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STATE OF CONNECTICUT *v.* WILLIAM CASTILLO
(SC 19777)

Palmer, McDonald, Robinson, D'Auria, Mullins and Kahn, Js.*

Syllabus

The defendant, a nearly seventeen year old high school student, was convicted of attempt to commit robbery in the first degree and attempt to commit robbery in the second degree in connection with his role in accosting a group of middle school students. Following an investigation into the crimes that formed the basis for the defendant's conviction, a police officer, F, went to the defendant's apartment to interview him. After determining that the defendant was alone, F did not conduct the interview but left his business card with the defendant and informed him that he would return another time. The defendant later gave the card to his mother, M, thereby alerting her that the police had visited the apartment. When F and another officer returned to the apartment, they were accompanied by an officer who spoke Spanish to assist M, because the defendant had informed F during his initial visit that M did not speak English. After M answered the door, F explained to M the purpose of his visit, and she invited the officers into the living room, where F advised the defendant and M of their juvenile and parental rights, respectively. After the defendant and M signed their rights forms, F verbally advised the defendant that he was free to ask the officers to leave or to stop speaking to the officers, and that he did not have to speak to them at all. The defendant confessed orally and in writing to the events surrounding the attempted robbery and subsequently was arrested pursuant to a juvenile arrest warrant. His case was then transferred to the adult criminal docket. The defendant appealed from the judgment of conviction to the Appellate Court, claiming that the trial court improperly denied his motion to suppress the oral and written statements he made to the police during the interrogation on the ground that he had been given inadequate warnings in accordance with *Miranda* v. *Arizona* (384 U.S. 436), in violation of his constitutional rights. The defendant also claimed that the Appellate Court should have exercised its supervisory authority and issued a prophylactic rule requiring that juvenile waiver forms inform a juvenile that his statements may be used against him not only in juvenile proceedings but also in adult criminal proceedings if the case ultimately is transferred to the adult criminal docket. The Appellate Court concluded that the defendant was not in custody during the interrogation for purposes of *Miranda* and declined to exercise its supervisory authority and issue the requested prophylactic rule. On the granting of certification, the defendant appealed to this court. *Held*:

1. The Appellate Court correctly determined that the defendant was not in custody for purposes of *Miranda* and, therefore, that he was not entitled to *Miranda* warnings before he made his oral and written statements to the police: the Appellate Court correctly determined that, in light of the totality of the circumstances, and with due consideration of the defendant's age, no reasonable person in the defendant's position would have believed that he was in custody for purposes of *Miranda*, as the evidence indicated that the defendant was questioned in the comfort of his own home, with his mother present, and not at a police station or other unfamiliar and inherently coercive location, the defendant had been alerted in advance that the police would be coming to his apartment to question him when his mother was present, the encounter lasted only forty-five minutes, the police did not enter the apartment on their own authority, but, rather, M invited the officers in after F informed her of the purpose of their visit, only three officers were present, one of whom was acting as a translator, and two of whom were wearing plain clothes, the defendant was never threatened with arrest, searched, or handcuffed, and the police took no other action, either verbal or physical, to intimidate the defendant or to restrict his movement or to confine him to a particular room, F informed M that she could end the interview at any time, and the defendant was instructed, before questions were asked,

that his presence was voluntary, that he was free to leave and that he did not have to answer any questions; moreover, the defendant's claims that the particular circumstances of the interview transformed his home into a coercive atmosphere and that the presence of M during the interview made him feel less free to leave were unavailing, as there were only three officers present, none of whom wore tactical gear or brandished a weapon, and, although the officers were in close proximity to him during the questioning, they did not restrict his movement or the movement of others in the apartment, and the mere fact that M became upset when she heard the details of the defendant's alleged criminal activity, without more, was insufficient to demonstrate that her presence made the police encounter more coercive.

2. This court declined the defendant's request to invoke its supervisory authority over the administration of justice and to adopt a per se rule requiring that, whenever the police investigating a felony give *Miranda* warnings to a juvenile, those warnings must include a warning that any statement made by the juvenile may be used against the juvenile not only in juvenile proceedings but also in adult criminal proceedings if the case is transferred to the adult criminal docket; the defendant's requested rule went beyond the facts of his case and beyond what was constitutionally required, as the defendant was not in custody at the time he was interrogated and the police were not required to provide him with *Miranda* warnings, the defendant failed to offer any evidence that there is a pervasive and significant problem that would have justified this court's invocation of its supervisory authority, and the specific juvenile waiver form that the defendant signed appeared to be unique to the city police department that issued it.

(*One justice dissenting*)

Argued November 6, 2017—officially released July 3, 2018

Procedural History

Substitute information charging the defendant with the crimes of attempt to commit robbery in the first degree and attempt to commit robbery in the second degree, brought to the Superior Court in the judicial district of Litchfield, where the court, *Danaher*, *J.*, denied the defendant's motion to suppress certain evidence; thereafter, the case was tried to the jury before *Danaher*, *J.*; verdict and judgment of guilty, from which the defendant appealed to the Appellate Court, *Keller*, *Prescott* and *Harper*, *Js.*, which affirmed the judgment of the trial court, and the defendant, on the granting of certification, appealed to this court. *Affirmed.*

Richard Emanuel, for the appellant (defendant).

Nancy L. Chupak, senior assistant state's attorney, with whom, on the brief, were *David S. Shepack*, state's attorney, and *Terri Sonnemann*, senior assistant state's attorney, for the appellee (state).

