

A police officer stopped a driver who had run a red light. Upon approaching the car, the officer noticed a strong odor of alcohol and immediately asked whether the driver had been drinking. The driver admitted having had several alcoholic drinks that evening.

The driver, charged with driving while intoxicated, moved to suppress the officer's testimony regarding the driver's statement about his drinking. The driver argued that the officer had elicited the statement without providing the requisite Miranda warnings. The prosecutor has responded that the statement should be allowed in the prosecution's case-in-chief or, at a minimum, should be allowed as impeachment in the event the driver testifies and denies drinking.

How should the court rule regarding the driver's statement admitting his drinking?

- A. The statement should be allowed, because although the driver was in custody, the officer's spontaneous utterance upon smelling alcohol did not rise to the level of interrogation.
- B. The statement should be allowed, because the driver was not in custody for Miranda purposes when the admission was made.
- C. The statement should be suppressed both in the prosecution's case-in-chief and as impeachment evidence, even if the driver testifies.
- D. The statement should be suppressed in the prosecution's case-in-chief, but it may be used as impeachment evidence if the driver testifies.

Explanation:

A defendant's 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* restrained in his/her freedom of movement to such a degree that a reasonable person would not feel free to terminate the encounter and leave *and*

subjected to interrogation – express questions, words, or actions directed at a suspect 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 those police encounters are typically brief.

Here, the officer stopped the driver for a red-light violation (traffic stop). The officer noticed a strong odor of alcohol and immediately asked the driver if he had been drinking (interrogation). However, the officer was not required to give Miranda warnings before doing so because the driver was *not in custody* for Miranda purposes. Therefore, the driver's statement admitting his drinking should be allowed in the prosecution's case-in-chief.

(Choice A) The officer's question about drinking was directed at the driver and reasonably likely to elicit an incriminating response; therefore, it was an interrogation. But since the driver was not in custody, his statement should be admitted.

(Choices C & D) Since the officer was not required to provide Miranda warnings, the prosecution should be allowed to use the driver's admission in its case-in-chief. But even if that admission was suppressed, it could be used as impeachment evidence if the driver later testifies contrary to that admission.

Educational objective:

Miranda warnings protect persons from self-incrimination when they are in custody and subjected to interrogation (custodial interrogations). Since drivers are generally not in custody during traffic stops, Miranda warnings need not be provided before brief police questioning.

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).

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Miranda custody requirement

Custody

No custody



Formal
arrest



Restricted
movement



Traffic
stop



Stop and frisk
(Terry stop)

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