

# Recent Case

## U.S. v. Rodriguez

(9<sup>th</sup> Cir. 2008) 518 F.3d 1072

### Issue

Did a suspect invoke his *Miranda* rights when he responded as follows when asked if he was willing to speak with officers: “I’m good for tonight”?

### Facts

A National Park ranger spotted Rodriguez driving erratically in the Lake Mead National Recreation Area near Las Vegas, so he stopped him. When Rodriguez stepped from his pickup truck to take a field sobriety test, the ranger saw a silencer-equipped handgun in the bed of the truck.

After arresting and *Mirandizing* Rodriguez, the ranger asked if he wished to speak to him. Rodriguez responded, “I’m good for tonight.” The ranger interpreted this remark to mean that Rodriguez was willing to talk later, so he waited a “short time” then started questioning him about the weapon. Rodriguez admitted that he owned it, and he was charged with possession of a firearm by a felon and possession of an unlicensed silencer. When his motion to suppress the evidence was denied, he pled guilty.

### Discussion

Rodriguez contended that his statement should have been suppressed because he had effectively invoked his right to remain silent when he said, “I’m good for tonight.” Although the court disagreed, as we will discuss it ruled that his statement should have been suppressed because the ranger failed to obtain a *Miranda* waiver.

**AN INVOCATION?** In *Davis v. United States*, the Supreme Court ruled that a suspect invokes his *Miranda* rights only if said something that clearly and unambiguously demonstrated an intention to do so.<sup>1</sup> Consequently, the court ruled that Rodriguez’s state-

ment—“I’m good for tonight”—was not an invocation because it was unclear whether he meant “I’m good to talk for tonight,” or “No thanks,” or something else altogether.

**A WAIVER?** While *Davis* permits officers to ignore ambiguous “invocations,” it did not change the rule that officers may not interrogate a suspect in custody unless he says he understands his rights and waives them. But according to the ranger’s testimony at the hearing on the motion to suppress, Rodriguez did neither—he merely said, “I’m good for tonight.”

The government responded that, while these words did not constitute an express waiver, an intent to waive can be implied. As we have discussed before, a waiver will ordinarily be implied if, (1) the suspect was correctly advised of his rights, (2) he expressly said that he understood those rights, and (3) he freely responded to questioning.<sup>2</sup>

Not only was Rodriguez not asked if he understood his rights, the court ruled that a waiver cannot be implied if the suspect said something—even something ambiguous—that indicated he might not have intended to waive.<sup>3</sup> And according to the court, Rodriguez’s statement—“I’m good for tonight”—fell into this category.

Thus, the court ruled that Rodriguez had not impliedly waived his rights, and that his statement to the ranger should have been suppressed. POV

<sup>1</sup> *Davis v. United States* (1994) 512 U.S. 452, 459.

<sup>2</sup> See *North Carolina v. Butler* (1979) 441 U.S. 369, 374; *People v. Johnson* (1969) 70 Cal.2d 541, 558; *U.S. v. Labrada-Bustamante* (9<sup>th</sup> Cir. 2005) 428 F.3d 1252, 1262; *U.S. v. Nichols* (6<sup>th</sup> Cir. 2008) \_\_ F.3d \_\_ [2008 WL 123815].

<sup>3</sup> **NOTE:** The court did not address the address the ranger’s failure to determine whether Rodriguez understood his rights.