Opinion

KAHN, J. In this certified appeal, the defendant, William Castillo, appeals from the judgment of the Appellate Court affirming the judgment of conviction, rendered after a jury trial, of attempt to commit robbery in the first degree in violation of General Statutes §§ 53a-49 and 53a-134 (a) (3), and attempt to commit robbery in the second degree in violation of General Statutes §§ 53a-49 and 53a-135 (a) (1) (A).[1] The defendant claims that the Appellate Court improperly (1) concluded that, during his in-home interrogation by the police, he was not in custody for purposes of *Miranda* v. *Arizona*, 384 U.S. 436, 478–79, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966), and (2) declined to exercise its supervisory authority "to adopt a new rule governing the admissibility of statements obtained during the interrogation of juveniles." *State* v. *Castillo*, 165 Conn. App. 703, 729, 140 A.3d 301 (2016).[2] Because we conclude that the Appellate Court properly determined that the defendant was not in custody, we affirm the judgment of the Appellate Court. Interpreting the third certified question as a request by the defendant to exercise our supervisory authority to adopt his requested rule, we decline to do so.

The Appellate Court set forth the following relevant facts and procedural history. "On March 23, 2012, the defendant was a student at Torrington High School, and was less than one month from his seventeenth birthday. At about 8:30 p.m. on that date, he and several other teenagers left a high school dodgeball game together in a Jeep Grand Cherokee. The defendant and his friends spotted a group of middle school students leaving a minimart on foot, and they decided to 'jump' the younger boys and steal their money. The older group of teenagers followed the three middle school students, eventually stopping the Jeep in front of them. After exiting the Jeep, the defendant and his friend assaulted the younger boys in an attempt to rob them. The defendant grabbed one of the boys, Liam, and pushed him into a nearby parked vehicle. He held a screwdriver to Liam's abdomen and demanded his money. [When Liam said that he did not have any money on him, the defendant kicked his legs out from under him, causing him to fall to the ground.] When the defendant and his friends discovered that the younger boys had no money, they fled in the Jeep.

"Several neighbors witnessed all or part of the incident and gave statements to the police, who had responded to a report of an assault. Those statements included a description of the Jeep that the defendant and his friends were using and a partial license plate number. The police also later interviewed the victims, who, although unable to identify their attackers because they had disguised themselves by partially concealing their faces with their T-shirts, gave partial descriptions.

"At about the time of the incident in question, other police officers spotted a Jeep traveling at a high rate of speed in the vicinity. They followed the vehicle into an apartment complex at which time they initiated a stop, eventually identifying the passengers, including the defendant. Although the police were aware of the recent assault, they did not believe that they had enough evidence to arrest or otherwise detain the occupants of the Jeep.

"A week or so following the incident, the police received information that led them to believe that the occupants of the Jeep that they had stopped at the apartment complex were the same group that had attempted to rob the middle school boys. Police detectives interviewed each of the occupants [whom] they had previously identified during the traffic stop.

"Detective Todd Fador, the lead investigator, first went to the defendant's apartment at 330 Highland Avenue on April 10, 2012, for the purpose of conducting an interview with the defendant; however, he found the defendant alone at that time. Because of the defendant's age, Fador would not conduct an interview without a parent present. Fador told the defendant that he would return another time and left a business card, which the defendant gave to his mother, Yocasta Monegro, thereby alerting her that the police had stopped by her home.

"Fador returned to the defendant's home on April 13, 2012, at approximately 5 p.m. Monegro, Monegro's boyfriend, two younger children, and the defendant were home at that time. Fador was accompanied by another detective, Keith Dablaine, and Officer Angel Rios. Fador had brought Rios along because Rios was fluent in Spanish, and, at their initial meeting on April 10, 2012, the defendant had told Fador that Monegro did not speak English.[3] Fador and Dablaine carried sidearms and wore plain clothes with badges around their necks. Rios was dressed in a police uniform and also wore a sidearm.

"Monegro answered the door, at which point Rios explained to her, in Spanish, that the purpose of their visit was to speak with the defendant, who had been identified as a suspect. The interview of the defendant was conducted in the living room. The room had a sofa, a love seat, and a chair. In addition to the main entrance to the room, it had two other doors. The defendant was not immediately present when the police arrived, but Monegro indicated that she would get him. When the defendant entered the room, Fador advised the defendant and Monegro of their juvenile and parental rights, respectively. Rios translated Fador's advisement into Spanish. The defendant was presented with a juvenile waiver form that advised him of his rights, including his right to remain silent, to consult with an attorney,

and to stop answering questions at any time. The defendant initialed six separate paragraphs on the form and signed the form. Monegro was given a parental consent form that contained a similar advisement of rights in English, which Rios translated for her prior to her initialing and signing the form. The defendant was calm throughout this procedure.

"As the trial court stated in its memorandum of decision denying the motion to suppress, after the waiver forms were signed, Fador 'verbally advised the defendant that he was free to ask the officers to leave, that he was free to stop speaking to the officers, and that he did not have to speak to the officers at all.[4] . . . [T]he defendant did not ask any questions about his rights, he did not appear to be confused, and he said that he understood his rights.'

" 'The defendant agreed to give a statement, asking Fador to write it out. [Fador] did so, stopping every few sentences to give [Rios] an opportunity to translate the defendant's statements to [Monegro]. The defendant was cooperative and did not appear to be worried, although it was apparent that [Monegro] was growing increasingly upset as her son progressed with his statement. . . . After the defendant finished making his statement, he reviewed what [Fador] had written and then signed the statement. . . . The entire visit took between forty-five minutes and one hour. At no time did anyone ask the officers to stop questioning the defendant or to leave the home. . . .'

" '[N]one of the officers advised the defendant that his involvement in the robbery could ultimately lead to his deportation. . . . [W]hen [Monegro] asked about the risk of deportation, [Rios] replied that such an action is not within his jurisdiction but is, rather, an issue for the Bureau of Immigration and Customs Enforcement.' . . . Although the defendant confessed, first orally and then in writing, to having participated in the events of March 23, 2012, and having attempted to steal money from one of the middle school students, he denied having used any weapon. The defendant was not arrested at that time, and the detectives and Rios left the apartment." (Footnotes added and omitted.) *State* v. *Castillo*, supra, 165 Conn. App. 706–10.

