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Police Coercion Cited in Order for Retrial in Upstate New York Killing

By JAMES C. MCKINLEY Jr. FEB. 20, 2014

Declaring that there are limits to the lies and deceptions the police can employ to get a person to confess to a crime, New York State's highest court on Thursday ordered a new trial for a man convicted five years ago of killing his infant son.

In a unanimous ruling, the court held that detectives in Troy, N.Y., had gone too far during the interrogation of Adrian P. Thomas, and that his confession, stating that he had thrown his son onto a bed, should never have been revealed to a jury.

Detectives threatened to arrest Mr. Thomas's wife if he did not take responsibility for the baby's death. They repeatedly told him he would not be charged with a crime if he confessed to abusing his son. Finally, they told Mr. Thomas that his son's survival depended on his remembering what he might have done to cause a brain injury, even though the baby was already brain-dead.

Chief Judge Jonathan Lippman, writing for the seven-member Court of Appeals, said those techniques, taken together, amounted to psychological coercion that violated Mr. Thomas's constitutional rights.

"What transpired during defendant's interrogation was not consonant with, and indeed completely undermined, defendant's right not to incriminate himself — to remain silent," the judge wrote.

The court stopped short of setting down a hard and fast rule about when police trickery crosses the line into coercion, saying only that "in extreme forms, it may be."

Still, the ruling is an important guidepost for the police and judges in a rapidly

evolving debate over false confessions, interrogation techniques and the taping of police interviews, experts on criminal procedure and false confessions said.

“What this decision does is give courts guidance on what constitutes an involuntary confession,” said Dorothy Heyl, a lawyer at Milbank, Tweed, Hadley and McCloy who represented the Innocence Network.

Art Glass, the acting district attorney in Rensselaer County, where Mr. Thomas was prosecuted, said the ruling was likely to force police departments to be more careful during interviews.

“The court didn’t provide any bright-line rule or set down any clear boundaries you can’t cross,” Mr. Glass said. “I think what it tells them is to be cautious, more cautious than they have been.”

Mr. Thomas was convicted in 2009 of murdering his son, Matthew, and sentenced to 25 years to life in prison, a decision upheld at the Appellate Division. The strongest evidence against Mr. Thomas, 31, was his confession that, days earlier, he had thrown the child forcefully down onto his bed.

That admission came after nine and a half hours of interrogation, when a police sergeant, Adam Mason, told Mr. Thomas that doctors needed to know what had happened in order to save the baby’s life. At the time, the child had already been declared brain-dead.

“Do you want to save your baby’s life or do you want your baby to die tonight?” the sergeant told Mr. Thomas, according to a transcript of the interview.

“I’m not lying,” Mr. Thomas said.

“You better find that memory right now, Adrian,” Sergeant Mason said. “You’ve got to find that memory. This is important for your son’s life, man.”

The Court of Appeals ruled that the technique “would prompt any ordinarily caring parent to provide whatever information they thought might be helpful, even if it was incriminating.” Such psychological pressure invalidates the confession, even if it is true, Judge Lippman wrote. (He also noted that every detail of Mr. Thomas’s confession had first been suggested by the detectives.)

In addition, the judges said detectives erred when they led Mr. Thomas to believe he would not be arrested if he described what had happened, telling him that it had clearly been an accident.

The court ordered Mr. Thomas, who is being held in a state prison in Auburn, to be retried in Rensselaer County. This time his confession will not be allowed

into evidence.

Mr. Glass said his office would press ahead with the prosecution.

Correction: February 21, 2014

An earlier version of this article misstated the affiliation of Dorothy Heyl. She is a lawyer with Milbank, Tweed, Hadley and McCloy, which represented the Innocence Network on a pro bono basis. She does not work for the Innocence Network.

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