1RP 115, 120, 130, 153; 2RP 6, 30, 45. This impression surely was bolstered by Auclair's statement to Jesus that Hoover and the Bellevue Police Department were "reasonable" and if he cooperated he would be able to "start fresh." 1RP 83.

The juvenile court's written findings are silent on this point, but orally the juvenile court found that "something was said about juvi." 2RP 118. The trial court's written findings of fact incorporated its oral ruling. CP 77-78. This Court must presume that Hoover in fact said something about juvenile detention to Jesus and his family, as any other conclusion would conflict with Washington Supreme Court precedent. See State v. Armenta, 134 Wn.2d 1, 14, 948 P.2d 1280 (1997) ("In the absence of a finding on a factual issue we must indulge the presumption that the party with the burden of proof failed to sustain their burden on this issue").

The juvenile court also made a number of findings that simply lacked evidentiary support or, considered in conjunction with the court's other findings, are contradictory. For example, the juvenile court found that Jesus voluntarily accompanied Hoover outside. Finding of Fact A44; CP 74. Jesus testified, however, that he felt he had no choice. 2RP 58. Considering Jesus's age, immaturity, and lack of sophistication in conjunction with

Hoover's promise of beneficial treatment and reference to "juvi", it is not reasonable to conclude that Jesus voluntarily went outside with Hoover. Finding of Fact A44 and the related findings, C9, C14, and C17, should be stricken. The juvenile court also found that Hoover informed Jesus's parents that Jesus would show him the locations that he had broken into and then would be booked. Finding of Fact A45; CP 74. Hoover only testified that he told the parents he was taking Jesus to be fingerprinted and photographed. 1RP 28-29.

Dominguez recalled that Jesus said he did not want to talk, in English, in Hoover's presence. 1RP 114. This testimony was corroborated by Sabido and Jesus. 1RP 124, 153. The juvenile court, however, found that Jesus was sullen but did not invoke his right to silence. Finding of Fact C6; CP 76. This finding should also be stricken.

Most importantly, the juvenile court discounted the ample evidence of Jesus's learning and developmental disabilities, finding that these – even considered in conjunction with Jesus's tender age – did not prevent Jesus

from being able to understand and waive his Miranda warnings. The juvenile court placed undue emphasis on the supposed absence of evidence that Jesus's disabilities extended to his oral comprehension. In addition to being an unreasonable determination of the facts, in actuality such evidence was presented in Exhibit 10, Jesus's IEP documentation. A report dated November 4, 2011, which assessed Jesus's cognitive functioning, concluded that Jesus functioned "in the borderline range with a nonverbal IQ of 79." Ex. 10 at 9. Even as Jesus became accustomed to the testing procedure, and started making "more thoughtful choices," "his scores did not show a resulting improvement." Id. The test results were believed to be "a valid and reliable measure of Jesus's nonverbal ability." Id.

A full-scale IQ test was not administered, as the test is normed for English speakers raised in American culture. Id. However Jesus was administered subtests which showed that Jesus's Perceptual Reasoning Index and Processing Speed Index remained consistent over time, "suggesting Noncognitive Verbal Skills in the borderline range." Id. His

verbal comprehension score was consistent with the non-verbal results. Id. Jesus's reading skills were assessed in the "extremely low range." Id. Examples of words he was unable to read accurately included then, size, wrong, instead, stood, and enough. Id.

These testing results were consistent with the juvenile court's limited inquiry into Jesus's cognitive ability. When the court advised Jesus of his CrR 3.5 rights, the court asked Jesus whether he understood what it meant to waive a right. 1RP 139. Jesus responded, "a little bit." Id. The court was obligated to explain this concept in words Jesus could understand. Id.

Thus, it was simply wrong of the court to find that Jesus's cognitive functioning was not on a par with his reading and writing abilities, i.e., extremely low or in the borderline range. This Court should conclude that according to the totality of the circumstances test, taking into consideration Hoover's promises and threats, and Jesus's cognitive functioning, age, and developmental and learning disabilities, the juvenile court erred in finding that Jesus

understood the rights he was being read. This Court should further conclude that Jesus's statement to Hoover was not voluntary. The statement should have been suppressed.