Approximately one month later, on May 10, 2012, the defendant was arrested pursuant to a juvenile arrest warrant and charged with various delinquent acts, including robbery in the first degree in violation of § 53a-134. Because he was charged with committing a class B felony, robbery in the first degree, the case was then automatically transferred to the regular criminal docket pursuant to General Statutes (Rev. to 2011) § 46b-127 (a) and then to the part A docket in the Litchfield judicial district. The defendant subsequently entered pro forma pleas of not guilty to certain of the charges underlying the juvenile arrest warrant. Prior to

jury selection, the state filed a long form information charging the defendant in two counts with robbery in the first degree and robbery in the second degree. The defendant entered pleas of not guilty on both counts.

"On August 30, 2013, the defendant filed a motion to suppress his April 13, 2012 oral and written statements to the police, arguing that any waiver of his *Miranda* rights was not knowingly, intelligently, or voluntarily given, and, even if the police satisfied *Miranda*, his statements were obtained involuntarily in violation of his due process rights under the state and federal constitutions. The state filed an opposition arguing that *Miranda* warnings were not necessary in the present case because the defendant was not 'in custody' when the challenged statements were made and there simply was no evidence of any police coercion or other police activity necessary to support the defendant's due process claim. The court, *Danaher, J.*, conducted a hearing on the motion to suppress, at which time the court heard testimony from Fador, Rios, and Monegro. Following the hearing, on September 24, 2013, the court issued a written memorandum of decision agreeing with the arguments of the state and denying the motion to suppress.

"Prior to trial, on September 30, 2013, the state filed a substitute long form information, amending the charges against the defendant to one count of attempt to commit first degree robbery in violation of §§ 53a-49 and 53a-134 (a) (3), and one count of attempt to commit second degree robbery in violation of §§ 53a-49 and 53a-135 (a) (1) (A). The defendant pleaded not guilty to those charges, and the case proceeded to trial, following which the jury found the defendant guilty of both counts. The court sentenced the defendant to a total effective term of five years imprisonment, suspended after eighteen months, with five years of probation." Id., 711–12.

The defendant appealed to the Appellate Court, claiming, inter alia, that the trial court improperly denied his motion to suppress because his statements were obtained in violation of his constitutional rights. Specifically, the defendant claimed that (1) the police subjected him to a custodial interrogation without providing him with adequate *Miranda* warnings, (2) the trial court's finding that he was home when the officers arrived was clearly erroneous, and (3) the Appellate Court should exercise its supervisory authority to issue a prophylactic rule requiring that juvenile waiver forms inform a juvenile that his statements may be used against him not only in juvenile proceedings, but also in adult criminal proceedings, should his case be transferred.[5] Id., 705–706. The Appellate Court concluded that the trial court properly determined that the defendant was not in custody when he gave the statements and that the finding that the defendant was home when

the police arrived to question him was not clearly erroneous. See id., 721–22. The court declined to exercise its supervisory authority to issue a prophylactic rule requiring the waiver forms to warn that any statements could be used against a juvenile in adult criminal proceedings, following a transfer. Id., 729. This certified appeal followed. See footnote 2 of this opinion.

The standard of review for a motion to suppress is well established. "A finding of fact will not be disturbed unless it is clearly erroneous in view of the evidence and pleadings in the whole record. . . . [W]hen a question of fact is essential to the outcome of a particular legal determination that implicates a defendant's constitutional rights, [however] and the credibility of witnesses is not the primary issue, our customary deference to the trial court's factual findings is tempered by a scrupulous examination of the record to ascertain that the trial court's factual findings are supported by substantial evidence. . . . [W]here the legal conclusions of the court are challenged, [our review is plenary, and] we must determine whether they are legally and logically correct and whether they find support in the facts set out in the memorandum of decision. . . .

"Notwithstanding our responsibility to examine the record scrupulously, it is well established that we may not substitute our judgment for that of the trial court when it comes to evaluating the credibility of a witness. . . . It is the exclusive province of the trier of fact to weigh conflicting testimony and make determinations of credibility, crediting some, all or none of any given witness' testimony. . . . Questions of whether to believe or to disbelieve a competent witness are beyond our review. As a reviewing court, we may not retry the case or pass on the credibility of witnesses. . . . We must defer to the trier of fact's assessment of the credibility of the witnesses that is made on the basis of its firsthand observation of their conduct, demeanor and attitude." (Internal quotation marks omitted.) *State* v. *Kendrick*, 314 Conn. 212, 223, 100 A.3d 821 (2014).

I

We first address the defendant's claim that the Appellate Court improperly concluded that he was not in custody for purposes of *Miranda*. As a threshold matter, we observe that the trial court's findings as to " 'the historical circumstances surrounding [a] defendant's interrogation [entails] questions of fact . . . .' " *State* v. *Pinder*, 250 Conn. 385, 410, 736 A.2d 857 (1999). Accordingly, and in light of the constitutional implications of the issue and upon our scrupulous examination of the record, those findings will not be disturbed unless they are clearly erroneous. *State* v. *Kendrick*, supra, 314 Conn. 222–23. "The ultimate inquiry as to whether, in light of these factual circumstances, a reasonable person in the defendant's position would believe that

he or she was in police custody of the degree associated with a formal arrest . . . calls for application of the controlling legal standard to the historical facts [and] . . . therefore, presents a . . . question of law . . . over which our review is de novo." (Internal quotation marks omitted.) *State* v. *Mangual*, 311 Conn. 182, 197, 85 A.3d 627 (2014).

"[P]olice officers are not required to administer *Miranda* warnings to everyone whom they question . . . rather, they must provide such warnings only to persons who are subject to custodial interrogation." (Citation omitted; internal quotation marks omitted.) Id., 192. In the present case, it is undisputed that the police were interrogating the defendant. Accordingly, the only question is whether he was in custody. On that issue, the defendant bears the burden of proof. See *State* v. *Pittman*, 209 Conn. 596, 606, 553 A.2d 155 (1989) (defendant bears burden to prove custodial interrogation).

