

attorney has communicated with the police for the purpose of representing the defendant, the accused's right to counsel attaches." We reject defendant's argument because the requirements of the Arthur rule were not met here; the police department questioning defendant had not been informed that an attorney represented him or sought to communicate with the police on his behalf.

At the time he committed the murder involved in this case, defendant had another, unrelated case pending in which he had been assigned a lawyer from the Legal Aid Society. After hearing that defendant was wanted in this case, the Legal Aid lawyer faxed letters to the New York State Police and to the Orange County District Attorney, saying that the defendant "hereby exercises his rights to remain silent and to counsel." The lawyer added: "He will be making no statements." The lawyer did not write or speak to either of the two local police departments that arrested and questioned defendant.

On the same day the lawyer's letters were sent, the Monticello Police arrested defendant and told the Newburgh Police of the arrest. Detective Zapata of the Newburgh Police traveled to Monticello and brought defendant back to Newburgh. Defendant waived his Miranda rights and made statements to Zapata before, during and after the Monticello-Newburgh journey. It is undisputed that Zapata knew nothing of the lawyer's communications to the District Attorney and the State Police.

On these facts, the Arthur rule does not apply. A lawyer may not prevent the police from questioning a suspect by communicating only with law enforcement agencies not involved in the investigation (cf. People v Pinzon, 44 NY2d 458, 463 [1978] [calls to police department central switchboard sufficient to put police on notice]). Where a police officer does not know and cannot be charged with knowledge that the suspect has a lawyer, the officer has no obligation to refrain from asking questions.

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Order affirmed, in a memorandum. Chief Judge Kaye and Judges Smith, Ciparick, Rosenblatt, Graffeo, Read and Smith concur.

Decided October 21, 2004