BENCHMEMO: U.S. v. SAMPSON, CR. 85-00086-R
Bench Trial; Motions before trial

ATTORNEYS: U.S. -- N.G. Metcalf
Defendant -- Michael Morchower

Judge, this matter comes before you for a trial to the bench. Before trial, the defendant plans on presenting the following two motions:

1. Motion to dismiss indictment
2. Motion to suppress defendant's statement and evidence obtained on account of that statement.

I. MOTION TO DISMISS INDICTMENT:

You've read the briefs so I needn't set out the facts in detail. Essentially, defendant claims that the government promised not to indict him for his false statements if he would provide information on drug deals.

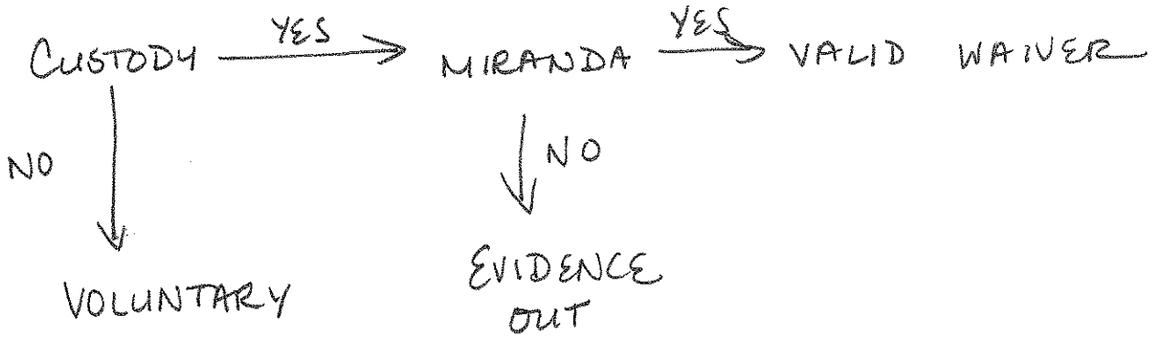
The Fourth Circuit enforces deals made by the government. In U.S. v. Carter, 454 F.2d 426 (4th Cir 1972)(en banc), cert denied, 417 U.S. 933, the Fourth Circuit dismissed an indictment for forgery and conspiracy involving stolen checks. The defendant had been promised that in consideration of his help and cooperation in apprehending and convicting other defendants, he would not be prosecuted elsewhere for any crime arising from the checks. The Court ruled that if a promise was made and the defendant relied on it in incriminating himself, the government must keep to its part of the bargain. In Plaster v. United States, 720 F.2d 340 (4th Cir. 1983), the Court extended this ruling to executory agreements, holding that the agreement must be enforced even if the defendant hadn't yet given the requisite information. (However, the defendant had not yet been asked for the information. This case would not help the defendant here I don't think if the defendant was given a chance to give information but did not comply.) (N.B.: In some Fourth Circuit cases, the Court says that the defendant's remedy is not quashing the indictment but suppressing the evidence. Essentially, it sees the government's action in breaking the agreement as a violation of the defendant's Fifth Amendment rights. See U.S. v. Cavin, 553 F.2d 873 (4th Cir. 1977).

Therefore, the Court must determine (1) whether there was an agreement; and (2) whether the defendant fulfilled his part of

the agreement when given a chance. You should note one quirk in this case that is interesting but probably does not make a difference. The cases cited above involve prosecution for the crimes about which the defendant gave statements. Here, the defendant is claiming immunity from prosecution, even though the crime is totally unrelated to the activities about which he was urged to give testimony. It would seem out of fairness that the government should be made to comply with all bargains it strikes, so the fact that the crimes are unrelated should make no difference.

II. MOTION TO SUPPRESS EVIDENCE:

The following is my schematic analysis of the law:



You know the general facts already. The defendant came in voluntarily, was told he was not under arrest and was told he could leave at any time. He was interrogated by several police officers about his financial status and about drug deals and during this interrogation, he blurted out that he had lied to the IRS.

1. Was defendant entitled to Miranda warnings: Depends on whether or not he was in custody. The most relevant case is Oregon v. Mathiason, 429 U.S. 492 (1977). In that case, the police asked a burglary suspect to meet the police at the station-house. He was told he was not under arrest. He was taken into a room and the door was closed. He was questioned as to the burglary itself and was told that he was a suspect. In fact, the police lied to him and told him that they found his fingerprints. The defendant then said he had committed the

crime. According to the Supreme Court, the question is whether the defendant's "freedom to depart was restricted in any way." The Court focused exclusively on whether he was free to leave, not on the "coercive environment," i.e., that he was a suspect, in the station-house, etc. The Court found that the defendant was not in custody and thus was not entitled to Miranda warnings.

If the defendant in that case was not entitled to Miranda warnings, the defendant here is not.

2. Were the defendant's statements voluntary: Even if the defendant was not in "custody", the court must still determine if his statements were made voluntarily. Beckwith v. U.S., 425 U.S. 341 (1975). The ultimate test for voluntariness is whether "the confession is the product of an essentially free and unconstrained choice by its maker or whether his will has been overborne and his capacity for self-determinaton critically impaired." U.S. v. Olmstead, 698 F.2d 224 (4th Cir. 1983). To determine that, one looks at the "totality of the circumstances." Schneckloth v. Bustamonte, 412 U.S. 218 (1973). The totality of the circumstances includes (1) police conduct; (2) surroundings; and (3) the maturity, intelligence and knowledge of the accused.

I think that his statements were voluntary.