"As used in . . . *Miranda* [and its progeny], custody is a term of art that specifies circumstances that are thought generally to present a serious danger of coercion. . . . In determining whether a person is in custody in this sense . . . the United States Supreme Court has adopted an objective, reasonable person test . . . the initial step [of which] is to ascertain whether, in light of the objective circumstances of the interrogation . . . a reasonable person [would] have felt [that] he or she was not at liberty to terminate the interrogation and [to] leave. . . . Determining whether an individual's freedom of movement [has been] curtailed, however, is simply the first step in the analysis, not the last. Not all restraints on freedom of movement amount to custody for purposes of *Miranda*. [Accordingly, the United States Supreme Court has] decline[d] to accord talismanic power to the freedom-of-movement inquiry . . . and [has] instead asked the additional question [of] whether the relevant environment presents the same inherently coercive pressures as the type of station house questioning at issue in *Miranda*. . . . Of course, the clearest example of custody for purposes of *Miranda* occurs when a suspect has been formally arrested. As *Miranda* makes clear, however, custodial interrogation includes questioning initiated by law enforcement officers after a suspect has been arrested or otherwise deprived of his freedom of action in any significant way. . . . *Miranda* v. *Arizona*, supra, 384 U.S. 444. Thus, not all restrictions on a suspect's freedom of action rise to the level of custody for *Miranda* purposes; in other words, the freedom-of-movement test identifies only a necessary and not a sufficient condition for *Miranda* custody. . . . Rather, the ultimate inquiry is whether a reasonable person in the defendant's position would believe that there was a restraint on [his] freedom of movement of the degree associated with a formal arrest. . . . Any lesser restric-

tion on a person's freedom of action is not significant enough to implicate the core fifth amendment concerns that *Miranda* sought to address.

"With respect to the issue of whether a person in the suspect's position reasonably would have believed that [he] was in police custody to the degree associated with a formal arrest, no definitive list of factors governs [that] determination, which must be based on the circumstances of each case . . . . Because, however, the [court in] *Miranda* . . . expressed concern with protecting defendants against interrogations that take place in a police-dominated atmosphere containing [inherent] pressures [that, by their very nature, tend] to undermine the individual's [ability to make a free and voluntary decision as to whether to speak or remain silent] . . . circumstances relating to those kinds of concerns are highly relevant on the custody issue. . . . In other words, in order to determine how a suspect [reasonably] would have gauge[d] his freedom of movement, courts must examine all of the circumstances surrounding the interrogation. . . . Although this court has not been called on to decide whether the totality of the circumstances surrounding the execution of a search warrant at a suspect's home rendered the atmosphere police-dominated for purposes of *Miranda*, the Appellate Court has addressed that issue . . . and we previously have considered whether a suspect was in custody when he invited the police into his home and willingly agreed to speak to them. . . . A review of these and related cases from this state, as well as federal and sister state cases involving the interrogation of a suspect during a police search of his residence, reveals the following nonexclusive list of factors to be considered in determining whether a suspect was in custody for purposes of *Miranda*: (1) the nature, extent and duration of the questioning; (2) whether the suspect was handcuffed or otherwise physically restrained; (3) whether officers explained that the suspect was free to leave or not under arrest; (4) who initiated the encounter; (5) the location of the interview; (6) the length of the detention; (7) the number of officers in the immediate vicinity of the questioning; (8) whether the officers were armed; (9) whether the officers displayed their weapons or used force of any other kind before or during questioning; and (10) the degree to which the suspect was isolated from friends, family and the public." (Citations omitted; emphasis omitted; footnotes omitted; internal quotation marks omitted.) *State* v. *Mangual*, supra, 311 Conn. 193–97. Because the defendant in the present case is a juvenile, his age is a factor that courts must consider in determining whether he reasonably would have believed that he was in custody at the time of the interrogation. *J. D. B.* v. *North Carolina*, 564 U.S. 261, 264, 131 S. Ct. 2394, 180 L. Ed. 2d 310 (2011).

Our scrupulous review of the record leads us to agree

with the Appellate Court that "no reasonable person in the defendant's position would have believed that he was 'in custody' for purposes of *Miranda*." *State* v. *Castillo*, supra, 165 Conn. App. 716. As the Appellate Court observed, it is significant that "the defendant was not questioned at a police station or other unfamiliar and inherently coercive location, but in the relative comfort and familiarity of his own home,[6] with family present." (Footnote added.) Id., 716–17. Although the court correctly recognized that, under some circumstances, the mere fact that an interrogation takes place in a person's home will not prevent that interrogation from being custodial, it relied on our decision in *Mangual* for the proposition that " 'an encounter with police is generally less likely to be custodial when it occurs in a suspect's home.' " Id., 717, quoting *State* v. *Mangual*, supra, 311 Conn. 206. The facts of the present case, however, are distinguishable from those presented in *Mangual*, in which we concluded that the defendant was in custody when police interrogated her in her home while executing a search warrant. See *State* v. *Mangual*, supra, 212. The Appellate Court explained that, in *Mangual*, "the totality of the circumstances surrounding the execution of the warrant by the police had transformed the defendant's home into the type of police dominated atmosphere that necessitated that the police advise the defendant of her *Miranda* rights prior to questioning her." *State* v. *Castillo*, supra, 717.

