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NOTE

**HELPLESSLY IMPRISONED: *STATE V. HAMMONDS*
HOLDS INVOLUNTARILY COMMITTED PATIENTS TO
THE SAME CONSTITUTIONAL RESTRAINTS AS
PRISONERS**

THOMAS C. WOLFF*

I. INTRODUCTION

The seminal case of *Miranda v. Arizona* was decided by the United State Supreme Court almost fifty years ago and courts continue to wrangle with the intricacies of its application.¹ On its face, the holding seems simple enough: statements obtained during a “custodial interrogation of the defendant” may not be used by the prosecution unless they “demonstrate[] the use of procedural safeguards effective to secure the privilege against self-incrimination,” or what is otherwise known as Miranda warnings.² However, courts struggle to determine what a custodial interrogation is, and more importantly, when an otherwise normal line of questioning transitions into a custodial interrogation.

Recently, *State v. Hammonds* was decided, in which the North Carolina Court of Appeals wrestled with the issue of whether an individual who has been involuntarily committed is considered ‘in custody’ for purposes of Miranda warnings.³ The physical restriction being placed on the defendant while he is questioned by police officers would seem to create a custodial setting, especially when custodial interrogation is defined by *Miranda* as “questioning initiated by law enforcement officers after a person has been . . . otherwise deprived of his freedom of action *in any significant way*.”⁴ Nonetheless, lacking any authority concerning involuntary commitment, the

* J.D. candidate, North Carolina Central University School of Law, 2017; B.A., East Carolina University, Philosophy, 2007. I would like to thank my parents Bob and Diane Wolff, for always allowing me to push my boundaries, and my wife, Michelle Wolff, for being my greatest supporter and encouraging me to pursue my ambitions. This casenote is dedicated to my children, who are and always will be my greatest motivation.

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

2. *Id.* at 444.

3. *State v. Hammonds*, 777 S.E.2d 359 (N.C. Ct. App. 2015).

4. *Miranda*, 384 U.S. at 444 (emphasis added).

court drew similarities between the Defendant's circumstances and those situations concerning prison inmates in order to decide the case.

This case note will flesh out the perspective of the dissenting Judge Inman, and focus on the distinguishing characteristics of involuntary commitment that the court failed to take into consideration when making its determination by drawing similarities to those who are incarcerated.⁵ It will discuss how courts determine if a defendant is considered in custody for purposes of Miranda warnings, and the inadequacies of the court's analysis in *Hammonds* in handling the effect that involuntary commitment has on that determination.⁶ Finally, it will explore the implications of the holding of *Hammonds* by discussing the unjustifiable restriction it places on the constitutional rights of involuntarily committed patients, and the vulnerability that exists when the mentally ill, when questioned by law enforcement officers, are treated in the same manner as those criminals who are incarcerated.⁷

II. THE CASE

Defendant, Tae Kwon Hammonds ("Defendant"), appealed his conviction of robbery with a dangerous weapon, on grounds that the trial court erred when it failed to suppress his statements that were made while he was involuntarily committed.⁸ Defendant argued that under *Miranda*,⁹ he was considered "in custody," and should have been read his Miranda warnings, and his confession should not have been admitted at trial as a result of the constitutional violation.¹⁰

The questioning of Defendant stemmed from an incident occurring in a Wal-Mart parking lot at approximately 8:30 p.m. on December 10, 2012.¹¹ The victim was approached by a man that she described to the police as an "African-American male with a deep voice" but did not give any further description.¹² While the victim was preparing to enter her vehicle, she was approached by the assailant, who took her purse and all of her money at gunpoint.¹³

The following day, December 11, 2012, Defendant was brought to Carolinas Medical Center Union Hospital ("Hospital") for treatment after he

5. *Hammonds*, 777 S.E.2d at 372-74 (Inman, J., dissenting).

6. *Id.* at 364-68.

7. *Id.* at 368.

8. *Id.* at 361.

9. *Miranda*, 384 U.S. at 478-79.

10. *Hammonds*, 777 S.E.2d at 361.

11. *Id.*

12. *Id.*

13. *Id.*

attempted suicide by taking an overdose of pills.¹⁴ While being treated for his injuries, Defendant was involuntarily committed by a magistrate, and placed on a 24-hour watch, where he was required to have someone continuously observe him at all times.¹⁵ At one point that evening, Defendant attempted to leave the hospital, but was escorted back to his room by hospital security.¹⁶

On December 12, 2012, while still involuntarily committed and being confined against his will, Defendant was questioned by two police officers who visited him in his hospital room.¹⁷ Without introducing themselves or asking a medical provider or Defendant for consent to interview him, the police officers began questioning him about the circumstances leading up to his hospitalization, a matter that was wholly unrelated to the crime that occurred on December 10, 2012.¹⁸ The police officers questioned Defendant for approximately one and one half hours, eventually discussing the events that occurred in the Wal-Mart parking lot, without ever reading him his Miranda warnings.¹⁹ During the course of the questioning, Defendant eventually confessed to the robbery, and at trial, Defendant's motion to suppress his statements based on a Fifth Amendment violation was denied.²⁰ The trial court admitted audio recordings from the questioning that occurred at the hospital, including Defendant's confession, which ultimately led to his conviction.²¹

