

“From *Miranda v. Arizona* to *Howes v. Fields*”

A digest of twenty one (21) significant US Supreme Court decisions interpreting *Miranda* (1968 – 2012)

In *Miranda v. Arizona*, the US Supreme Court rendered one of its most seminal and important opinions regarding the application of the fifth and sixth amendments of the United States Constitution in criminal cases. In a 5-4 decision, the Court held that any statements made by a person in response to interrogation while in police custody will be admissible at trial only if the prosecution can show that the Defendant was informed of the right to consult with an attorney before and during questioning and of the right against self incrimination prior to questioning by the police. Additionally, that the Defendant understood these rights and voluntarily waived same. Chief Justice Earl Warren, a former prosecutor, delivered the majority opinion of the court. Justice Warren emphasized in his ruling that due to the coercive nature of custodial interrogations by police that no statement or confession could be admissible under the Fifth Amendment self incrimination clause and also the Sixth Amendment right to an attorney clause unless a suspect had been made of and adequately informed of their rights, and then subsequently voluntarily waived them. “The person in custody must, prior to interrogation, be clearly informed that he has the right to remain silent, and that anything he says will be used against him in court; he must be clearly informed that he has the right to consult with a lawyer and to have the lawyer with him during interrogation, and that, if he is indigent, a lawyer will be appointed to represent him”.

It is important to remember that the necessity of an adequate Miranda warning is only required if a suspect is “in custody” and “subject to interrogation”. Those two critical elements must both be present before a Miranda warning is mandated.

In 1968, the US Supreme Court had an opportunity to revisit the Miranda decision. In Mathis v. United States, the Defendant/Petitioner, who was in a state prison at the time, was questioned by an IRS investigator about certain tax returns in a “routine tax investigation”. Mathis was given none of the warnings as had recently been articulated under the Miranda decision. During the interrogation Mathis provided documents and oral statements which were introduced in his criminal trial for filing false claims for tax refunds. He was convicted. Writing for the court, Justice Black delivered the opinion overturning the Defendant’s conviction ruling that he was entitled to his Miranda warnings prior to the questioning. The Petitioner was entitled to warnings of his right to be silent and right to counsel. Tax investigations, which can often lead to criminal prosecutions, are not immune from the Miranda warning requirements that they be given to a person in custody, whether or not such custody is connected in any way with the case that is currently under investigation.

A part of the evidence on which the conviction rested consisted of certain documents and oral statements obtained from the Defendant by an IRS agent while the defendant was in prison serving a state sentence. Before eliciting this information, the IRS agent did not advise the Defendant of his Miranda warnings. “There can be no doubt that the documents and oral statements given by the petitioner to the government agent and used against him were strongly incriminating...while it is true that a “routine investigation” may be initiated for the purpose of a civil action rather than a criminal prosecution... (but) tax investigations frequently lead to criminal prosecutions, just as the one here did”. The Court rejected the contention that tax investigations are somehow immune from the Miranda requirements when a person in custody. In Mathis, the government sought to escape application of the Miranda warnings requirement on two basis:

- (1) That these questions were asked as part of a routine tax investigation where no criminal proceedings might even be brought, and
- (2) That the Defendant had not been put in jail by the officer’s questioning him, but was there for a separate offense entirely.

The court was not swayed by these arguments. “To summarize, we hold that when an individual is taken into custody or otherwise deprived of his freedom by the authorities in any significant way and is subjected to questioning, the privilege against the self incrimination is jeopardized”.

In speaking of “custody” the language of the Miranda opinion was clear and unequivocal. The

court went on to emphasize that it could find nothing in the Miranda opinion that would prevent its application from the present case.

The first case to limit the Miranda opinion was rendered in 1971. In Harris v. New York, in a 5-4 vote, the Supreme Court limited the Miranda exclusion to evidence presented in the prosecution's case in chief and permitted the use of answers given without Miranda warnings for impeachment purposes only when a defendant chooses to testify. In Harris, the defendant testified in his own defense and denied that a bag sold to an undercover agent contained heroin. During the initial police interrogation (which occurred without Harris being given his Miranda warnings) Harris had told a different story. At the trial of his case, and strictly offered to impeach his credibility, the prosecution cross examined Harris using the statement he had given during police questioning. On appeal, Harris' attorney argued that because the initial statement given to police was obtained in violation of Miranda warnings, it should have been excluded from the trial entirely. The Supreme Court disagreed. Justice Berger wrote that Miranda was not a license for a defendant to use perjury with no risk of being confronted with prior inconsistent statements.

