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Daniel H. Carter, et. al, Plaintiff-Appellant,

v.

County of Alameda, Defendant-Appellee.

No. 25CA4154.

Supreme Court of San Andreas.

January 23, 2026.

Interlocutory Appeal from the District Court Alameda County District Court Case No. 24CR9485 Honorable Angela Carrillo, Judge.

Attorneys for Plaintiff-Appellant: Bethany J. Stanford, Stanford Law PLLC Los Santos, San Andreas.

Attorneys for Defendant-Appellee: Mark R. Kimbro Pleasanton, San Andreas.

En Banc.

JUSTICE MCDOWELL delivered the Opinion of the Court, in which CHIEF JUSTICE MORGAN, JUSTICE CORTEZ, JUSTICE BENNETT, and JUSTICE MIDDLETON joined. JUSTICE HERR delivered the Dissenting Opinion in which JUSTICE SPRINGER joined.

OPINION OF THE COURT

MCDOWELL, Justice.

¶1 The question before the Court is whether Article II, Section 5 of the San Andreas Constitution permits the State to use a suspect's silence during custodial questioning as substantive evidence of guilt when the suspect has not expressly invoked the right to remain silent. We conclude that it does not. The privilege against self-incrimination embodied in Article II, Section 5 prohibits the State from treating silence under custodial interrogation as evidence of guilt, regardless of whether the individual affirmatively invoked that right.

¶2 Article II, Section 5 provides that no person shall be compelled in any criminal case to be a witness against themselves. This guarantee reflects a foundational judgment about the proper limits of governmental power in the criminal process. It embodies the principle that the State must establish guilt through evidence it independently gathers, rather than by

compelling, pressuring, or manipulating the accused into contributing to their own conviction. The privilege is not merely a rule governing courtroom testimony. It is a substantive constitutional restraint that applies wherever the coercive authority of the State threatens to convert silence into incrimination.

¶3 The constitutional prohibition against compelled self-incrimination is grounded in an understanding of power. When the State acts through its police, prosecutors, and courts, it brings to bear an authority vastly exceeding that of the individual. Custodial interrogation represents one of the clearest manifestations of that imbalance. When a person is taken into custody, isolated from ordinary social supports, and subjected to questioning by agents of the State, the pressures exerted are neither theoretical nor minimal. The Constitution responds to this reality by protecting the individual's right not to speak and by forbidding the State from transforming silence into proof of guilt.

¶4 Silence during custodial interrogation cannot be treated as an admission without undermining the very purpose of Article II, Section 5. Silence in custody does not occur in a neutral environment. It occurs in the shadow of authority, restraint, and potential consequence. To allow the State to characterize that silence as incriminating is to permit the State to benefit from the very coercive conditions the Constitution seeks to restrain.

¶5 The State argues that constitutional protection attaches only when a suspect expressly invokes the right to remain silent, and that silence absent invocation may therefore be used as substantive evidence of guilt. This argument misconceives the nature of the constitutional privilege. The right against self-incrimination does not spring into existence upon invocation. It exists independently and continuously once custodial interrogation begins. Invocation serves an important procedural function, but it does not define the scope of the right itself.

¶6 To condition constitutional protection on formal invocation would invert the relationship between the individual and the State. It would require suspects, often under stress and lacking legal sophistication, to affirmatively safeguard their rights at the precise moment when constitutional protections are most necessary. The Constitution does not demand such precision from those subjected to custodial authority. It places the burden on the State to respect constitutional limits, not on the individual to navigate them flawlessly.

¶7 The privilege against self-incrimination is not forfeited by silence. Silence is not waiver. Waiver of a constitutional right requires an intentional and knowing relinquishment of that right. Silence during custodial interrogation, particularly when accompanied by the coercive pressures inherent in custody, cannot be presumed to reflect such an intention. To treat silence as waiver would contradict the fundamental principle that constitutional rights are preserved unless affirmatively surrendered.

¶8 Silence during custodial questioning is inherently ambiguous. It does not communicate guilt, innocence, or intent with any degree of reliability. A suspect may remain silent for

countless reasons unrelated to guilt, including fear, confusion, emotional shock, distrust of law enforcement, cultural norms, language barriers, or an unspoken desire to consult counsel. Silence may reflect restraint rather than evasion, caution rather than consciousness of guilt. The Constitution does not permit the State to resolve this ambiguity in its own favor.

¶9 Allowing the use of custodial silence as substantive evidence of guilt would invite juries to speculate. It would encourage factfinders to assign meaning where none can reliably be discerned and to fill evidentiary gaps with inference rather than proof. Such speculation is inconsistent with the presumption of innocence and the requirement that guilt be established beyond a reasonable doubt through affirmative evidence.