Defendant appealed, claiming that the court erred in denying his Motion to Suppress, as he was "'in custody' for purposes of *Miranda* and was never read his Miranda warnings."²² Defense maintained that the police officer's questioning was a custodial interrogation, and in the absence of the Miranda warnings, his confession was obtained in violation of his Fifth Amendment rights.²³

First, the North Carolina Court of Appeals declined to view Defendant's involuntary commitment as being "automatically 'in custody' for purposes of *Miranda* warnings," and instead required an analysis of the circumstances to make a determination.²⁴ The court analogized his involuntary commitment to that of an incarcerated individual, and emphasized that North

14. *Id.* at 361–62.

15. *Id.* at 362.

16. *Id.*

17. *Id.*

18. *Id.* at 372.

19. *Id.* at 362.

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.*

24. *Id.* at 365.

Carolina courts have not considered incarceration as a determinative fact in deciding ‘custody’ for the purposes of *Miranda*.²⁵ The court of appeals held that because involuntary commitment is less restrictive than incarceration, that it would not adopt a “more restrictive [rule] for involuntary commitment.”²⁶

In addition, the court of appeals felt that Defendant’s confinement could not be considered in custody for purposes of *Miranda* because the restraint on his movement was due to his medical treatment and not the actions of the police officers.²⁷ It felt that a reasonable person in the Defendant’s position would understand that they were being restricted because of their commitment and not because of the police questioning.²⁸ The court of appeals affirmed the trial court’s decision and remanded the case for a new hearing only to determine the appropriate amount of restitution.²⁹

III. BACKGROUND

The issue of whether an involuntarily committed person is considered in custody for purposes of *Miranda* warnings is one of first impression in North Carolina.³⁰ In the landmark decision of *Miranda*, the United States Supreme Court laid out procedural safeguards to protect the 5th Amendment rights of those individuals subjected to custodial interrogation.³¹ Under the 5th Amendment of the United States Constitution (and Article I of the N.C. Constitution³²), “[n]o person . . . shall be compelled in any criminal case to be a witness against himself.”³³ In order to “secure the privilege against self-incrimination” and to ensure a defendant is aware of their constitutional rights, the *Miranda* Court set out a detailed list of statements that must be read to any person, before engaging in custodial interrogation (the “*Miranda* warnings”).³⁴

The entire thrust behind requiring *Miranda* warnings and developing this prophylactic rule was to “vest a suspect in custody with an added measure of protection against coercive police practices, without regard to objective proof of the underlying intent of the police,” being their ability to “evoke an incriminating response from a suspect.”³⁵ As a result, any *compelled* testi-

25. *Id.* at 364–65.

26. *Id.* at 365.

27. *Id.* at 367–68.

28. *Id.*

29. *Id.* at 371–72.

30. *Hammonds*, 777 S.E.2d at 372 (Inman, J., dissenting).

31. *Miranda*, 384 U.S. at 444.

32. N.C. CONST. art. I, § 23.

33. U.S. CONST. amend. V.

34. *Miranda*, 384 U.S. at 444.

35. *Rhode Island v. Innis*, 446 U.S. 291, 301 (1980).

mony that is derived from a Fifth Amendment violation, whether it is unwarned or simply improperly warned, will be inadmissible by the prosecution in its case in chief.³⁶ What's more, there is a presumption of compulsion on the part of the interrogator whenever they fail to administer Miranda warnings to the defendant.³⁷

This standard is not as strict as the application of the "fruit of the poisonous tree" doctrine, such as in Fourth Amendment violations, where the violation itself will taint any confession obtained.³⁸ The "finding of voluntariness for the purposes of the Fifth Amendment is merely a threshold requirement in determining whether the confession may be admitted in evidence."³⁹ This distinction creates the ability to use a defendant's voluntary statements.⁴⁰ However, when a confession is derived from custodial interrogation without proper warning being given, it is presumed compelled by the police officer, and it is deemed inadmissible by the prosecution.⁴¹ This presumption of compulsion, when there is a failure to provide Miranda warnings, is "generally irrebuttable for the purposes of the prosecution's case in chief."⁴²

The crux of the issue in *Hammonds* is whether or not the Defendant was subjected to a custodial interrogation, and thereby was required to be apprised of his constitutional rights. In *Miranda*, similar to *Hammonds*, the suspects were questioned by police officers, "in a room that was cut off from the outside world," and were not given "full and effective warning[s] of [their] rights at the outset of the interrogation process."⁴³ Under the holding of *Miranda*, custodial interrogation was defined as "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way."⁴⁴ This determination is not limited to being physically deprived of freedom of movement, as the United States Supreme Court has adopted an objective, reasonable man test: "first, what were the circumstances surrounding the interrogation; and second, given those circumstances, would a reasonable person have felt he or she was at liberty to terminate the interrogation and leave."⁴⁵ That Court declined to specify any limited set of circumstances that are relevant to making a determination, and it chose to "re-

36. *Oregon v. Elstad*, 470 U.S. 298, 306–07 (1985).

