

In *Commonwealth v. Cartright* (November 2017) the Supreme Judicial Court of Massachusetts upheld the lower court's decision to admit the defendant's confession that he had killed his mother, finding no merit in the defendant's claim that the confession was coerced. In their opinion the Supreme Court found "minimization" and "maximization" to be acceptable interrogation techniques. From the court's opinion:

The key evidence at the hearing on the motion to suppress was an audio-video recording of the defendant's statement to police. In addition, there was testimony by the police officers who conducted the interview, concerning their interviewing techniques, and by other officers explaining the course of the investigation.... [that during the interrogation] Condon told the defendant that it was "obvious to us that you were involved with your mom and her disappearance," and said that his mother had been found dead. After reciting some of the evidence tending to inculpate the defendant, Condon noted, "there's not a question of who was involved in killing your mom." The officers then began to emphasize their certainty as to the defendant's guilt. They also proffered reasons why he might have killed the victim without being "a bad guy," including mistake, intoxication, or the possibility that he had been provoked by mistreatment from his mother or his aunt. The officers promised to inform the prosecutor if the defendant was cooperative. The officers acknowledged at trial that they had been trained in techniques known as "maximization" -- i.e., overstating their certainty of the defendant's guilt -- and "minimization" -- i.e., diminishing the severity of the crime and implying the possibility of leniency.*****

In addition to these tactics, police suggested that the defendant and his family would find peace if he told them "the truth." One of the officers said that the defendant's recent trouble sleeping, and his nightmares, stemmed from his guilt, and encouraged him to confess, to stop the guilt from "eat[ing] away" at him. They also encouraged him to confess to provide closure for his brothers. Dana told the defendant, "if you don't come forward and be a man and tell us the truth, [Noah] is going to grow up not knowing [what happened], and he's going to have nightmares, and he's going to have trouble sleeping." Dana also said that the defendant had "the power to relieve the burden" on his brothers "by getting [them] closure, so that they can get on with their lives." In addition, Dana repeatedly suggested that the victim could not "rest in peace" in the "afterlife" unless "the truth is out." Dana told the defendant he believed that he loved his mother, and encouraged him to confess to calm her restless soul, calling it "the last thing you can do for her." Shortly thereafter the defendant gave a detailed confession.

... the defendant argues that his confession was involuntary because it was obtained through police coercion, and therefore that his motion to suppress on this ground should have been allowed. The defendant maintains that police obtained his confession by overstating the strength of the case against him ("maximization"), minimizing the severity of the offense and impliedly promising leniency ("minimization"), and, above all, appealing to the defendant's religious sensibilities. Having carefully reviewed the audio-video recording, we discern no indication that the defendant's will was overborne. We conclude, as did the motion judge, that the defendant's confession was voluntary, and therefore admissible.

We turn first to the techniques of “maximization” and “minimization,” which the defendant contends contributed to his purportedly involuntary confession. As mentioned, the investigating officers told the defendant that they were certain that he had killed his mother. They suggested, however, that her death might have been an accident, or that, if intentional, the defendant might have been provoked or under the influence of alcohol. The officers also told the defendant that, if he cooperated, they would “speak to the district attorney” and tell the prosecutor of his cooperation.

.... we have not acted to prevent police investigators from suggesting to a suspect being interviewed that the investigators are convinced, based on evidence, of the defendant's guilt.... Nor have we concluded that an interviewing officer's efforts to minimize a suspect's moral culpability, by, for example, suggesting theories of accident or provocation, are inappropriate, or sought to preclude suggestions by the interviewers “broadly that it would be better for a suspect to tell the truth, [and] ... that the person's cooperation would be brought to the attention of [those] involved.”

In this case, even if police expressed an unwarranted level of certainty about the defendant's guilt, their statements fell “far short of an intentional misrepresentation that 'may undermine the defendant's ability to make a free choice.'” ... Indeed, in describing their view of the defendant's guilt, the investigating officers pointed accurately at the evidence arrayed against him.... Similarly, the suggestion by investigating officers that mitigating factors might have led to the killing, and the promise to communicate any cooperation to the district attorney, were within the bounds of acceptable interrogation methods.

In addition to the common interrogation tactics of “maximization” and “minimization,” which we have had repeated occasion to consider, this case also presents a less common scenario: the invocation of religion in an effort to obtain a confession. Over the course of the interview, police mentioned several times that the victim could not “rest in peace” without the closure that would come from telling “the truth.” Dana explicitly said that he was referring to the victim's soul, which was “restless” in the “afterlife.”

The parties do not cite any published Massachusetts case dealing with this situation, nor are we aware of any. A review of the law in other jurisdictions suggests that, while such questioning should be approached with caution, in the circumstances here it did not render the defendant's statement involuntary. In general, courts condemn “the tactic of exploiting a suspect's [specific] religious anxieties,” but will not order suppression where the commentary on religion is limited and not “calculated to exploit a particular psychological vulnerability of the defendant.”

Finally, we note that nothing about the defendant's personal characteristics made him particularly vulnerable to coercive tactics. Our review of the audio-video recording indicates that the defendant was alert and responsive, and that he spoke fluently in English. Although he is an immigrant, he had lived in the United States since childhood.

In sum, the defendant's will was not overborne, and the judge correctly determined that his confession was voluntary.

**** The emphasis of the Reid Technique is to create an environment that makes it easier for a subject to tell the truth. An essential part of this is to suggest face-saving excuses for the subject's crime which include projecting blame away from the subject onto such elements as financial pressure, the victim's behavior, an accomplice, emotions, or alcohol.

There are two types of acceptable minimization that can occur during theme development:

- minimizing the moral seriousness of the behavior
- minimizing the psychological consequences of the behavior

We teach never to minimize the legal consequences of the behavior.