¶10 The use of silence as evidence also operates as an indirect form of compulsion. If silence may be used against a suspect, then silence ceases to be a protected option. The suspect is forced to choose between speaking and risking self-incrimination or remaining silent and risking that silence being portrayed as evidence of guilt. This coerced choice undermines the core guarantee of Article II, Section 5. The Constitution forbids not only direct compulsion to speak, but also indirect methods that pressure individuals to abandon constitutional protections by attaching adverse consequences to their exercise.

¶11 The State contends that prohibiting the use of custodial silence as evidence would unduly burden law enforcement and impede the truth-seeking function of criminal trials. This contention misunderstands the role of constitutional limits. The Constitution frequently restricts the use of evidence that may be probative but was obtained or deployed in a manner inconsistent with fundamental rights. These restrictions are not defects in the system. They are defining features of a constitutional order that values liberty as well as accuracy.

¶12 The State retains ample means of investigating crime and establishing guilt. It may rely on physical evidence, witness testimony, forensic analysis, voluntary statements, and other lawful investigative tools. What it may not do is substitute a suspect's silence for evidence it is constitutionally required to produce through independent means.

¶13 The invocation requirement proposed by the State would also produce arbitrary and inequitable results. Two individuals subjected to identical custodial interrogation could be treated differently based solely on whether one uttered formal words of invocation while the other remained silent without doing so. Constitutional protections cannot depend on such happenstance. Article II, Section 5 must apply uniformly, not selectively, and not only to those who possess the legal knowledge or composure to articulate their rights under pressure.

¶14 The Constitution does not require individuals to speak in order to preserve the right not to speak. Nor does it permit the State to characterize silence as testimony by implication. Silence is not speech. It is not an assertion of fact. It is the absence of expression. Treating

silence as evidence requires the State to supply meaning where none inherently exists, a practice the Constitution forbids in the context of custodial interrogation.

¶15 The privilege against self-incrimination would be rendered hollow if its protection depended on formal invocation. Constitutional rights are not traps for the unwary. They are safeguards designed to operate precisely when individuals are most vulnerable to the exercise of governmental power. The Constitution presumes that rights remain intact unless knowingly and voluntarily waived. Silence under custodial authority does not constitute such a waiver.

¶16 The use of custodial silence as substantive evidence also risks distorting the factfinding process by encouraging juries to overvalue demeanor and underweight evidence. Jurors may be tempted to interpret silence as evasiveness or guilt, despite the many innocent explanations for it. Article II, Section 5 guards against this danger by preventing the State from inviting such inferences.

¶17 The constitutional privilege against self-incrimination reflects a judgment that the dignity of the individual must be preserved even in the face of accusation. It recognizes that silence, in the presence of power, is not wrongdoing. It affirms that the burden of proof rests entirely with the State and that the accused is not required to assist in their own prosecution, either through speech or through silence turned against them.

¶18 Our holding today does not expand the privilege against self-incrimination beyond its constitutional foundation. It restores the privilege to its proper role by preventing its erosion through formalism and inference. It ensures that the right to remain silent remains meaningful rather than illusory.

¶19 We therefore hold that Article II, Section 5 of the San Andreas Constitution prohibits the State from using a suspect’s silence during custodial questioning as substantive evidence of guilt, even when the suspect has not expressly invoked the right to remain silent. Once custodial interrogation begins, silence cannot be treated as an admission, a confession by omission, or proof of consciousness of guilt. The Constitution demands that guilt be established by evidence, not inferred from restraint.

¶20 Silence under custodial authority is not evidence. It is the Constitution at work.

I. Facts and Procedural History

¶21 This case arises from a criminal prosecution in Alameda County and concerns the use of a suspect’s silence during custodial interrogation in the State’s case-in-chief. Daniel Carter became a subject of a law enforcement investigation following a reported residential burglary in a suburban neighborhood within the county. Investigators identified Carter as a potential suspect based on circumstantial evidence obtained during the early stages of the

investigation, including witness statements placing an individual matching Carter's description near the residence on the day of the incident and the recovery of property similar to that reported stolen.

¶22 Law enforcement officers located Carter several days after the burglary and placed him under arrest. Carter was transported to a county detention facility, where he was held in custody for questioning. Prior to the commencement of the interrogation, officers advised Carter of his constitutional rights, including the right to remain silent and the right to counsel. Carter acknowledged that he understood these rights. The interrogation proceeded in an interview room at the facility and was conducted by two investigators.

¶23 During the course of the custodial questioning, Carter responded to certain background questions and provided limited information regarding his whereabouts on the day of the burglary. As the questioning progressed and investigators posed more direct and accusatory inquiries, Carter ceased responding to several questions. He did not verbally assert that he wished to remain silent, nor did he request the presence of an attorney. Instead, Carter remained quiet in response to specific questions, occasionally looking away or sitting silently for extended periods before the investigators moved on to other topics.