37. *Id.* at 307.

38. *Id.* at 303.

39. *Id.* at 306.

40. *Id.* at 307.

41. *Id.*

42. *U.S. v. Patane*, 542 U.S. 630, 639 (2004).

43. *Miranda v. Arizona*, 384 U.S. 436, 445 (1966).

44. *Id.* at 444.

45. *J.D.B. v. N.C.*, 131 S. Ct. 2394, 2402 (2011).

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quire[] police officers and courts to ‘examine *all of the circumstances* surrounding the interrogation . . . including any circumstance that ‘would have affected how a reasonable person’ in the suspect’s position ‘would perceive his or her freedom to leave.’⁴⁶

Further, courts have given no consideration to the mindset of the particular defendant or the interrogating officers, as such a view is irrelevant under the objective test.⁴⁷ The purpose of using an objective view, as explained by the Court in *J.D.B. v. North Carolina*, is to “give clear guidance to the police,” and to eliminate the burden of police officers to “anticipate the idiosyncrasies of every individual suspect” and how their traits could affect their state of mind.⁴⁸

In *State v. Davis*, the North Carolina Court of Appeals carefully explained the ‘totality of the circumstances’ test that is applied in a determining whether a defendant is in custody for purposes of Miranda warnings, and whether there is a “restraint on freedom of movement of the degree associated with a formal arrest.”⁴⁹ Under the objective test, the court must make a determination based on a reasonable person standard on a case-by-case basis, which takes into account *all* the facts and circumstances of each case.⁵⁰ This means that “no single factor controls the determination,” as the court is free to use a number of factors to decide whether that particular defendant was in police custody for purposes of Miranda warnings.⁵¹ Depending on the particular circumstances, North Carolina courts have utilized a variety of factors in making a determination of custodial interrogation.

In *State v. Allen*, the North Carolina Court of Appeals set out a list of factors to be used in situations concerning voluntarily committed hospital patients.⁵² That court held that when questioning a defendant in a hospital, the determination of whether it is a custodial interrogation should utilize factors such as: “(1) whether the defendant was free to go at his pleasure; (2) whether the defendant was coherent in thought and speech, and not under the influence of drugs or alcohol; and (3) whether officers intended to arrest the defendant.”⁵³

46. *Id.* at 2402 (emphasis added).

47. *Id.*

48. *Id.*

49. *State v. Davis*, 763 S.E.2d 585, 590 (N.C. Ct. App. 2014) (citing *State v. Gaines*, 483 S.E.2d 396, 405 (N.C. 1997)).

50. *Davis*, 763 S.E.2d at 590.

51. *Id.* (citing *State v. Garcia*, 597 S.E.2d 724, 737 (N.C. 2004)).

52. *State v. Allen*, 684 S.E.2d 526, 528 (N.C. Ct. App. 2009).

53. *Id.* at 530 (finding defendant was not in custody because they were (i) fully coherent, (ii) not under the influence of any drugs, (iii) never declined to answer any questions or showed any hostility, and (iv) the police had no intent to arrest).

In contrast, the court in *State v. Fisher* explained that when the person being questioned is incarcerated, the court will make a determination as to whether they are considered in custody by looking at:

(1) whether ‘the inmate was free to refuse to go to the place of the interrogation’; (2) whether ‘the inmate was told that participation in the interrogation was voluntary and that he was free to leave at any time’; (3) whether ‘the inmate was physically restrained from leaving the place of interrogation’; and (4) whether ‘the inmate was free to refuse to answer questions.’⁵⁴

The *Fisher* court made it clear: simply being incarcerated is not enough to consider the defendant automatically in custody for purposes of Miranda warnings.⁵⁵ Based on an earlier decision, the court in *Fisher* held that the custodial determination must be based on a defendant’s “freedom to depart from the place of his interrogation.”⁵⁶ Further, because it was not a custodial interrogation, even though the defendant invoked his Fifth Amendment rights and attempted to end the conversation at one point, there was no need for the officer to cease questioning because the defendant’s Fifth Amendment rights had not attached to the process.⁵⁷

Under this backdrop, the *Hammonds* court attempted to address the unique situation of those who are involuntarily committed and being questioned by the police.⁵⁸ The court first analyzed whether the fact that Defendant was involuntarily committed in a hospital setting creates a situation where he should be considered “automatically ‘in custody’ for purposes of Miranda warnings.”⁵⁹ Although both the prosecution and counsel for Defendant attempted to draw similarities between this case and others involving hospital settings, the court distinguished Defendant’s situation, acknowledging that it is “different from a voluntary hospitalization, as there is no doubt that involuntary commitment places a person in custody and his freedom of movement may be restricted by law enforcement officers.”⁶⁰ The court chose to focus on the instructiveness of cases involving imprisonment, since the two situations both involved “government-imposed confinement.”⁶¹ The court came to this conclusion because it felt that an involuntarily committed patient’s government-imposed confinement is the same

54. *State v. Fisher*, 580 S.E.2d 405, 415 (N.C. Ct. App. 2003), *aff’d*, 593 S.E.2d 583 (N.C. 2004).