We begin by observing that the trial court properly considered the defendant's age in determining whether, in light of the totality of the circumstances, the defendant was in custody during the interrogation. The court noted that, at the time of the interview, the defendant was sixteen years old, and also observed that it was due to his age that Fador did not want to interview the defendant in the absence of his parents. In fact, in the trial court, it was undisputed that the defendant was five weeks short of his seventeenth birthday at the time of the interrogation. Under the facts of the present case, we conclude that the trial court gave sufficient consideration and weight to the defendant's age. The United States Supreme Court has held that, although courts must consider a juvenile's age as one factor in the custody analysis, a child's age will not necessarily be "a determinative, or even a significant, factor in every case." *J. D. B.* v. *North Carolina*, supra, 564 U.S. 277.

There is no question that the Appellate Court also considered the age of the defendant in assessing all of his claims, including the custody analysis. The first factual finding of the trial court that the Appellate Court noted as relevant to its review was: "On March 23, 2012, the defendant was a student at Torrington High School, and was less than one month from his seventeenth birthday." *State* v. *Castillo*, supra, 165 Conn. App. 706. The Appellate Court decision made multiple references to the defendant's age. For example, the court observed

that, "[b]ecause of the defendant's age, Fador would not conduct an interview without a parent present." Id., 707–708. The court also noted that, "on May 10, 2012, the defendant was arrested pursuant to a juvenile arrest warrant . . . ." Id., 710. The Appellate Court scrupulously examined the record and concluded that "no reasonable person *in the defendant's position* would have believed that he was 'in custody' for purposes of *Miranda*." (Emphasis added.) Id., 716. The Appellate Court decision also referenced the defendant's age in its analysis of the voluntariness of his statements by noting that "[t]he defendant was nearly seventeen years old at the time he was questioned, and there was no indication that he was poorly educated or developmentally challenged." Id., 724. We conclude, therefore, that the Appellate Court complied with the holding of *J. D. B.* that courts must consider a juvenile's age as one factor in the custody analysis, and that it is proper in that analysis to consider whether a juvenile is close to the age of majority.[7] See *J. D. B.* v. *North Carolina*, supra, 564 U.S. 277.

The Appellate Court aptly summarized the circumstances that we considered compelling in our custody analysis in *Mangual*. "First, the police had initiated the contact, and were not invited into the apartment by the defendant, but 'entered under the authority of a search warrant, an inherently coercive and intimidating police action.' " Id. We also note that, in *Mangual*, the police encounter was "wholly unexpected" by the defendant. *State* v. *Mangual*, supra, 311 Conn. 199. The Appellate Court additionally observed that, in *Mangual*, this court "considered the action particularly intimidating given that seven armed officers in tactical vests participated in the execution of the warrant. . . . Second, the officers brandished their weapons when they announced themselves and entered the small, four room apartment, actions that the court deemed an occupant reasonably could have associated with the police effecting an arrest. . . . The court found significant that the officers prohibited the defendant from leaving or otherwise moving about the apartment. In such circumstances, it was reasonable for the defendant to perceive such an imposing display of authority as a clear indication that the police intended to assume and maintain full control over her and her daughters. . . . The court considered the relatively large number of officers, many, if not all of whom were present in the living room when the defendant was questioned, to be a third factor supporting a finding of custody, citing several federal Circuit Courts of Appeals for the proposition that the presence of a large number of visibly armed law enforcement officers goes a long way [toward] making the suspect's home a police-dominated atmosphere. . . . Fourth, the police exercised complete control over the defendant and her surroundings before, during and after her questioning. . . . As soon as the officers entered the

apartment, they ordered the defendant to go to the living room, where she was confined to the couch and placed under guard. The court noted that [t]his exercise of total control over the defendant stands in stark contrast to the far more relaxed environment that is a hallmark of interrogations in a suspect's home that have been found to be noncustodial. . . . Finally, the court indicated that the police never explained to the defendant the nature, purpose, or likely duration of her detention." (Citations omitted; internal quotation marks omitted.) *State* v. *Castillo*, supra, 165 Conn. App. 717–18.

We agree with the Appellate Court that the circumstances of the present case stand in stark contrast to those presented in *Mangual*. The encounter, which lasted a total of forty-five minutes, did not have the hallmarks of coercion that we relied on in *Mangual*. Unlike the defendant in *Mangual*, whose encounter with the police in her home was "wholly unexpected"; *State* v. *Mangual*, supra, 311 Conn. 199; the defendant in the present case had been alerted in advance that the police would be coming to the home to question him. That is, on April 10, 2012, Fador informed the defendant that he would be returning to the home to question him about this incident, when his mother was present.

As the Appellate Court further explained, "[a]lthough the police initiated contact with the defendant and his family, the police did not enter the house on their own authority, such as pursuant to a search warrant, but were invited in by Monegro.[8] The police informed Monegro of the purpose for their visit before she allowed them to enter.[9] There were only three officers present, one of whom was acting as a translator.[10] The detectives wore plain clothes, not tactical gear. Although the defendant was asked to come into the living room to speak with the police, he was never threatened with arrest or searched, he was never handcuffed, and the police took no other action, either verbal or physical, to intimidate the defendant or to restrict his movement or to confine him to that particular room. The detectives and Rios each carried sidearms, but they were never brandished at any point, nor did any of the officers threaten the use of force on the defendant or his family. Both Fador and Rios informed Monegro that she could end the interview at any time, and the defendant was told more than once that his presence was voluntary, and that he was free to leave and did not have to answer their questions. He was told this orally before any questions were ever asked, and the same instructions were provided to him in writing as part of the waiver form, which he signed prior to giving his oral statement and written confession. Such instructions were not provided to the defendant in *Mangual*. [*State* v. *Mangual*, supra, 311 Conn. 204–205]; see *State* v. *Edwards*, 299 Conn. 419, 437, 11 A.3d 116 (2011) . . . ('a fact finder

reasonably might find that a reasonable person would feel free to leave when that person was told repeatedly that he could do so' . . .). There is no evidence in the record that the defendant was overly nervous or intimidated during the encounter." (Footnotes added.) *State* v. *Castillo*, supra, 165 Conn. App. 719.

