

A grand jury indicted a woman on a charge of arson, and a valid warrant was issued for her arrest. A police officer arrested the woman and informed her of what the warrant stated. However, hoping that the woman might say something incriminating, the officer did not give her Miranda warnings. He placed her in the back seat of his patrol car and was driving her to the police station when she said, "Look, I didn't mean to burn the building; it was an accident. I was just burning some papers in a wastebasket."

At the station, after being given Miranda warnings, the woman stated she wished to remain silent and made no other statements.

At trial, the woman moved to suppress the use of her statement to the police officer as evidence on two grounds: first, that the statement was acquired without giving Miranda warnings, and second, that the police officer had deliberately elicited her incriminating statement after she was indicted.

How should the court respond to the woman's motion to suppress?

- A. Deny the motion.
- B. Grant the motion only on the basis of the first ground stated.
- C. Grant the motion only on the basis of the second ground stated.
- D. Grant the motion on either ground.

### **Explanation:**

A court should suppress any statement taken in violation of a defendant's **Fifth Amendment privilege against self-incrimination**. This privilege is violated when police fail to give a suspect **Miranda warnings** before a custodial interrogation (suspect in custody and subjected to interrogation). **Interrogation** occurs when police use **words or actions** that they know or should know are **reasonably likely to elicit an incriminating response**.

Here, the officer arrested the woman and placed her in his squad car (custody). As the officer was driving, the woman confessed that she accidentally started the fire. And though the officer had hoped that the woman would say something incriminating, he made no affirmative efforts to elicit her confession (no interrogation). Therefore, Miranda warnings were not required, and the court should reject the first ground of the woman's motion to suppress (**Choices B & D**).

A court should also suppress statements taken in violation of a defendant's **Sixth Amendment right to counsel**, which automatically attaches once **judicial proceedings have commenced**—eg, when the defendant is indicted. This right is violated when a defendant is denied access to an attorney during any **critical stage of prosecution**—including police interrogations.

Here, the woman's Sixth Amendment right to counsel attached when she was indicted for arson. But since she was not subjected to an interrogation when she confessed, her statement was not elicited during a critical stage of prosecution. As a result, she was not entitled to the assistance of counsel, and the court should also reject the second ground of her motion (**Choices C & D**).

### **Educational objective:**

Interrogation occurs when police use words or actions that they know or should know are reasonably likely to elicit an incriminating response. Suspects must be Mirandized before a custodial interrogation and have the right to counsel if the interrogation occurs after judicial proceedings have commenced.

### **References**

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

Miranda v. Arizona, 384 U.S. 436, 478 (1966) (listing Miranda rights).

Rhode Island v. Innis, 446 U.S. 291, 308 (1980) (defining interrogation).

U.S. Const. amend. VI (right to counsel).

Kuhlmann v. Wilson, 477 U.S. 436, 459 (1986) (explaining deliberate elicitation).

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### Applicability of Fifth and Sixth Amendments