The Supreme Court clarified what constitutes "interrogation" for the purposes of a Miranda warning in Rhode Island v. Innis. The Court held that the Miranda opinion safeguards are applicable whenever a person in custody is subjected to either expressed questioning or its

“functional equivalent”. For Miranda purposes, “interrogation” refers not only to questioning, but also to any words or actions on the part of a police officer where the police should know that they are reasonably likely to provoke an incriminating response from a suspect.

Innis was arrested and invoked his Miranda warnings for the police car ride back to the station.

The three officers were instructed not to question or intimidate him in any manner. However, on the way to the station, the officers began a discussion among themselves showing concern about a missing weapon from the robbery and referencing “handicapped children” who could possibly

locate the weapon and hurt either themselves or someone else. Upon hearing this Innis

interrupted them and asked the officers to turn around so he could show them where a missing

shotgun was located. At trial, Innis moved to suppress the weapon and his statements. The court

found that under the facts of this case the dialogue between the officers did not rise to the level of

a “functional equivalent” of questioning, affirming the introduction of the evidence of the

weapon and statements at the trial. But the practitioner also needs to be aware of Brewer v.

Williams, a 1979 US Supreme Court case where the Court found that the police’s specific

knowledge of the defendant’s deeply religious beliefs were exploited in such a manner as to

illicit an incriminating statement from him, and these actions were found to be in violation of

Brewer’s rights.

In Michigan v. Mosley, a 1975 opinion, the Court held that a Defendant's invoking of his right to remain silent after an adequate Miranda warning does not preclude the police from subsequently re-mirandizing the defendant and questioning him about a different crime. Mosley was arrested in Michigan and questioned about robberies after properly Mirandized. Mosley invoked his right to remain silent and all interrogation ended. Several hours later, Mosley was re-mirandized and questioned about a different crime entirely, Mosley made incriminating statements in the second interview. In upholding the admission of the statements at trial, the Supreme Court held that Mosley's constitutional rights had been "scrupulously guarded" when he was re-mirandized before the second interview.

Doyle v. Ohio was and is a significant decision for criminal defense practitioners. The opinion was rendered in 1976. In a 6-3 opinion, offered by Justice Lewis F. Powell Jr., the Court held that a defendant's silence in response to being issued a Miranda warning cannot be construed in any manner to imply some type of admission on the defendant's part. A defendant silence in response to a Miranda warning cannot subsequently be used against them in a criminal trial. Critically, it cannot be brought to the jury's attention that a defendant remains silent after receiving Miranda warnings. The court held that this conduct is violative of a defendant's due process under the Fourteenth Amendment. It is reversible error for the prosecution to bring to the jury's attention the fact that the defendant was advised of their Miranda warnings and then did not respond.

Like Doyle, North Carolina v. Butler is a critical case for the criminal defense practitioner. At the initial trial of the case in state court in North Carolina, it was uncontroverted that the defendant was taken by FBI agents in for questioning and was given the FBI “Advise of Rights” form, which the defendant then read. The defendant stated that he told the agents that he both understood his rights and would speak to them but was “not signing any form”. The defendant then made inculpatory statements. At no time did the defendant request an attorney or attempt to terminate the agent’s questioning of him.

On appeal, the North Carolina Supreme Court reversed the convictions and ordered a new trial finding that the statements against the defendant had been admitted in violation of the requirements of the Miranda decision. In reversing the North Carolina Supreme Court and remanding the case for further proceedings, the US Supreme Court held “an express statement that the individual is willing to make a statement and does not want an attorney, followed closely by his statement could constitute a valid waiver. But a valid waiver will not be presumed simply from the silence of the accused after warnings are given, or simply from the fact that a confession was in fact eventually obtained”. “As was unequivocally said in the Miranda decision, mere silence from a defendant is not enough. The courts must presume that a defendant did not waive his rights; the prosecution’s burden is great; but in at least some cases, waiver (of

the defendant's Miranda rights) can clearly be inferred from the actions and words of the person interrogated". Critically, in determining whether or not a valid waiver was obtained or was given by defendant, the particular facts and circumstances surrounding the case, including the background, experience and conduct of the defendant must be considered by the court to arrive at the proper determination.