55. *Id.*

56. *Id.* (finding defendant was not in custody because he (i) asked to speak to the officer and provide information, (ii) was never restrained in any way, and (iii) was free to return to his cell at any time).

57. *Id.* at 415–16.

58. *State v. Hammonds*, 777 S.E.2d 359, 365 (N.C. Ct. App. 2015).

59. *Id.* at 364.

60. *Id.*

61. *Id.* at 366.

as an incarcerated defendant, and that the facilities in which patients with psychiatric conditions are treated “are quite similar to those of prisons.”⁶²

The court declined to consider an involuntarily committed patient as ‘automatically’ being considered in custody for purposes of Miranda warnings, since such a restrictive rule was not used in determining prison incarceration.⁶³ The court felt that since involuntary commitment is “arguably less restrictive than incarceration,” it did not make sense to create a rule that was more restrictive than those situations concerning incarcerated prisoners.⁶⁴ Since Defendant’s circumstances were considered “in the same manner as courts have considered interviews of incarcerated defendants,” and because a prisoner’s incarceration is not considered a determinative factor, the court performed an analysis under the totality of the circumstances.⁶⁵

The court in *Hammonds* appropriately focused on the freedom of movement of the Defendant while making a determination based on the totality of the circumstances.⁶⁶ The court aligned itself with *Allen*, where it agreed that “[a]ny restraint in movement [the] defendant may have experienced at the hospital was due to his medical treatment and not the actions of the police officers.”⁶⁷ This followed the same line of thought from *U.S. v. Jamison*, where the Fourth Circuit Court of Appeals held that the reasonable person test must be considered separate from those restrictions that are “incident to [the defendant’s] background circumstances,”⁶⁸ and that a court must instead focus on the “police-imposed restraint.”⁶⁹

The *Hammonds* court abandoned all other factors in determining the totality of the circumstances, and applied this rule to Defendant’s situation, concluding that a reasonable person in Defendant’s position would have understood their custody to be for the purposes of medical treatment, and not that of the police interrogation.⁷⁰ Because Defendant had attempted to escape the hospital the prior night and had to be physically restrained and escorted back to his room, the court was able to make a determination that *Miranda* should not apply because the Defendant was aware that he was being held by the hospital and not the police officers.⁷¹

62. *Id.*

63. *Id.*

64. *Id.* at 365.

65. *Id.* at 366.

66. *Id.*

67. *Id.*

68. The court explained such background circumstances are the injuries suffered, the medical exigencies they create such as the insertion of an IV line, and a routine investigation initiated by the injuries.

69. *U.S. v. Jamison*, 509 F.3d 623, 629 (4th Cir. 2007).

70. *State v. Hammonds*, 777 S.E.2d 359, 367–68 (N.C. Ct. App. 2015).

71. *Id.*

However, the dissent in *Hammonds* was quick to point out that (i) the court “fail[ed] to weigh other factors necessary to determine” whether the questioning was custodial and (ii) that involuntarily committed patients are strikingly different from both voluntary patients and prison inmates.⁷² Judge Inman explained that the majority, while applying the principles of *Fisher*, failed to consider Defendant’s “freedom to depart from the place of his interrogation,” as he was not free to leave his hospital room.⁷³ More specifically, the dissent took issue with the trial court declining to make any findings regarding whether there was a “restraint on defendant’s freedom of movement” or whether a reasonable person in defendant’s circumstances would not have felt free to terminate the interview or to ask the officers to leave his room.⁷⁴

Whereas voluntary patients are not being restrained in any way, involuntary patients are subject to legal custody, as involuntary commitment is obtained through a legal order allowing the taking “into custody for examination by a physician or eligible psychologist.”⁷⁵ Further, whereas inmates are likely to have retained counsel and been read their Miranda rights in their prior criminal cases, involuntarily committed patients have not been given those same benefits, and therefore, they should not be considered “so closely analogous as to obviate the need for additional inquiry where the person subject to questioning has been involuntarily committed.”⁷⁶

The majority opinion analogized Defendant’s situation with that of a prison inmate, describing the factors considered in those contexts as laid out by in *Fisher*.⁷⁷ However, the dissent points out that the trial court declined to apply those rules stated in *Fisher*, most importantly, by declining to look at (1) whether the person was “free to refuse to go to the place of the interrogation” and (2) whether the person was “told that participation in the interrogation was voluntary and that he was free to leave at any time.”⁷⁸ Judge Inman posits that had the majority conducted a determination of these two factors, the facts would have suggested that Defendant was in custody, given that he was not free to leave the place he was being interrogated and that he was never told that his participation was voluntary.⁷⁹ The dissent argues that the trial court’s finding that Defendant was not in custody, absent a finding of whether there was a formal restraint or that a reasonable

72. *Hammonds*, 777 S.E.2d at 372 (Inman, J., dissenting).

