the officers' conversation did not amount to a functional equivalent of questioning and that the evidence was admissible.[366]

A later divided Court applied *Innis* in *Arizona v. Mauro*[367] to hold that a suspect who had requested an attorney was not "interrogated" by bringing instead the suspect's wife, who also was a suspect, to speak with him in police presence. The majority emphasized that the suspect's wife had asked to speak with her husband, the meeting was therefore not a police-initiated ruse designed to elicit a response from the suspect, and in any event the meeting could not be characterized as an attempt by the police to use the coercive nature of confinement to extract a confession that would not be given in an unrestricted environment. The dissent argued that the police had exploited the wife's request to talk with her husband in a custodial setting to create a situation the police knew, or should reasonably have known, was reasonable likely to result in an incriminatory statement.

In *Estelle v. Smith*,[368] the Court held that a court-ordered jailhouse interview by a psychiatrist to determine the defendant's competency to stand trial constituted "interrogation" with respect to testimony on issues guilt and punishment; the psychiatrist's conclusions about the defendant's dangerousness, an issue separate from competency, were inadmissible at the capital sentencing phase of the trial because the defendant had not been given his *Miranda* warnings prior to the interview. That the defendant had been questioned by a psychiatrist designated to conduct a neutral competency examination, rather than by a police officer, was "immaterial," the Court concluded, since the psychiatrist's testimony at the penalty phase changed his role from one of neutrality to that of an adverse agent of the prosecution.[369] Other instances of questioning in less formal contexts in which the issues of custody and interrogation intertwine, *e.g.*, in on-the-street encounters, await explication by the Court.

Third, before a suspect in custody is interrogated, he must be given *full* warnings, or the *equivalent*, of his *rights. Miranda*, of course, required express warnings to be given to an in-custody suspect of his right to remain silent, that anything he said may be used as evidence against him, that he has a right to counsel, and

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[366] 446 U.S. at 302–04. Justices Marshall, Brennan, and Stevens dissented, id. at 305, 307. *See also* Illinois v. Perkins, 496 U.S. 292 (1990) (absence of coercive environment makes *Miranda* inapplicable to jail cell conversation between suspect and police undercover agent).

[367] 481 U.S. 520 (1987).

[368] 451 U.S. 454 (1981).

[369] 451 U.S. at 467.