In Edwards v. Arizona, a 1981 decision, the US Supreme Court held that after a defendant invokes his Fifth Amendment right to counsel that police may not re-initiate any type of custodial interrogation without counsel present or a knowing and intelligent relinquishment of that right from the defendant. A brief statement as to the facts of this case would be as follows: Following Edwards' arrest at his home, he was informed of his Miranda rights at the police station. Edwards stated that he understood his rights and was willing to answer questions; however, when he heard that another suspect had also been arrested for the same crime, Edwards said "I want an attorney before making a deal". All questioning then ceased. The next morning detectives came back to see him. The officers re-mirandized Edwards and he gave a confession. Overruling the Arizona Supreme Court, the US Supreme Court sided with Edwards and held that once he (any defendant) invokes their Fifth Amendment right to counsel then police must cease all custodial interrogation. Any re-interrogation is only allowed once a defendant's counsel has been made available to him. Any statements obtained in violation of this rule are violative of the defendant's Fifth Amendment rights and must be suppressed. Once the right to counsel under the

Fifth Amendment has been invoked by a defendant, a valid waiver of same cannot be shown just by the defendant responding to custodial interrogation despite that Miranda warnings have been read again. The Court went on to endorse its previous ruling in Rhode Island v. Innis regarding the meaning of “interrogation”.

There is an exception to the mandate that a defendant be read their Miranda rights before their answers are admissible into evidence when the officer’s goal and questioning is to ensure that no danger to the public results from further concealment of a weapon or some type of deadly device like a bomb. Statements given in these situations are admissible against the defendant in a criminal trial. There is a “public safety exception” to the requirement that Miranda warnings be read before suspect’s answers can be admitted into evidence in the subsequent criminal trial.

New York v. Quarles (1984).

On August 18, 1983, Francis Connelly sought out a police officer and initiated a conversation about a murder that he (Connelly) had committed. Connelly was twice given his Miranda rights and went on to describe in detail the murder he had committed. Connelly was then taken into custody. Soon thereafter, a Colorado court determined that Mr. Connelly was not mentally competent to stand trial and was given six (6) months of therapy treatment. Both the Colorado trial court and the Colorado Supreme Court suppressed Connelly’s confession due to his diagnosed mental illness. The Supreme Court decided that Mr. Connelly’s confession should not have been suppressed due to one sentence in the Miranda opinion which stated that confessions

may only be suppressed if the accused is “coercively interrogated” by a government agent. Since that did not occur here, there was no violation of the defendant’s constitutional rights and his confession should have been admitted at trial. Quoting from the opinion: “coercive police activity is a necessary predicate defining that a confession is not voluntary within the meaning of the due process clause of the Fourteenth Amendment.... While a defendant’s mental condition may be a “significant” factor in the calculus this does not justify a conclusion that a person’s mental condition should ever dispose of the inquiry into constitutional “voluntariness”. Colorado v. Connelly (1986).

Another significant case for criminal defense practitioners is Duckworth v. Eagan (1989). The Supreme Court held that while Miranda warnings do not have to be given in the exact form as described in the Miranda opinion, they must reasonably convey to a suspect all of his rights under the Miranda case. In this case, the initial warnings given to Eagan were – “that he had a right to remain silent, that anything he said could be used against him in court, that he had the right to speak to an attorney before and during questioning, even if he could not afford to hire one, that he had the right to stop answering questions at any time until he talked to a lawyer, and that the police could not provide him with a lawyer, but one would be appointed if and when you go to court” – sufficient and touched all of the bases required by the Miranda decision. The term “if and when you go to court” did not otherwise nullify an acceptable Miranda warning in the case. Again, Miranda warnings do not have to be given in the exact form and using the same

words as quoted in the Miranda opinion itself, but must reasonably convey all of the same rights to an individual.