73. *Id.* at 373–74.

74. *Id.* at 375.

75. N.C. GEN. STAT. § 122C-261 (2013).

76. *Hammonds*, 777 S.E.2d at 372 (Inman, J., dissenting).

77. *Hammonds*, 777 S.E.2d at 366.

78. *State v. Fisher*, 580 S.E.2d 405, 415 (N.C. Ct. App. 2003), *aff’d*, 593 S.E.2d 583 (N.C. 2004).

79. *Hammonds*, 777 S.E.2d at 374 (Inman, J., dissenting).

person would have felt free to end the interrogation, “leaves involuntarily committed patients vulnerable” to officer interrogations and places the risk on those who are “suspected of not being able to care for themselves.”⁸⁰

IV. ANALYSIS

The decision handed down in *State v. Hammonds* affects the constitutional rights of those individuals that are involuntarily committed by holding them to the same standards as prison inmates.⁸¹ The majority opinion quickly realizes that a person who is involuntarily committed is considered in “government-imposed confinement” just like one who is incarcerated, and that the administration of hospitals that treat psychiatric patients are similar to prisons.⁸² However, these two populations are drastically different and should be considered separately, rather than “in the same manner as courts have considered interviews of incarcerated defendants” as the *Hammonds* court considers the Defendant’s situation.”⁸³

As the dissenting opinion of Judge Inman points out, Defendant, unlike prison inmates, has not been charged with a crime.⁸⁴ Those who have been convicted of a crime and are serving prison sentences have been read their Miranda rights prior to their incarceration, sometime during the pendency of their case, whereas those who are involuntarily committed are not necessarily made aware of their constitutional rights.⁸⁵ During their initial case, a prisoner may have retained or been appointed counsel to represent them at the initial stage of the legal process, and at the very least, been made aware of their right to remain silent and not incriminate themselves.⁸⁶ On the other hand, although involuntary commitment is similarly considered a legal process, there is no guarantee that a patient who has been committed involuntarily has been read their Miranda rights before police contact.⁸⁷ Under the Mental Health, Developmental Disabilities, and Substance Abuse Act of 1985 (the “Mental Health Act”), anyone who has knowledge of the defendant’s mental illness, on account of which the defendant poses a danger to themselves or others, may appear before a clerk or magistrate and request an order to have the defendant involuntarily committed for the purposes of being examined by a physician or psychologist.⁸⁸ Unlike the judicial pro-

80. *Id.* at 375.

81. *Hammonds*, 777 S.E.2d at 368.

82. *Id.* at 366.

83. *Id.*

84. *Hammonds*, 777 S.E.2d at 372 (Inman, J., dissenting).

85. *Id.* at 372–73.

86. *Id.*

87. *Id.* at 373.

88. N.C. GEN. STAT. § 122C-261(a) (2013).

cess for incarceration, involuntary commitment does not require the defendant to be present in front of the magistrate when the commitment Order is entered, but rather only that an individual has knowledge of the illness and the ability to execute an Affidavit to that effect.⁸⁹ When viewed in a vacuum, a prison inmate has more general knowledge about his constitutional rights than a hospital patient, because they have had the “benefit” of proceeding through the legal process beforehand, and have been made aware of their Miranda rights, such as their ability to remain silent if they so choose.

The dissent also points out that there is a fundamental difference between those involuntarily committed and prison inmates that concerns the very nature of the commitment process: the mental condition of the defendant.⁹⁰ Under the Mental Health Act, an involuntary commitment order is issued for those individuals who are “mentally ill,” in order to take them “into custody for examination by a physician or eligible psychologist.”⁹¹ Thus, when an individual is committed, there has already been a finding by a magistrate concerning the wellness of the defendant’s mental state. Yet, *Hammonds* holds those individuals to the same standards as prison inmates and voluntary hospital patients, who may never have had their mental competency called into question.⁹²

Involuntary commitment laws exist to protect a population of people that suffer from mental illness, utilizing systems that were set in place to ensure the safety of the mentally ill. However, by holding the mentally ill to the same custodial standard as prison inmates, the *Hammonds* court seems to come to a result that fails to protect those patients, but rather, subjects them to additional constitutional restraint.⁹³

The *Hammonds* court is dealing with a unique situation and a unique subsection of this nation’s population, and rather than looking at the scenario as an exception to established procedures, it chose to group them in with a segment of individuals that seems to be similar in *some* respects.⁹⁴ But are the two groups similar enough to warrant such a generalized rule? The purpose of requiring Miranda rights is to ensure a defendant is protected against coercive conduct, and isn’t it possible that those who are mentally ill could be considered more at risk to a police officer’s coercive interrogation techniques than a prisoner?⁹⁵

89. *Id.* § 122C-261(a)–(b).