We also note our agreement with the Appellate Court that, "[i]n terms of whether a reasonable person would feel that his freedom of movement was restrained to the degree associated with a formal arrest and, therefore, that he was 'in custody,' the circumstances surrounding the defendant's interview in the present case appear no more coercive or intimidating an atmosphere than was present in other cases in which our Supreme Court determined that a suspect questioned in a residence prior to an arrest was not 'in custody' and, thus, not entitled to *Miranda* [warnings]. See, e.g., *State* v. *Kirby*, 280 Conn. 361, 369–70, 392–94, 396, 908 A.2d 506 (2006) (defendant [was] not 'in custody' for *Miranda* purposes although five police officers arrived at his home at 4:30 a.m. to question him about kidnapping and assault because defendant invited officers into home, defendant knew why police were there, encounter lasted less than fifteen minutes, officers' guns stayed holstered, and defendant [was] not handcuffed until after he admitted to kidnapping); *State* v. *Johnson*, 241 Conn. 702, 714–21, 699 A.2d 57 (1997) (defendant [was] not 'in custody' although confronted by two detectives and uniformed police officer in driveway of father's house prior to consenting to be questioned in kitchen)." *State* v. *Castillo*, supra, 165 Conn. App. 720. In summary, the Appellate Court properly concluded that "the defendant was not 'in custody' at the time he provided his statements to the police and, therefore, was not entitled to *Miranda* warnings." Id., 722.

We are not persuaded by the defendant's arguments that two factors that this court typically has relied on to conclude that a suspect was not in custody support the opposite inference in the present case. First, the defendant suggests that the particular circumstances of the interview transformed his home into a coercive atmosphere. Second, he contends that the presence of his mother during the interview made him feel less free to leave. The defendant therefore contends that both of these factors support the conclusion that he was in custody. We address each of these arguments in turn.

First, the defendant contends that, under the circumstances of the present case, the fact that the questioning took place in his home supports the conclusion that he was in custody. The defendant suggests that the officers should have given him the option of being questioned at the police station if he had preferred. He does not argue that an interview at the station would have been less coercive. Without providing any authority for the proposition, he appears to suggest that, if the police

had offered him the *choice* of a more coercive atmosphere, that may have rendered the interview in the present case less coercive. We reject the defendant's suggestion.

The defendant claims that the particular circumstances of the encounter transformed the living room into a " 'police-dominated atmosphere.' " He places great emphasis on the presence of three officers in the room. We first observe, however, the stark contrast between the number of police officers in the present case as compared to *Mangual*, in which there were seven officers, some of whom wore tactical gear, and some of whom entered the room brandishing weapons. *State* v. *Mangual*, supra, 311 Conn. 186, 199–200. In the present case, there were fewer than one half of the officers who were involved in *Mangual*, and none of them wore tactical gear or brandished weapons. It is also significant that the third officer, Rios, was present specifically for the purpose of translating for Monegro. Another fact that the defendant relies on is that the officers were "within 'arm's length' " of him during the questioning. As we have observed, however, the officers did not in any way restrict the movement of the defendant or others in the apartment. These circumstances differ sharply from those presented in *Mangual*, in which the officers "exercised complete control over the defendant and her surroundings . . . ." *State* v. *Mangual*, supra, 201. Also, as we already have observed, the defendant repeatedly was told that he was free to ask the officers to leave and was free to end the questioning at any time.

Second, the defendant argues that the presence of his mother made the atmosphere more coercive and, therefore, weighs in favor of concluding that he was in custody. He relies on testimony at the suppression hearing that Monegro appeared "angry," "worried," "nervous," and "upset" over the course of the interview and testimony at trial that, at one point during the interview, she "yelled" at the defendant in Spanish. Although we can envision facts under which the presence of a parent would render a police encounter more coercive; see generally H. Farber, "The Role of the Parent/Guardian in Juvenile Custodial Interrogations: Friend or Foe?," 41 Am. Crim. L. Rev. 1277 (2004); the presence of a parent is generally considered to provide greater protection to a juvenile. See, e.g., General Statutes § 46b-137 (c) (conditioning admissibility, in delinquency proceeding, of statement by juvenile on, inter alia, presence of parent). The mere fact that Monegro became upset when she heard the details of the crime of which the defendant was accused, without more, is not sufficient to demonstrate that her presence made the police encounter more coercive.

II

We next address the defendant's claim that the Appel-

late Court improperly declined to adopt a "per se rule requiring that whenever police investigating a felony give *Miranda* warnings to a juvenile, those warnings must include notice that any statement by the juvenile may be used against the juvenile in adult criminal court if the case is transferred there from juvenile court." *State* v. *Castillo*, supra, 165 Conn. App. 729. As we stated at the outset of this opinion, we understand the defendant to be requesting this court to exercise its supervisory authority to adopt the suggested per se rule.[11] The defendant contends that the court should exercise its supervisory authority because, even if we agree with the Appellate Court that the defendant was not in custody and, therefore, that his "*Miranda* rights were never implicated in the present case"; id., 730; an "unknown number" of other juvenile suspects over the years may have been misled about the potential " 'adult' " consequences of giving a statement to the police, and others similarly could be misled in the future.

The defendant's request that this court exercise its supervisory authority focuses on the juvenile waiver form that he signed. The defendant notes that, although the document is expressly titled "JUVENILE WAIVER," the form merely informs the defendant that his statements may be used against him "in a court of law." The form does not expressly state that his waiver would apply not only in juvenile proceedings, but also in adult criminal proceedings. The defendant therefore contends that the phrase "in a court of law" was insufficient to alert him that his statements could be used against him in adult criminal proceedings.[12] We agree with the Appellate Court that, under the facts of the present case, it would be inappropriate to exercise our supervisory authority to adopt the per se rule requested by the defendant.

