



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. CARLOS ANDRES MACIEL
CV-15-0346-PR**

PARTIES AND COUNSEL:

Petitioner: Carlos Andres Maciel

Respondent: The State of Arizona

FACTS:

On April 10, 2013, a motorist observed Maciel, a homeless man, seated next to a vacant building with a broken window. The motorist noticed that the board that previously covered the broken window had been removed and, aware of prior break-ins at the building, called the police. An officer was dispatched to the scene of a possible burglary.

Upon arrival, and after speaking with the motorist, the officer approached Maciel, who was still seated a few feet from the broken window, obtained his identification, and conducted a pat-down search for weapons. Finding no weapons on, or outstanding warrants for, Maciel, the officer asked him “what he was doing” and if he knew “how the board got removed from the window.”

Maciel replied that he was just sitting down and denied any knowledge of the board being removed from the window. The officer asked Maciel to sit in his patrol vehicle until another officer arrived at the scene, and Maciel did so without being escorted there. A few minutes later, when a second officer arrived, Maciel was asked to sit on the curb next to the building while the second officer stood nearby. Maciel complied.

The pastor of a church on the adjoining property arrived and told the officers that the board had been in place three days earlier. The first officer then asked the pastor if he would be willing to pursue a complaint against Maciel if the officer found out that Maciel was the individual who had removed the board. The pastor said yes. After receiving that answer, the officer again asked Maciel about the window. Without further prompting, Maciel confessed by admitting to removing the board the day before and entering the building to look for money. He stated that another male told him to go inside but that he alone had entered the building. Maciel was arrested and placed in the patrol vehicle.

Two officers then entered the building to search for evidence of a burglary or persons possibly still in the building. Shoe prints inside did not match the shoes worn by Maciel at the time of his arrest, and there was no other evidence of entry. The pastor, who had remained there, was unable to identify anything missing or stolen.

The first officer then returned to the patrol vehicle, advised Maciel of his *Miranda* rights and again asked him about going into the building. Maciel again reported that he removed the board and entered the building. Maciel stated he pulled the board off “by hand” and, when he was advised the shoe prints inside did not match his shoes, Maciel stated “he hadn’t gone in very far.” The investigation lasted approximately one hour.

Maciel was charged with one count of burglary in the third degree. Prior to trial, Maciel filed a motion to suppress his statements on both *Miranda* and voluntariness grounds, citing both the U.S. and Arizona Constitutions.

The trial court denied the motion, determining that Maciel’s pre-*Miranda* statements were not obtained during a custodial interrogation, but rather resulted from permissible “on-the-scene questioning.” The trial court reasoned: “The second questioning [at the curb] had come after [the officer] knew somewhat more about the circumstances, had ‘some questions’ about the truthfulness of Maciel’s initial statements, and was ‘simply following up.’”

The jury found Maciel guilty of burglary. Maciel appealed, challenging the denial of his motion to suppress on *Miranda* grounds. The Court of Appeals affirmed in a split decision, with Judge Peter Swann dissenting. The Majority determined that Maciel was not in custody during the officer’s initial inquiry or while waiting at the curb. Judge Swann, in dissent, would have held that the officers subjected Maciel to custodial interrogation and did not issue *Miranda* warnings until after he had made incriminating statements.

Maciel petitioned for review, and the Arizona Supreme Court granted review to address “the *Miranda* related issues.”

ISSUE:

“Did Maciel’s confinement in a patrol car and curbside detention under guard while officers conducted a burglary investigation constitute ‘custody,’ requiring that he receive the warnings *Miranda v. Arizona*, 384 U.S. 436 (1966), mandates before taking a suspect’s statements?”

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