

1310:18 her so she can tell it specifically in her own spine
1310:19 tingling words that lie that those police made her
1310:20 say. If they made her say that how did she stick to
1310:21 it so well.

1310:22 This Court knows now what only I wish all
1310:23 the triers of fact of this case could know, what
1310:24 Paula Gray saw that night, how horrifying it was and
1311:01 how tragic it is that her lips are sealed now. For
1311:02 purposes of this motion, your Honor, I'd ask you to
1311:03 deny it.

1311:04 THE COURT: Well, first of all let me say I
1311:05 don't consider the motion to be frivolous in any sense
1311:06 of the word. It was a proper, professional motion
1311:07 that is always and generally made. And I compliment
1311:08 you both on professional ability which you displayed
1311:09 in handling it.

1311:10 I view the evidence as indicating that on
1311:11 the first day at Homewood that the defendant was
1311:12 certainly in a sense of custody. At least she was
1311:13 taken by Houlihan to the station for an investigatory
1311:14 purpose. And the first thing Houlihan did in the
1311:15 Homewood Police Station was to carefully from a
1311:16 printed card give her the standard forms of Miranda
1311:17 Warnings. So, to those matters that transpire
1311:18 originating on the 13th in the Homewood Police Station
1311:19 through the meeting with DiBenedetto, that was a
1311:20 consistent, consecutive interview without interruption,
1311:21 continuous in its form and continuous in its
1311:22 investigatory nature. So, she was certainly adequately
1311:23 and properly advised and warned on those matters.

1311:24 At the point where Paula Gray-- Mrs. Louise
1312:01 Gray enters the picture there's a kind of an overlap
1312:02 as to whether this defendant, Paula Gray, is in a
1312:03 custodial situation. She's certainly not under
1312:04 arrest. So that from the time Mrs. Louise Gray
1312:05 expresses her concern about the fear for the safety
1312:06 of the defendant, in my judgment then her situation
1312:07 with respect to the Sheriff's Department shifts to
1312:08 one where the Sheriff became and so did the People
1312:09 under a duty to take Mrs. Gray's concern in a serious
1312:10 matter and do something about it, which they did.
1312:11 From that time on I find that every act, every
1312:12 statement to and through the Grand Jury proceeding
1312:13 was voluntary, supervised by her guardian, her mother,
1312:14 her legal custodian, her legal representative for

1312:15 purposes of dealing with the law and that those not
1312:16 only were voluntary but they were knowing and under-
1312:17 standingly performed.

1312:18 In terms of what was said in the preliminary
1312:19 hearing, she was represented by Counsel. She was
1312:20 under no obligation to testify.

1312:21 Mr. WESTON: Your Honor, I beg to differ with
1312:22 the Court.

1312:23 THE COURT: She was under no obligation to testify.

1312:24 MR. WESTON: The preliminary hearing she wasn't
1313:01 represented by anybody, your Honor.

1313:02 THE COURT: Well, she had been previously
1313:03 advised concerning Miranda. She can't say she was
1313:04 an untutored person, although I don't know whether
1313:05 your motion reaches the preliminary hearing.

1313:06 MR. WESTON: Oh, yes.

1313:07 THE COURT: It doesn't say so. It terminates
1313:08 with the Grand Jury. But I consider that her
1313:09 testimony before the Grand Jury was voluntary.

1313:10 MR. WESTON: That's the issue.

1313:11 THE COURT: No force, pressure, threats were
1313:12 made on her. No force, threats or prohibited conduct
1313:13 in police procedures in my judgment occurred in the
1313:14 Homewood Police Department. So, I find--

1313:15 MR. WESTON: I just want to advise the Court
1313:16 at no time was she represented by anyone.

1313:17 THE COURT: Well, I don't know. She apparently
1313:18 was a state's witness. And she chose to testify.
1313:19 In any event, I find no force was exercised, no promises,
1313:20 no threats, no harm was done. I find her actions
1313:21 insofar as the Miranda was required was satisfied by
1313:22 Officer Houlihan's Miranda.

1313:23 I find from that point on, once the mother
1313:24 prevailed upon her, that she testified and spoke with
1314:01 the various people voluntarily and therefore deny
1314:02 the motion to suppress in the manner and form.

1314:03 And, incidentally, the defendant testified
1314:04 with skill, with knowledge, explicitly, extremely
1314:05 clear, made her points well and all it means to
1314:06 me is whether she's in twelfth grade or whatever
1314:07 her educational level is she's a very intelligent
1314:08 person. That's my judgment and those are my findings
1314:09 and my decision. And I thank you all.

1314:10 MR. ARTHUR: Thank you.

1314:11 THE COURT: So, we'll now adjourn until 10:00

1314:12 o'clock tomorrow morning.
1314:13 (Whereupon the above-
1314:14 entitled cause was con-
1314:15 tinued to Thursday,
1314:16 October 5, 1978.)