

NOTICE

*Memorandum decisions of this Court do not create legal precedent. See Alaska Appellate Rule 214(d) and Paragraph 7 of the Guidelines for Publication of Court of Appeals Decisions (Court of Appeals Order No. 3). Accordingly, this memorandum decision may not be cited as binding authority for any proposition of law.*

IN THE COURT OF APPEALS OF THE STATE OF ALASKA

CANDACE E. BARGY,

Appellant,

v.

STATE OF ALASKA,

Appellee.

Court of Appeals No. A-11899  
Trial Court No. 3PA-13-1349 CR

MEMORANDUM OPINION

No. 6449 — April 5, 2017

Appeal from the Superior Court, Third Judicial District, Palmer,  
Kari Kristiansen, Judge.

Appearances: Laurence Blakely, Assistant Public Defender, and  
Quinlan Steiner, Public Defender, Anchorage, for the Appellant.  
June Stein, Assistant Attorney General, Office of Criminal  
Appeals, Anchorage, and Craig W. Richards, Attorney General,  
Juneau, for the Appellee.

Before: Mannheimer, Chief Judge, Allard, Judge, and Suddock,  
Superior Court Judge.\*

Judge MANNHEIMER.

On the evening of June 4, 2013, Adam Bargy called 911 to report that his  
wife, Candace Bargy, had just threatened him with a handgun. State Trooper Ryan

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\* Sitting by assignment made pursuant to Article IV, Section 16 of the Alaska  
Constitution and Administrative Rule 24(d).

Anderson arrived at the Bargy residence about 15 minutes later to investigate; he parked at the foot of the driveway.

Adam came down the driveway to meet Trooper Anderson. He told Anderson that Candace was getting into a car, preparing to leave. Anderson asked Adam where the gun was, and Adam replied that Candace had the gun with her in the car.

Anderson started walking up the driveway at the same time that Candace Bargy was backing her car down the driveway. Anderson put his hand up in front of him (as a signal for Bargy to stop), and Bargy stopped the car.

Anderson asked Bargy to get out of the car and to step to the front of the vehicle. He explained that he was asking Bargy to do these things because he understood that she had a firearm with her. As soon as Bargy got out of the car, Anderson asked her where the firearm was. Bargy replied that the gun was in the glove compartment.

About twenty minutes later, after Anderson's dispatcher informed him that Candace Bargy was a convicted felon, Anderson arrested her for third-degree weapons misconduct (being a felon in possession of a concealable firearm).<sup>1</sup> Bargy was convicted of this offense following a bench trial.

The issue presented in this appeal is whether Trooper Anderson violated Bargy's rights under *Miranda v. Arizona*<sup>2</sup> when he asked Bargy where the gun was — *i.e.*, when he asked her about the gun without first administering *Miranda* warnings to her.

Given the facts of this case, we conclude that the initial interaction between Bargy and Trooper Anderson was only an investigative stop (*i.e.*, not full custody), and that Anderson's inquiry about the gun was reasonably related to the circumstances that

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<sup>1</sup> AS 11.61.200(a)(1).

<sup>2</sup> 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).

prompted the stop — both to stabilize the situation and to ensure Anderson’s own safety. *See McCracken v. State*, 914 P.2d 893, 896 (Alaska App. 1996), and *Beagel v. State*, 813 P.2d 699, 705-06 (Alaska App. 1991) (both holding that on-the-scene questions posed to a defendant by police who arrived at the scene of a homicide were not “custodial interrogation” for *Miranda* purposes).

We agree with the superior court that Bargy was not in custody for *Miranda* purposes until later, when Anderson found out that Bargy was a felon and he placed her under arrest for weapons misconduct.

Accordingly, the judgement of the superior court is AFFIRMED.