

R v Bryce [1992] 4 All ER 567, 95 Cr App Rep 320

‘Interviews without protection of the caution’

Bryce was charged with handling stolen goods and theft. At his trial the evidence against him included a conversation alleged to have taken place when an undercover police officer, using a false name and posing as a potential buyer for a car, telephoned him and agreed to buy a stolen car, worth £23,000, from him for £2,800.

An appointment was arranged for the car to be viewed the following day at a market. Bryce was then asked how long the car had been stolen, and he said *‘two to three dayswe are having two a week away.....would you be interested in any others?’*.

He was then arrested and at the police station made no comments during a recorded interview. However, after the tape recorder was switched off, he said that he would tell the officers what had happened provided it was not recorded. He then stated that he had bought the car for £1,800.

At his trial the judge allowed evidence of the conversations on the telephone and at the market and of the unrecorded interview after the tape recorder had been switched off to go before the jury. He was convicted.

He appealed on the ground that the evidence of the conversations and the unrecorded interview were inadmissible because the questions asked by the undercover police officer were an interview which should have been conducted under caution and in accordance with the Codes of Practice (PACE 1984).

Held: Evidence of the conversations between the undercover police officer, posing as a buyer for the stolen car and Bryce, although not an interview carried out with the intention of using an undercover pose to circumvent the Codes of Practice, the questions went directly to the critical issue of guilty knowledge and the **‘heart of the matter’**. (Lord Taylor Appeal Judge). *‘The questions were not necessary to the undercover operation’*.

The conversation was also hotly disputed and there was no unassailable record of what occurred nor was it strongly corroborated. (see Smurthwaite & Gill 1994)

Similarly, the subsequent interview between police officers and the suspect at the police station which was not recorded at Bryce’s request was also inadmissible because it had clearly been conducted in breach of para 10.5 (PACE), in that after a break in questioning the interviewing officer had to ensure that the person being questioned was aware that he remained under caution.

If there was any doubt the caution ought to be given again in full when the interview resumed. Without a fresh caution the appellant might well have believed that what was not recorded could not be given in evidence.

Since the conversations and interviews with the police, both undercover and in uniform, formed such a major part of the prosecution case, the wrongful admission of evidence of those conversations and interviews rendered the appellant's conviction unsafe and unsatisfactory. The appeal was allowed and the conviction quashed.

*The interpretation and comments made within this document are not to be considered as legal advice.
Reference should always be made to the original case.*