

# Third District Court of Appeal

State of Florida, July Term, A.D. 2007

Opinion filed November 7, 2007.

Not final until disposition of timely filed motion for rehearing.

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No. 3D05-2933

Lower Tribunal No. 04-32378

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**Phillip Guzman,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Jose M. Rodriguez, Judge.

Paul Morris, for appellant.

Bill McCollum, Attorney General, and Douglas J. Glaid and Laura Moszer, Assistant Attorneys General, for appellee.

Before GREEN, ROTHENBERG, and SALTER, JJ.

ROTHENBERG, Judge.

The defendant, Phillip Guzman, appeals his convictions and sentences for

grand theft of a vehicle and burglary of an unoccupied conveyance, arguing, in part, that the trial court erred by denying his motion to suppress statements he made to a police officer as the statements were made in response to the functional equivalent of interrogation, and therefore, the protections of Miranda<sup>1</sup> were triggered. As the police officer's comment did not amount to the functional equivalent of interrogation, we conclude that the trial court properly denied the defendant's motion to suppress. See generally Rhode Island v. Innis, 446 U.S. 291, 300-01 (1980) (discussing that "Miranda safeguards come into play whenever a person in custody is subjected to either express questioning or its functional equivalent"). Moreover, as the remaining arguments raised by the defendant were not preserved for appellate review and/or lack merit, we affirm the defendant's convictions and sentences.

Affirmed.

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<sup>1</sup> Miranda v. Arizona, 384 U.S. 436 (1966).