



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. DAVID JAMES YONKMAN
CR-12-0238-PR**

PARTIES:

Petitioner: The State of Arizona

Respondent: David James Yonkman

FACTS:

C. told her mother, K., that K.'s husband, David Yonkman, had molested C. twice. When questioned at his home, Yonkman invoked his *Miranda* right to counsel. Questioning stopped. Four days later, K. telephoned Detective Rivera, claiming C. had recanted her allegations.

Detective Rivera told K. that Yonkman could "come in and do a polygraph" and talk with him if Yonkman wished, so that Rivera could "have both statements and do an official closure" on the matter. He told K. she did not have to relay that information to Yonkman, who was also not obliged to meet with or contact the detective. Yonkman called Rivera to set a time for an interview, arrived early for it, and admitted in the interview that he had touched C. on her breasts and vagina.

Charged with sexual abuse and sexual conduct with a minor, Yonkman moved to suppress the incriminating statements, arguing the state could not establish he had validly waived his right to counsel after invoking it. *Edwards v. Arizona*, 451 U.S. 477 (1981), says that a suspect in custody who invokes his right to counsel after *Miranda* warnings "is not subject to further interrogation by the authorities until counsel has been made available to him, unless the accused himself initiates further communication, exchanges, or conversations with the police." (Emphasis added)

At trial C. testified about two incidents in which she had woken up to find her pants off, her underwear around her ankles, and Yonkman fondling her breasts and/or her vagina. The state also presented testimony concerning separate incidents in which Yonkman was accused of molesting C.'s two friends during sleepovers. He was convicted after trial by jury of the charges in this case. The court sentenced him to four years in prison for sexual conduct with a minor, followed by lifetime probation for sexual abuse.

The court of appeals held that (1) Detective Rivera's invitation for Yonkman to undergo a polygraph test and to make a statement was improper re-initiation of contact; and (2) evidence of other alleged sexual offenses was admissible; but (3) the evidence supported giving a jury instruction on defendant's acquittal on charges of those other sexual offenses.

The court added that the United States Supreme Court recently extended *Edwards* to breaks in custody of fewer than fourteen days. *Maryland v. Shatzer*, ___ U.S. ___, ___, 130 S.Ct. 1213, 1223 (2010) (holding a fourteen day period "provides plenty of time for the suspect to get reacclimated to his normal life, to consult with friends and counsel, and to shake off any residual coercive effects of

his prior custody.”). Under *Edwards* and *Shatzer*, a suspect who invokes his right to counsel and is released from custody cannot be interrogated again by law enforcement within fourteen days of invoking the right to counsel -- unless the suspect starts the communication. The court of appeals concluded that Yonkman did not start the conversation here, but responded to Detective Rivera’s initiative. It held Rivera’s initiative violated the bright-line rules of *Edwards* and *Shatzer*.

The court of appeals noted that neither the original interrogation of Yonkman at home nor the second interrogation at the police station involved coercive circumstances. But it could not overlook what it called Rivera’s “inducement” by his suggesting the case would be closed and K. could have emotional closure, but only *if* Yonkman completed a polygraph test.

The court reversed the judgment and remanded the case to the trial court.

ISSUE:

To prevent coerced waivers of the *Miranda* [*v. Arizona*, 384 U.S. 436 (1966)] right to counsel and, by extension, the Fifth Amendment privilege against self-incrimination, *Edwards v. Arizona*, 451 U.S. 477 (1981), prohibits law enforcement from resuming custodial interrogation of a suspect who has invoked his right to counsel unless counsel is present or the suspect initiates further discussions about the case. Here, the court of appeals held in a published opinion that the State violated *Edwards* by re-interviewing Appellant despite [the fact] that Appellant voluntarily contacted the police to schedule the interview and what the court acknowledged was an absence of official coercion. Was this holding in error?

DEFINITIONS:

Incriminating statements: What a person says that makes it more likely that the person or someone else did something wrong.

Bright-line rule: A simple, clear rule that dictates the result based on whether the facts fit or do not fit the rule. An example would be the legal drinking age of 21.

Polygraph test: Exam that monitors and graphs a person’s skin and other physical responses while the examiner asks various questions and the person answers them, sometimes called a “lie detector.”

Recant allegations: To take back one’s earlier claims that another person did something wrong.

Remand: Send a case back to a lower court for further proceedings or action.

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