"It is well settled that [a]ppellate courts possess an inherent supervisory authority over the administration of justice. . . . Supervisory powers are exercised to direct trial courts to adopt judicial procedures that will address matters that are of utmost seriousness, not only for the integrity of a particular trial but also for the perceived fairness of the judicial system as a whole. . . . Under our supervisory authority, we have adopted rules intended to guide the lower courts in the administration of justice in all aspects of the criminal process." (Citation omitted; internal quotation marks omitted.) *State* v. *Elson*, 311 Conn. 726, 764–65, 91 A.3d 62 (2014).

We are mindful, however, that our "[s]upervisory authority is an extraordinary remedy that should be used sparingly . . . [and that] authority . . . is not a form of free-floating justice, untethered to legal principle. . . . Our supervisory powers are not a last bastion of hope for every untenable appeal. . . . Constitutional, statutory and procedural limitations are gener-

ally adequate to protect the rights of the defendant and the integrity of the judicial system. Our supervisory powers are invoked only in the rare circumstance [in which] these traditional protections are inadequate to ensure the fair and just administration of the courts. . . . Overall, the integrity of the judicial system serves as a unifying principle behind the seemingly disparate use of our supervisory powers. . . . Thus, we are more likely to invoke our supervisory powers when there is a pervasive and significant problem . . . or when the conduct or violation at issue is offensive to the sound administration of justice . . . .'' (Citations omitted; internal quotation marks omitted.) *State* v. *Edwards*, 314 Conn. 465, 498–99, 102 A.3d 52 (2014).

In the present case, because the defendant was not in custody at the time of the interrogation, the police were not constitutionally required to provide him with *Miranda* warnings. See *State* v. *Mangual*, supra, 311 Conn. 192. In support of his claim that this court should adopt a per se rule that goes beyond the facts of the present case and beyond what was constitutionally required, the defendant does not offer any evidence that there is a pervasive and significant problem that would justify the invocation of our supervisory authority. Instead, the defendant merely offers broad assertions and speculation. That is, the defendant claims it is possible that ''an unknown number of juvenile suspects . . . may have been misled or deceived about the potential 'adult' consequences of giving a statement to the police.'' He additionally points to the decisions of the United States Supreme Court and this court recognizing limits on the maximum punishments that can be imposed on juveniles on the basis that ''developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds.'' *Graham* v. *Florida*, 560 U.S. 48, 68, 130 S. Ct. 2011, 176 L. Ed. 2d 825 (2010); see also *State* v. *Riley*, 315 Conn. 637, 644, 110 A.2d 1205 (2015) (noting ''the unique aspects of adolescence''), cert. denied, U.S. , 136 S. Ct. 1361, 194 L. Ed. 2d 376 (2016). Finally, he offers the sweeping observation that the question of whether the police should be required to issue such warnings presents ''an important question of public policy . . . .''

Although we agree with the defendant that the hypothetical question he poses implicates an important question of public policy, we decline to invoke our supervisory authority to issue the requested rule where the facts of the defendant's case did not give rise to the issue and where he has not demonstrated that the claimed problem is a pervasive one. Indeed, we observe that at the top of the form that the defendant signed, the heading ''City of Torrington'' appears immediately above what appears to be the city's seal or insignia. On its face, then, the form appears to be unique to the city of Torrington. The defendant's speculation that some

juvenile suspects could be misled amounts to an invitation to this court to exercise its supervisory authority to issue an advisory opinion to address facts that were not presented in the defendant's case. That we will not do.

The judgment of the Appellate Court is affirmed.

In this opinion PALMER, McDONALD, ROBINSON and MULLINS, Js., concurred.

* The listing of justices reflects their seniority status on this court as of the date of oral argument.

[1] Section 53a-135 (a) was amended by No. 12-186, § 1, of the 2012 Public Acts, which made technical changes to the statute that are not relevant to this appeal. In the interest of simplicity, we refer to the current revision of the statute.

[2] We granted the defendant's petition for certification to appeal from the judgment of the Appellate Court, limited to the following three issues: (1) "Did the Appellate Court correctly determine that the defendant was not in custody for *Miranda* v. *Arizona*, [supra, 384 U.S. 478–79] purposes during his in-home interrogation by the police?" (2) "Did the Appellate Court correctly determine that the trial court's factual finding, that the defendant was at home when the police arrived to interrogate him, was not clearly erroneous?" (3) "Did the Appellate Court correctly determine that it was inappropriate or premature for that court to consider the defendant's supervisory claim?" *State* v. *Castillo*, 323 Conn. 903, 150 A.3d 684 (2016).

We need not address the second certified question. At oral argument before this court, the defendant effectively abandoned that claim—that the trial court's finding that the defendant was at home when the police arrived to interrogate him was clearly erroneous. During oral argument before this court, the defendant asserted that an articulation that the trial court had issued subsequent to the grant of certification to appeal had "rendered moot" his challenge to the trial court's factual finding that he was at home when the officers arrived.

Specifically, at the Appellate Court, in support of his claim that the trial court's factual finding was clearly erroneous, the defendant relied on what he characterized as conflicting testimony on the issue of his initial location. Although his mother testified that he was at home, two officers suggested in their testimony that he was not immediately available and had to be contacted and summoned by his family. See *State* v. *Castillo*, supra, 165 Conn. App. 720–21. Following this court's grant of certification to appeal from the judgment of the Appellate Court, the defendant filed a motion for rectification with the trial court, requesting that court to allow additional testimony on the issue of the defendant's location when the police first arrived at his home. The trial court denied the motion for rectification because it concluded that the defendant had not demonstrated that rectification of the record was appropriate.