90. *Hammonds*, 777 S.E.2d at 372 (Inman, J., dissenting).

91. N.C. GEN. STAT. § 122C-261(a) (2013).

92. *Hammonds*, 777 S.E.2d at 364–68.

93. *Id.* at 366.

94. *Id.*

95. *Rhode Island v. Innis*, 446 U.S. 291, 301 (1980).

The *Hammonds* court rests its decision on the simple fact that the Defendant attempted to leave the night before the questioning, but was stopped and escorted back to his room.⁹⁶ The court felt this event was enough for the Defendant to understand that he was not free to go because of the hospital staff and not the actions of the police officers.⁹⁷ However, the determination of whether the Defendant was in custody for purposes of Miranda warnings, as admitted by the court, must be “based on the totality of the circumstances,” not just one occurrence.⁹⁸ As the Court in *Miranda* held, custodial interrogation is defined as being questioned by the police when the defendant has been “deprived of his freedom of action in *any significant way*.”⁹⁹ This point has been stressed by the North Carolina Court of Appeals when it held that “no single factor controls the determination” of whether a defendant was in police custody for purposes of Miranda warnings.¹⁰⁰

The court in *Hammonds* takes great care to list out a number of factors to consider in two situations: voluntary hospital patients and prison inmate questioning.¹⁰¹ Curious enough, the court focuses on how a “reasonable man in [defendant’s] position would have understood his situation”¹⁰² without conducting a rigorous analysis using any of those factors. The court ultimately held that Defendant would have understood his freedom of movement to be restricted because of his medical treatment simply because his attempt to escape “took place *before* the police interview.”¹⁰³ By focusing on the “*purpose* behind a defendant’s restraint” as being “much more relevant,” the court seems to abandon its structured analysis under the totality of the circumstances.¹⁰⁴ However, the United States Supreme Court held that the test would look to see if a reasonable person would have felt free to leave, and that there must be an examination of “*all of the circumstances* surrounding the interrogation.”¹⁰⁵

But viewing the situation objectively, isn’t it reasonable that Defendant did not feel free to leave the questioning because he had already been escorted back to his bed less than 24 hours prior?¹⁰⁶ Simply because it was the security guards that physically forced him back to his room, as opposed

96. *Hammonds*, 777 S.E.2d at 367.

97. *Id.* at 368.

98. *Id.* at 366.

99. *Miranda v. Arizona*, 384 U.S. 436, 444 (1966) (emphasis added).

100. *State v. Davis*, 763 S.E.2d 585, 590 (N.C. Ct. App. 2014) (citing *Garcia*, 597 S.E.2d at 737).

101. *Hammonds*, 777 S.E.2d at 366–67.

102. *Id.* at 367 (quoting *State v. Buchanan*, 543 S.E.2d 823, 829 (N.C. 2001)).

103. *Id.* (emphasis in original).

104. *Id.* at 368 (emphasis in original).

105. *J.D.B. v. N.C.*, 131 S. Ct. 2394, 2402 (2011) (emphasis added).

106. *Hammonds*, 777 S.E.2d at 361.

to the police officers, should the Defendant now feel free to leave?¹⁰⁷ By looking at the totality of the circumstances surrounding the police interrogation, it seems the Defendant reasonably felt that his freedom had been restricted.¹⁰⁸ The hospital staff had already confined Defendant to his room once before, why would he now feel that he was free to leave the police interview without similar intervention?¹⁰⁹

The court declines to view any other attending circumstances, and relies solely on the holding of *U.S. v. Jamison*, in which the court held that a determination of custodial interrogation must be “careful to separate the restrictions on his freedom arising from police interrogation and those incident to his background circumstances.”¹¹⁰ The defendant in *Jamison* argued that the affixing of paper bags to his hands (a process used by police for all shooting victims until a decision can be made whether to test for gunshot residue) rendered him in custody.¹¹¹ However, the *Jamison* court concluded that the affixing of paper bags “does not alone render his questioning custodial.”¹¹² Whereas the *Hammonds* court uses this rule as determinative,¹¹³ wiping away any possibility that Defendant’s situation could be considered custodial, the court in *Jamison* merely stated that it does not do so *on its own*.¹¹⁴ The dissenting opinion touched on this subtle but crucial inadequacy when it stated that this case is not “so closely analogous [to cases involving prison inmates] to obviate the need for additional inquiry.”¹¹⁵

The majority opinion simply fails to continue its analysis and declines to consider whether a reasonable person in the Defendant’s position (1) was free to refuse to go to the place of interrogation, (2) was told that their participation was voluntary, (3) was physically restrained from leaving, and (4) refused to answer questions.¹¹⁶ Defendant’s situation contained several facts that would satisfy a number of those factors found in *Fisher*, but none were ever considered by the *Hammonds* court.¹¹⁷

First, the fact that Defendant had to be physically escorted back to his room satisfies the first factor, that he was not free to refuse to go to the

107. *Id.*

108. *Id.*

109. *Id.*

110. *U.S. v. Jamison*, 509 F.3d 623, 629 (4th Cir. 2007).

