

On an interstate highway, a police officer encountered a car being driven well below the posted minimum speed limit. The officer stopped the car. After approaching the driver's window, the officer noticed that the driver's eyes were bloodshot and that the driver appeared nervous. The officer asked if the driver had any weapons or drugs in his possession, and the driver informed the officer that he had a handgun in his backseat but that he was licensed to lawfully carry it. The officer immediately asked the driver to exit the car. The driver complied.

The officer asked the driver if he would consent to a search of his car and the driver replied, "Sure." While searching the car, the officer found two pounds of marijuana, a scale, and several plastic baggies underneath the passenger seat. The officer asked, "Does this marijuana and paraphernalia belong to you?" The driver confessed that it did. The officer then handcuffed and arrested the driver for possession of marijuana with intent to distribute.

If the driver moves to suppress his admission about the marijuana and paraphernalia belonging to him, how will the court likely rule on his motion?

- A. Deny the motion, because the driver consented to the officer's search of his car during the traffic stop.
- B. Deny the motion, because the driver was not in custody at the time that he made the incriminating statement to the officer.
- C. Grant the motion, because the driver was effectively placed in custody when he was ordered out of his car by the officer.
- D. Grant the motion, because the officer's question was intended to elicit an incriminating response from the driver.

## Explanation:

A motion to suppress an incriminating statement should be granted if law enforcement failed to provide **Miranda warnings** prior to a **custodial interrogation**. A custodial interrogation occurs when a person is:

**in custody** – placed under formal arrest or so restrained in his/her freedom of movement that a reasonable person would not feel free to terminate the encounter *and*

**subjected to interrogation** – express questions, words, or actions directed at the person that an officer knows or should know are likely to elicit an incriminating response.

Although **traffic stops** restrain freedom of movement, drivers are generally **not in custody** for Miranda purposes because such encounters are typically brief and temporary.

Here, the driver made an incriminating statement when asked whether the marijuana and paraphernalia belonged to him. But since the driver was not in custody during this traffic stop, the officer did not need to administer Miranda warnings. Therefore, the court will likely deny the driver's motion to suppress.

**(Choice A)** The driver's consent to a search of his car pertained to his Fourth Amendment protection against unreasonable searches and seizures—not the admissibility of his statement. The determining factor for the statement's admissibility is whether the driver was subjected to a custodial interrogation.

**(Choice C)** Merely asking a person to step out of the vehicle during a traffic stop does not render the person "in custody" for Miranda purposes.

**(Choice D)** The officer's question to the driver was intended to elicit an incriminating response. However, the driver was not entitled to Miranda warnings because he was not in custody.

## Educational objective:

Miranda warnings must be provided to suspects before they are subjected to custodial interrogations. Since drivers are generally not in custody during traffic stops, Miranda warnings are not needed.

## References

U.S. Const. amend. V (privilege against self-incrimination).

Miranda v. Arizona, 384 U.S. 436, 468–70 (1966) (listing Miranda warnings).

Berkemer v. McCarty, 468 U.S. 420, 440 (1984) (recognizing that a person is not in custody during an investigatory detention).

## Miranda custody requirement

Custody

No custody



Formal  
arrest



Restricted  
movement



Traffic  
stop



Stop and frisk  
(Terry stop)