In response to the motion for rectification, however, the court issued an articulation of the basis for its factual finding that the defendant was in the apartment when the police arrived. The court reviewed the testimony offered at the suppression hearing and clarified that, although the testimony of the two officers suggested that the defendant was not initially present *in the living room*, neither officer was clear regarding the defendant's precise whereabouts. The defendant's mother, by contrast, testified clearly and unequivocally that the defendant was at home at the time that the officers arrived. Put another way, the officers only testified clearly and unequivocally regarding where the defendant was *not* located—in the living room. That testimony, the trial court explained, did not conflict with the mother's testimony regarding where the defendant *was* located—in the apartment. The trial court explained: "In view of the fact that the officers were not unequivocal and specific about the defendant's whereabouts when they arrived at the apartment, the court elected to credit the one witness who was unequivocal and specific about this issue: the defendant's mother."

[3] Fador testified at the suppression hearing that, when the defendant told him that his mother spoke no English, Fador informed the defendant that he would bring a Spanish speaking officer with him when he returned.

[4] The defendant emphasizes that the officers expressly informed him that he could ask them to leave the apartment only after he and his mother already had signed the waiver forms. Therefore, the defendant argues, the

officers' statement that he was free to ask them to leave does not support a finding that he was not in custody. We are not persuaded. Even if we were to conclude that the officers were required to inform the defendant that he was free to ask them to leave before he signed the waiver forms, the defendant's argument fails for two reasons. First, the juvenile waiver form expressly informed the defendant that he had the right to stop answering questions at any time. Second, Fador testified that when the defendant arrived, the officers explained to the defendant and his mother that, if he chose not to sign the waiver forms, "the interview would be stopped."

[5] The defendant also claimed that his statements to the police were not voluntary and that they were inadmissible at trial pursuant to General Statutes (Rev. to 2011) § 46b-137 (c). See *State* v. *Castillo*, supra, 165 Conn. App. 705. The Appellate Court concluded that the defendant's reliance on § 46b-137 (c) lacked merit because, "[d]espite the defendant's arguments to the contrary, § 46b-137 has no bearing on the admissibility of statements offered in adult criminal proceedings. Accordingly, it could not have provided an independent basis for granting the defendant's motion to suppress." Id., 728. Because the defendant did not seek certification as to those two issues, they are not before us in this appeal.

[6] We observe that the dissent refers to the defendant's home as "his mother's home." That phrase suggests that the defendant was merely a visitor in his mother's home. It is undisputed, however, that the apartment was not only his mother's home, but also his home.

[7] This case stands in sharp contrast to the facts presented in *J. D. B.* v. *North Carolina*, supra, 564 U.S. 261. In that case, the defendant was thirteen years old at the time of his interrogation. Id., 265. He was removed from his seventh grade social studies class by a uniformed police officer who had been assigned to work at the middle school that the defendant attended. Id. The defendant was then brought into a closed conference room in the school, where he was questioned by two police officers in the presence of two school administrators, in the absence of any parent or guardian. Id., 265–66. The court recognized that the parties' submissions injected a degree of ambiguity into the issue of whether the defendant had been informed prior to his confession that he was free to leave and not obligated to speak to the officers; the court also noted that the state supreme court had indicated that the trial court's factual findings indicated that the defendant had not been so informed. Id., 267 n.2. Even under those extreme facts, the court merely remanded the case to the state courts for a determination of whether the defendant was in custody, after applying the proper legal analysis. Id.

In the present case, the defendant was almost seventeen years old and was questioned in the presence of his mother, in his home. He was informed that he was free to ask the officers to leave and was informed that he was not obligated to speak to the officers at all. In *J. D. B.*, the court noted that it is proper to consider that a juvenile is close to the age of majority. Id., 277. Under the circumstances of the present case, we conclude that the trial court's and the Appellate Court's custody analyses complied with the holding of *J. D. B.*

[8] We reject the defendant's suggestion that, because the record does not reflect that the officers expressly informed Monegro that she could refuse to let them in to the apartment, she did not "actually" invite them inside.

[9] Although we agree with the Appellate Court that the manner in which the police enter the home is always *relevant* in determining whether, under the totality of the circumstances, an individual would have felt free to terminate the interrogation; see *State* v. *Castillo*, supra, 165 Conn. App. 719; we observe that this fact has only *limited significance* in the present case, as the defendant did not himself invite the police into the home. In particular, his status as a juvenile and the fact that it was his mother who invited the police into the home are relevant to our assignment of minor significance to Monegro's consent to the entry. On the one hand, our law recognizes the unique role that parents play in protecting their children's rights. See, e.g., General Statutes § 46b-137 (c) (conditioning admissibility, in delinquency proceeding, of statement by juvenile on, inter alia, presence of parent). In light of the role that parents play in safeguarding their children's rights, police entry with a parent's consent at least generally renders an encounter less coercive than police entry that is authorized by a warrant. On the other hand, a child's parent is most frequently the person who is the head of the household and is in a position to exercise authority over the child. When the head of the household has consented to the officers' entry, it is reasonable to assign only minimal significance to that fact when determining whether a juvenile would feel free, subsequently, to ask the officers to leave.

[10] As we already have observed, on April 10, 2012, Fador had notified the defendant that when he returned, he would be bringing an officer with him to serve as a translator. See footnote 3 of this opinion.

[11] A narrow and literal interpretation of the certified issue as limited to the question of whether the Appellate Court properly declined to exercise any authority it may have to issue the requested prophylactic rule would yield the bizarre result that if this court agreed with the defendant, it would remand the case to the Appellate Court with direction to exercise such supervisory authority. That narrow reading would constitute an improper abdication of this court's duty and authority over the administration of justice.

[12] At oral argument, the state conceded that there were two errors in the parental consent form that Monegro signed. Specifically, the form (1) represented that the defendant's statements could be used against him "during any questioning," rather than "in a court of law," and (2) improperly included the attestation that "I also know that any statement given can be used *for or* against him . . . in a court of law." In response to this court's statement that the form needed to be revised to correct the errors, the state's attorney represented that she already had notified the proper persons.