111. *Id.* at 629–30.

112. *Id.* at 630.

113. *Hammonds*, 777 S.E.2d at 367–68.

114. *Jamison*, 509 F.3d at 630.

115. *Hammonds*, 777 S.E.2d at 372 (Inman, J., dissenting).

116. *State v. Fisher*, 580 S.E.2d 405, 415 (N.C. Ct. App. 2003), *aff’d*, 593 S.E.2d 583 (N.C. 2004).

117. *Hammonds*, 777 S.E.2d at 364–68.

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place of interrogation.¹¹⁸ Although the majority opinion claims that Defendant was not in custody since this was a hospital restraint and not police restraint,¹¹⁹ a further reading of *Jamison* shows that this is not determinative, and it must be considered under the totality of the circumstances.¹²⁰ As *Fisher* points out, custodial interrogation must be “determined by considering [Defendant’s] freedom to depart from the place of his interrogation.”¹²¹ The fact is, Defendant simply did not feel free to go from the place of his interrogation, regardless of who was physically restraining him. Viewed objectively, there is little reason to believe that any reasonable person in Defendant’s situation would feel they were free to leave the police interview after they had already been restricted to that room by hospital staff.¹²² It is simply not reasonable for a person in Defendant’s position to assume that once police have begun their questioning, they now have the freedom to leave that place of interrogation. Since being restrained the prior night, nothing had occurred to lead a reasonable person to believe they are now free to leave. In fact, the police presence alone, without any form of consent on the Defendant’s part, would lead to the exact opposite conclusion.¹²³

Looking at the second factor, Defendant was never told that his participation in the questioning was voluntary.¹²⁴ The court agrees that the Defendant “was not told that he could not stop the conversation or request that the officers leave,” but this is vastly different from a suspect being explicitly told that they are free to refuse any questioning if they so choose.¹²⁵ The second factor laid out by *Fisher* concerns when a defendant was *told* he had a choice to participate, and it is not analogous to the police officer’s omission of advising of the defendant’s choice to participate.¹²⁶ Further, the police officers simply asked a nurse for permission to speak to the patient—Defendant never gave his consent to be interviewed, nor did the Defendant consent to the officers taping the conversation.¹²⁷ Both of these actions could be taken as custodial, as a reasonable person could assess the situation as hostile when they are questioned by the police without providing consent, or even being asked for their consent.

118. *Id.* at 367.

119. *Id.* at 367–68.

120. *U.S. v. Jamison*, 509 F.3d 623, 630 (4th Cir. 2007).

121. *Fisher*, 580 S.E.2d at 415.

122. *Hammonds*, 777 S.E.2d at 361.

123. *Id.*

124. *Id.* at 363.

125. *Id.*

126. *Fisher*, 580 S.E.2d at 415.

127. *Id.* at 362–63.

The *Hammonds* court failed to address either of these impactful issues when considering how a reasonable person would assess Defendant's situation, instead relying solely on the purpose behind Defendant's restraint in making its decision.¹²⁸

By analogizing Defendant's situation to that of a prison inmate, the court creates a situation where Defendant would have been unable to stop police questioning because he was not considered in custody by police.¹²⁹ As the court held in *Fisher*, where there is no custodial interrogation, the defendant's Fifth Amendment rights have not attached, and even if the defendant attempts to invoke their right to remain silent, police are not required to cease questioning.¹³⁰ Here, Defendant was being confined to his room and was unable to physically leave the questioning.¹³¹ By applying the precedent from *Fisher*, he would have also been unable to force the police to cease questioning because they were not the ones physically confining him and his Fifth Amendment rights were not yet attached.¹³² As a result, this leaves Defendant in a situation where he is not free to leave the area of interrogation, and he is unable to stop the questioning process until he feels restrained by the police themselves.¹³³

Although determinations of custodial interrogation must be made objectively, this decision ultimately affects a large portion of the population that are suffering from mental illness. Essentially, those who are deemed to have a mental illness are grouped in and evaluated in the same manner as prison inmates. While a court cannot view a defendant's situation subjectively and take his or her mental illness into consideration, the court should at the very least make an effort to afford the Defendant a full analysis under the totality of the circumstances.

As the dissent points out, it is important for the trial courts to consider additional factors when it is a matter of first impression.¹³⁴ What the *Hammonds* court does instead, is analogize Defendant's circumstances to a scenario that is arguably vastly different. Defendant had not been charged with a crime, he suffers from a mental illness, he had been previously escorted back to his room, and he was not given an avenue to leave the questioning or even advised that his participation was voluntary.¹³⁵ Whereas the appellate court rightly concludes that involuntary commitment is similar to

128. *Id.* at 366.