4. The State failed to prove a valid waiver of Jesus's *Miranda* rights.

In this case it is uncontested that Hoover did not read the waiver portion of the Miranda warnings to Jesus, which states, "Having these rights in mind, do you wish to talk to us now?" Instead, Detective Hoover immediately began interrogating Jesus. 1RP 64. It also is uncontested that nearly a year after the incident, Jesus had only "a little bit" of an understanding of what it meant to waive a right. 1RP 139.

A "heavy burden" rests on the government to establish a valid waiver of the privilege against self-incrimination. Miranda, 384 U.S. at 284-85. "[I]t would be absurd to think that mere recitation of the litany suffices to satisfy Miranda in every conceivable circumstance." Missouri v. Seibert, 542 U.S. 600, 611, 124 S.Ct. 2601, 159 L.Ed.2d 643 (2004). This Court reviews de novo the question whether the State has established a valid waiver of Miranda rights. State v.

Campos-Cerna, 154 Wn. App. 702, 708, 226 P.3d 185 (2010).

This Court does not presume that a suspect has validly waived his Miranda rights from the mere fact that he failed to invoke them.

The Supreme Court has not required an express statement by the accused for an effective waiver, but rather has forbidden the presumption that an intelligent waiver was made simply from the fact that a statement was eventually extricated from the accused after he was warned of his rights. Some additional showing is required that the inherently coercive atmosphere of custodial interrogation has not disabled the accused from making a free and rational choice.

State v. Terrovona, 105 Wn.2d 632, 646, 716 P.2d 295 (1986) (quoting State v. Adams, 76 Wn.2d 650, 671, 458 P.2d 558 (1969), reversed on other grounds, 403 U.S. 947 (1971)).

The Court in Terrovona observed,

Implied waiver has been found where the record reveals that a defendant understood his rights and volunteered information after reaching such understanding. Waiver has also been inferred where the record shows that a defendant's answers were freely and voluntarily made without duress, promise or threat and with a full understanding of his constitutional rights.

Id. at 646-47 (citations omitted).

Seibert provides a useful comparison. In Seibert, the Supreme Court adopted a near-categorical rule that a question-first warn-later police strategy of continuous interrogation, in which Miranda warnings were given only after police had obtained a full confession, rendered the statements acquired in this fashion inadmissible. 542 U.S. at 617. The Court observed that “when Miranda warnings are inserted in the midst of coordinated and continuing interrogation, they are likely to mislead and ‘depriv[e] a defendant of knowledge essential to his ability to understand the nature of his rights and the consequences of abandoning them.’” Id. at 613-14 (citation omitted).

Thus, the dispositive question is not simply a formulaic inquiry into whether Miranda warnings were read, but whether the surrounding circumstances nevertheless rendered any ensuing statement involuntary. Here the interrogating police detective made a tactical choice to omit the waiver portion from his advisement of rights, even though the subject of his interrogation was a 14-year-old,

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE**

STATE OF WASHINGTON,)	
)	
Respondent,)	
)	NO. 68517-1-I
v.)	
)	
JESUS S.,)	
)	
Juvenile Appellant.)	

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 31ST DAY OF JULY, 2012, I CAUSED THE ORIGINAL **OPENING BRIEF OF APPELLANT** TO BE FILED IN THE **COURT OF APPEALS – DIVISION ONE** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

<input checked="" type="checkbox"/> KING COUNTY PROSECUTOR'S OFFICE APPELLATE UNIT KING COUNTY COURTHOUSE 516 THIRD AVENUE, W-554 SEATTLE, WA 98104	(X) () ()	U.S. MAIL HAND DELIVERY _____
<input checked="" type="checkbox"/> JESUS S. 16940 NE 6 TH PL BELLEVUE, WA 98008	(X) () ()	U.S. MAIL HAND DELIVERY _____

SIGNED IN SEATTLE, WASHINGTON THIS 31ST DAY OF JULY, 2012.

X _____ 

2012 JUL 31 PM 4:52
COURT OF APPEALS
STATE OF WASHINGTON

Washington Appellate Project
701 Melbourne Tower
1511 Third Avenue
Seattle, WA 98101
☎(206) 587-2711