In Michael v. Harvey (1990), the Supreme Court revisited the potential use of a defendant's statement taken in violation of their Sixth Amendment right to counsel for impeachment purposes only. Citing both the Edwards v. Arizona and Harris v. New York opinions, the Supreme Court held (in Harvey) that a statement to the police taken in violation of a defendant's Sixth Amendment right to counsel may be used to impeach that defendant's testimony at trial. In Harvey, the defendant gave a statement to an officer after being told by the officer that he did not need to speak with his attorney, "because your lawyer is going to get a copy of your statement anyway". The state conceded that the officer violated earlier Supreme Court precedent which held that once a defendant invokes their Sixth Amendment right to counsel— even if knowing, voluntary and intelligent - is presumed invalid if given in a police initiated discussion, and that any such evidence obtained after the waiver is inadmissible in the prosecution's case and chief. However, in Harvey, the defendant's testimony at trial conflicted with his statement to the police and the court allowed the state to use the statement to impeach his testimony. Again, citing earlier cases, the US Supreme Court agreed and allowed the state to use Harvey's second statement for impeachment purposes only.

A further delineation by the US Supreme Court of the Miranda decision also came in 1990 in the case of Illinois v. Perkins. Briefly, while in jail on suspicion of murder Perkins confessed to an

undercover officer who had been placed in the jail cell in the undercover capacity and posed as being another prisoner. The Court found that the confession was admissible. The Court held that Miranda warnings are not required when the suspect is unaware that he is speaking to a law enforcement officer and gives a voluntary statement. The Fifth Amendment right against self incrimination that requires a Miranda warning is only applicable when the suspect is in a coercive situation where he might feel compelled to incriminate himself. The facts in Perkins could not have counted as an interrogation in the Court's eyes because Perkins did not think he was talking to a police officer.

Another significant opinion for criminal defense practitioners on the "Miranda Rights" front was issued in 1998. The facts of United States v. Garibay are as follows: In 1995 Garibay attempted to drive into the United States across the US- Mexico border. A customs agent asked Garibay, in Spanish, to open the trunk of the vehicle. After detecting a silicon odor from the trunk and noticing a depth discrepancy in the trunk of the vehicle, the trunk was drilled revealing 55 packages of Marijuana. Garibay was arrested and placed in a holding cell. Several hours later customs agents questioned Garibay in English. Garibay responded that he did understand English and subsequently the agents orally read Garibay his Miranda rights in English. Again, Garibay indicated that he understood his rights and made incriminating statements during the interrogation. The US Supreme Court reversed Garibay's conviction and held that his incriminating statements were obtained in violation of his Miranda rights, and the evidence

before the jury was insufficient to support his conviction without the statements. In the body of the opinion the court went through the requirements of a valid waiver of Miranda rights: “a waiver of Miranda rights must be voluntary, knowing and intelligent. A valid waive of Miranda rights depends upon the totality of the circumstances including the background, experience and conduct of the defendant. There is a presumption against a valid waiver from the defendant, and the prosecution bears the burden of proving by preponderance of the evidence that the defendant knowingly and intelligently waived his Miranda rights. The government’s burden to make such a showing is great”. Connelly, Burbine, Heldt and Zerbst. Specifically referring to the trial record which indicated that Garibay’s primary language was Spanish, his poor grades and that he did not graduate from high school and testimony that individuals in the community said “they did not believe that Garibay could speak more than a few words of English”, the US Supreme Court held that in reviewing the tortality of circumstances in which Garibay was interrogated, it was clear that he was not aware of the nature of the constitutional rights which he was waiving, and the district court clearly erred in finding that a knowing and intelligent waiver was made by Garibay of his Miranda Rights.

Dickerson v. United States (2000) was another significant decision in the court’s history of “Miranda”. In 1968 two (2) years after the Miranda opinion, the United States Congress passed a law that purported to overrule the decision. The statue in question, 18 USC § 3501, directed federal trial judges to admit into evidence statements of defendant’s if they were made

voluntarily, and without regard to whether not the defendant had received the Miranda warnings. Although Congress went on to list five (5) factors for the court to consider and whether or not a statement was voluntary, these factors “need not be conclusive on the issue of voluntariness of the confession”. Interestingly, because § 3501 was an act of Congress, it applied only to federal criminal proceedings and criminal proceedings in the district of Columbia. Chief Justice Rehnquist wrote the majority opinion. Did Congress have the authority to pass such a law? The short answer is, no. The Court held that the mandate of the Miranda v. Arizona decision, that a criminal suspect be advised of certain constitutional rights, governs the admissibility at trial of the suspect’s statements, and not the requirement of 18 USC § 3501 that such statements simply be given voluntarily. In other words, the Miranda decision controls admissibility of statements, and not 18 USC § 3501.