129. *Id.* at 367–68.

130. *State v. Fisher*, 580 S.E.2d 405, 415–16 (N.C. Ct. App. 2003), *aff'd*, 593 S.E.2d 583 (N.C. 2004).

131. *Hammonds*, 777 S.E.2d at 362.

132. *Fisher*, 580 S.E.2d at 415–16.

133. *Hammonds*, 777 S.E.2d at 367–68.

134. *Hammonds*, 777 S.E.2d at 372 (Inman, J., dissenting).

135. *Id.*

incarceration as they are both “government-imposed confinement[s],” that is where the similarities end.¹³⁶ As discussed, incarcerated individuals have been through the judicial process, they have the ability to either retain legal counsel or have been appointed one, and they have been made aware of their Miranda rights at one point. The majority opinion never takes into account the differences of the two situations, and by grouping mentally ill patients with prison inmates, they run the risk of creating a standard that is less than that of others who have not been charged with a crime.

The very nature of imprisonment ensures that prisoners are not granted the same constitutional rights as those who are not incarcerated. Although they are still granted many of their constitutional rights, regulations in place that restrict those freedoms and rights are still considered valid. As the United States Supreme Court has held, “when a prison regulation impinges on inmates’ constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests.”¹³⁷ As such, a prison inmate is not guaranteed the full protection from the United States Constitution, as those restrictions that provide a legitimate reason in line with their punishment are free to impinge on their protections. Unlike prison confinement, the involuntary commitment of an individual does not serve a penological interest. Under the Mental Health Act, the purpose of entering a commitment order is not punishment, but rather to have the defendant examined by a physician or psychologist.¹³⁸ The necessity behind Defendant’s commitment was not to punish him for some wrong, but merely to address a mental illness after he attempted suicide.¹³⁹ At the time of the police interview, Defendant was not being charged with any crime, but was being treated for a mental illness.¹⁴⁰ This is unlike incarceration where a defendant’s rights are lessened as a punishment in connection with their imprisonment.¹⁴¹

To characterize involuntarily committed patients as being synonymous with prison inmates rather than other voluntary patients, is in essence creating an inference that courts are free to impinge on the constitutional rights of those mentally ill patients. In Defendant’s case, where he is being committed for an unrelated incident of attempted suicide, he is compared to a prisoner rather than a hospital patient simply because a magistrate has deemed it necessary to hold him for a 24 hour period for his safety.¹⁴² Where courts hold that the lessening of constitutional rights is justified for

136. *Hammonds*, 777 S.E.2d at 366.

137. *Turner v. Safley*, 482 U.S. 78, 89 (1987).

138. N.C. GEN. STAT. § 122C-261(a) (2013).

139. *Hammonds*, 777 S.E.2d at 361.

140. *Id.*

141. *Safley*, 482 U.S. at 89.

142. *Hammonds*, 777 S.E.2d at 361.

penological interests, there is simply no evidence of such reasoning in cases involving involuntary commitment. There is no justification for a hospitalized individual to be subject to a lesser standard than others who are voluntarily seeking medical treatment, as a reduced standard would similarly not serve any penological interest.

This decision and the restriction it imposes on involuntarily committed patients places a dangerous risk on a population that is suffering from mental illness, by lowering the standards by which courts view custodial interrogation when they are being questioned by the police. This ‘lesser standard’ is at odds with the Mental Health Act which holds that all involuntary commitments “shall be accomplished under conditions that protect the dignity and constitutional rights of the individual.”¹⁴³ The statute specifically states that although the patient is being held involuntarily, that their constitutional rights must be protected.¹⁴⁴ *Hammonds* on the other hand, holds mentally ill patients to a standard equivalent to that of a prisoner, who are not afforded all of their rights because it serves a penological interest.¹⁴⁵

V. CONCLUSION

The holding of *State v. Hammonds* adequately states those factors used in analyzing whether there is a custodial interrogation, but fails to apply them to the unique situation concerning involuntarily committed patients.¹⁴⁶ Rather than performing a full analysis by examining the totality of the circumstances, and focusing on what makes these situations so unique, the court analogizes it to government-imposed confinement of prisoner incarcerations.¹⁴⁷ In doing so, it fails to adequately represent a population of people that are already at risk due to their mental illness and afford them the same constitutional restraints as those who are convicted criminals.

By not performing a full assessment on the situation, and focusing on the complexities of Defendant’s circumstances, the appellate court has missed an opportunity to develop a new standard set of factors to encompass situations involving involuntary commitments, and at the very least, to give a defendant who was not charged with any crime the same constitutional benefits as those who seek hospital treatment voluntarily.

143. N.C. GEN. STAT. § 122C-201 (2013).

144. *Id.*

145. *Hammonds*, 777 S.E.2d at 366.

146. *Id.* at 366–367.

147. *Id.*

