

## People v. Caro

(2019) 7 Cal.5th 463

### Issues

(1) Did an officer violate the Fourth Amendment by seizing a murder suspect's clothing that had been removed in a hospital by emergency room staff? (2) Was a warrant required to seize evidence obtained from the defendant's person while she underwent surgery? (3) Did the presence of investigators in the operating room, and their taking of photos, constitute an illegal search? (4) Was the defendant "in custody" for *Miranda* purpose when she was later questioned by investigators?

### Facts

In 1999, Socorro Caro shot and killed three of her four young boys in their home near Northridge in Ventura County. She then shot herself in the head but survived. The carnage was discovered shortly thereafter by her husband when he returned home. Caro was airlifted to a local hospital where staff cut off her clothing and left it on a backboard in the emergency room. A short time later, a sheriff's deputy arrived at the ER, saw the bloody clothing and gave it to an evidence tech for processing. While Caro was in surgery, staff removed scrapings from under her fingernails and bullet fragments from her head. They later gave these items to investigators who were in scrubs and present in the operating room. The investigators also took photos of the procedure.

The next day, a Ventura County sheriff's detective interviewed Caro in the ICU. The detective did not *Mirandize* her. During the interview, which occurred on-and-off for almost three hours, the detective asked Caro about a bruise on her foot. She replied that it happened while she was "wrestling with a boy." The detective then *Mirandized* her, and Caro invoked her right to counsel.

Caro's clothing was later subjected to forensic analysis which "provided a wealth of incriminating evidence." This included "high velocity spatter" blood from two of her children, thus indicating that Caro was the shooter, not her husband as she later claimed.

Caro's trial attorney did not file a motion to suppress the physical evidence. Counsel did, however, file a motion to suppress the statements Caro made in the ICU on grounds that they were obtained before she had been *Mirandized*. The trial judge ruled the statements were obtained lawfully. Caro was found guilty and sentenced to death.

### Discussion

On appeal to the California Supreme Court, Caro argued that the physical evidence should have been suppressed because her trial attorney was negligent by failing to file a suppression motion. She also argued that her motion to suppress her statements should have been granted. The court rejected both arguments.

**THE CLOTHING:** Caro claimed that the seizure of her bloody clothing found on the backboard in the emergency room was unlawful because the deputy did not have a warrant. Prosecutors argued that the seizure was lawful under the "plain view" rule which states that officers may seize evidence without a warrant if (1) they had a legal right to be at the location from which they saw the evidence, (2) they had a legal right to

enter the location, and (3), before the officers seized the evidence, they had probable cause to believe it was, in fact, evidence of a crime.<sup>1</sup>

It was apparent that all three requirements were satisfied since the deputy was lawfully present in the emergency room, the clothing was not located in a place in which Caro had a reasonable expectation of privacy and, given the nature of the crime under investigation, the deputy had probable cause to believe the bloody clothing constituted evidence. The court did not, however, rule on these issues because, as noted, Caro's attorney did not file a motion to suppress the evidence, and Caro failed to demonstrate that such a motion would have been granted. (It seems apparent that the seizure was lawful.)

**EVIDENCE OBTAINED DURING SURGERY:** As noted, while Caro was in surgery, staff took scrapings from under her fingernails, and bullet fragments from her head. And a nurse later gave this evidence to investigators. The scrapings were later determined to contain blood from the children, and this was used by prosecutors as additional evidence that Caro was the shooter.

There is not much case law on whether, or to what extent, a suspect who was injured during the commission of a crime has a reasonable expectation of privacy as to clothing removed from her body by hospital staff. Although the court noted that "concerns about incursions on the privacy we maintain in our bodies are heightened during medical procedures," it did not rule on whether the scrapings and photos should have been suppressed. This was because it concluded that the photos would not have affected the jury's verdict since there was other substantial evidence that Caro was near her children when she shot them. (Because it appears that the scrapings were taken for the sole purpose of obtaining evidence pertaining to the murders—not as a routine hospital procedure—the legality of this intrusion is questionable.<sup>2</sup>)

As for the bullet fragments that were removed from Caro's head by doctors, the court ruled that the subsequent seizure by officers did not violate the Fourth Amendment because "the removal of a bullet by medical personnel acting independently of law enforcement directives" does not violate the Fourth Amendment.<sup>3</sup>

**INVESTIGATORS' PRESENCE DURING SURGERY:** Caro also argued that the presence of investigators during the surgery, and their taking of photos, constituted an illegal search. This was a difficult issue because taking photos of a surgical procedure is highly intrusive. But, again, the court did not need to resolve this issue because it concluded that the

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<sup>1</sup> See *Minnesota v. Dickerson* (1993) 508 U.S. 366, 375 ["The rationale of the plain-view doctrine is that if contraband is left in open view and is observed by a police officer from a lawful vantage point, there has been no invasion of a legitimate expectation of privacy and thus no 'search'"]; *Washington v. Chrisman* (1982) 455 U.S. 1, 5-6 ["The 'plain view' exception to the Fourth Amendment warrant requirement permits a law enforcement officer to seize what clearly is incriminating evidence or contraband when it is discovered in a place where the officer has a right to be."].

<sup>2</sup> **NOTE:** One possible, but untested, option would be to seize the scrapings without a warrant due to exigent circumstances, then seek a warrant to analyze them.

<sup>3</sup> See *United States v. Jacobsen* (1984) 466 U.S. 109, 113 ["[The Fourth Amendment] is wholly inapplicable to a search or seizure, even an unreasonable one, effected by a private individual not acting as an agent of the Government or with the participation or knowledge of any governmental official."]; *People v. Wachter* (1976) 58 Cal.App.3d 911, 920 [the exclusionary rule "does not extend to cases where evidence has been seized or obtained by a private citizen unless that citizen was then acting as an agent for the government"].

evidentiary value of the photos was minimal, and their admission would not have affected the jury's verdict.

**CARO'S STATEMENTS TO THE DETECTIVE:** Finally, Caro argued that the statements she gave to the detective in the ICU should have been suppressed because she was "in custody" for *Miranda* purposes. The court began by pointing out that, while "[w]e have not explicitly discussed the custody analysis in a medical setting," and that the detective "tread on perilous ground" when she questioned Caro in ICU without having obtained a waiver. But the court ruled that, assuming that the detective violated *Miranda*, the statements Caro made were harmless because there were cumulative. As the court pointed out, "taking into account the full record of the proceedings, these statements did not have high value in the overall evidentiary calculus." It then concluded that "the jury would not have reached a different result in this case had the court excluded the challenged statements."

Consequently, the court affirmed Caro's conviction and the death sentence. POV

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