¶24 The interrogation concluded without Carter providing a confession or making any explicit inculpatory statements. The investigators documented Carter's responses and his periods of silence in their reports. The State subsequently filed formal charges against Carter, alleging burglary and related offenses under state law. Carter entered a plea of not guilty, and the case proceeded to trial.

¶25 At trial, the prosecution introduced testimony from the investigating officers describing the custodial interrogation. Over objection, the State elicited testimony regarding Carter's failure to respond to certain accusatory questions and argued to the jury that his silence demonstrated consciousness of guilt. The prosecution emphasized that Carter had been advised of his rights and had chosen to answer some questions while remaining silent in response to others. According to the State, this selective silence was voluntary conduct from which the jury could reasonably infer guilt.

¶26 Defense counsel objected to the admission and use of Carter's silence, arguing that silence during custodial interrogation is constitutionally protected under Article II, Section 5 of the San Andreas Constitution and may not be used as substantive evidence of guilt. The defense contended that allowing the jury to consider Carter's silence improperly penalized the exercise of the right against self-incrimination and undermined the presumption of innocence. The trial court overruled the objection, concluding that constitutional protection attaches only when a suspect expressly invokes the right to remain silent and that Carter's failure to do so rendered his silence admissible.

¶27 During closing arguments, the prosecution returned to Carter's silence, urging the jury to consider his failure to deny specific allegations when confronted by investigators. The

defense renewed its objections and argued that silence is inherently ambiguous and constitutionally protected, but the jury was permitted to consider the evidence as presented. The jury returned a verdict of guilty on the charged offenses, and Carter was sentenced accordingly.

¶28 Carter appealed his conviction, challenging the trial court's admission of his custodial silence as evidence of guilt. On appeal, Carter argued that the use of silence during custodial interrogation violated Article II, Section 5 and that the trial court erred by conditioning constitutional protection on express invocation. He maintained that custody itself triggers constitutional safeguards and that allowing silence to be used as evidence coerces suspects into speaking in order to avoid adverse inferences.

¶29 The Court of Appeals affirmed the conviction. The appellate court reasoned that the constitutional privilege against self-incrimination protects suspects from being compelled to speak but does not prohibit the State from introducing evidence of silence when the suspect has not expressly invoked the right to remain silent. The court emphasized that Carter had been advised of his rights, had demonstrated an understanding of those rights, and had chosen not to invoke them. Under those circumstances, the court concluded that Carter's silence constituted voluntary conduct that could be considered by the jury.

¶30 Carter sought further review, arguing that the appellate court's decision conflicted with the text, purpose, and history of Article II, Section 5. He contended that requiring express invocation as a condition of constitutional protection places an unreasonable burden on suspects and permits the State to exploit the coercive nature of custodial interrogation. Carter argued that the decision below created a rule under which silence becomes evidentiary only because a suspect failed to utter particular words, thereby undermining the substantive guarantee against self-incrimination.

¶31 We granted review to resolve whether Article II, Section 5 of the San Andreas Constitution permits the State to use a suspect's silence during custodial interrogation as substantive evidence of guilt when the suspect has not expressly invoked the right to remain silent. The case presents an issue of significant constitutional importance, implicating the scope of the privilege against self-incrimination and the permissible use of custodial conduct in criminal prosecutions.

¶32 Petitioners therefore invoked this Court's original jurisdiction and supervisory authority to resolve the question presented. The case calls upon the Court to delineate the boundaries of executive power in election administration and to determine whether the unilateral invalidation of county certifications, absent express statutory authorization or judicial direction, is consistent with the constitutional structure of the State. The resolution of that question bears directly on the administration of elections statewide and on the preservation of the separation of powers that undergirds the legitimacy of democratic governance in San Andreas.

IV. Conclusion

¶33 For the foregoing reasons, we conclude that the admission and prosecutorial use of Daniel Carter's custodial silence as substantive evidence of guilt violated Article II, Section 5 of the San Andreas Constitution. The constitutional privilege against self-incrimination does not depend upon ritualistic invocation, nor may the State transform an individual's silence under custodial authority into an evidentiary substitute for proof. Because the jury was permitted to consider constitutionally protected silence in reaching its verdict, the error was not harmless and undermined the fundamental fairness of the proceedings.

¶34 Accordingly, the judgment of the Court of Appeals is reversed. Carter's conviction is vacated, and this matter is remanded to the District Court of Alameda County for further proceedings consistent with this opinion, including a new trial at which the State shall not introduce or argue the defendant's custodial silence as evidence of guilt.

¶35 The Constitution requires that criminal convictions rest upon evidence lawfully obtained and fairly presented—not upon inference drawn from the exercise of a protected right. Today's decision reaffirms that the burden of proving guilt remains wholly with the State, and that silence in the face of governmental power remains what the Constitution guarantees it to be: a protected choice, not an admission.