In 2009 the Court again took an opportunity to review in detail the adequacy of a Miranda warning given to a suspect in custody, and whether or not the dictates of the Miranda decision had been followed. The case is Florida v. Powell. The Court held that criminal suspects do have a right to have their attorney present during police questioning, and that police are required to inform a suspect of that right as part of the standard Miranda warning. In Powell, police officers told the defendant that he had a right to talk to an attorney before answering any questions and that he had the right to invoke any of his Miranda rights at any time during the interview. The Court held that even though the warning as given in this case did not specifically mention the

right to have an attorney present during questioning (as opposed to the right to speak to the lawyer before questioning), that the warning as given was constitutional because it conveyed to the defendant that he had the right to have an attorney present. In Maryland v. Shatzer the Supreme Court held that police may re-open questioning of a suspect who initially asked for counsel if there had been at least a Fourteen (14) day or more break in custody. Shatzer was an inmate in the Maryland prison system serving time for a child sexual abuse conviction. In 2003 police sought to question Shatzer about allegations that he had sexually abused his son. Shatzer immediately requested an attorney and the interview ended. Shatzer was then returned to the general prison population. Three year later the police opened a new investigation and again sought to question Shatzer. This time Shatzer waived his right to have a lawyer present and made incriminating statements. The issue before the court was “Did Shatzer’s original request for an attorney 3 years prior preclude the statements from the second interview being admissible against him (which were taken without an attorney present)?” Briefly, the court said no and the statements were admissible. Police may re-open questioning of a suspect who has previously requested an attorney if there has been at least a two week break in custody or between the first and second interview. As long as the police properly Mirandize a suspect in this situation prior to the second interview, any statements taken after a valid waiver of the suspect’s Miranda rights will be admissible, even though the suspect may have requested an attorney or exercised his rights during the first interview.

In Berghuis v. Thompkins, a 2010 decision the Court considered the position of a suspect/defendant who understands their right to remain silent, and is fully aware of their right to remain silent, but does not expressly either invoke the right or waive the right. In a 5 – 4 decision the Court held that unless an until a suspect actually states that they are relying on their right to remain silent, their subsequent statements can be used in court and the police can continue to interrogate that person. The mere act of remaining silent is, on its own, insufficient for the court to construe that the suspect has invoked their rights. A suspect's silence during interrogation does not invoke their right to remain silent under the Miranda decision. In order for someone to invoke their rights under the Miranda decision the suspect's communication must be clear and unambiguous, and silence is not enough to construe or imply an invocation of their rights. If an adequate Miranda warning has been given and understood, it will take more than a lengthy period of silence to have invoked their rights. Briefly, a clear and unambiguous invocation of a suspect's right must be given by the suspect to avail themselves of their rights under the Miranda decision.

In the most recent Miranda decision, the court distinguished its prior opinions in Mathis and Shatzer in concluding that prison interrogation is not necessarily a "custodial interrogation" requiring Miranda warnings. In Howes v. Fields, the defendant (Fields) had been taken from his cell to a conference room on a different floor within the prison. He was questioned for between 5 and 7 hours about alleged child sexual abuse. Fields was not handcuffed, although the deputies

guarding him were armed; the door to the conference room was open at times; he was offered snacks and drinks, and several times when Fields had stated that he no longer “wanted to talk to the deputies” he was told that he was free to leave. Critically, he never asked to leave. Based on these facts, the majority concluded that Fields was not “in custody” for Miranda rights purposes and the statements he made were admitted at his trial. The Court explained that whether a person is in custody for Miranda purposes is a determination requiring a court to review all of the circumstances of the questioning and determine whether or not a reasonable person would conclude that they were free to leave. The majority opinion also highlighted that the “shock” typically experienced by a citizen taken off the street and into a police station is not present or experienced when a prisoner is moved from one part of a prison to another.