Case That Could Test Miranda Rule Rejected

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Reversing itself, the Supreme Court yesterday threw out a case that might have led the justices to reexamine the 1966 Miranda vs. Arizona decision which restricted the use of confessions made by arrested suspects.

In a rare action, the court set aside its own order of March 20, which had granted a hearing for next fall in the case of Paul D. Ware of Philadelphia, who confessed to four robberies in each of which the victim was found dead. end insert

City prosecutors had asked the high court to use Ware's case as a vehicle for rolling back the Miranda rules requiring police to warn suspects and obtain their intelligent waiver of their rights before interrogating them.

In the same petition to the Supreme Court, District Attorney Arlen Specter raised another issue—one that attracted more interest among the justices than the merits of Miranda itself.

That issue was whether, assuming the continuing validity of the Miranda rules, they should be applied to Ware's 1968 trial to forbid the use of a 1963 confession.

Prosecutors argued that police could not have known in 1963 that the Supreme Court would require such extensive warnings and the right to counsel in the station house. State courts, however, adhered to the cutoff, set by the Supreme Court applying the new rules to trials commenced after the date of the Miranda decision.

In addition, the Pennsylvania Supreme Court declared its agreement with the retroactivity rule and said, "We affirm it as a matter of state law."

Ware's lawyer, J. Charles Short of Philadelphia, told the court two months ago that the retroactivity issue had been treated as a matter of state law, not federal law, and thus was not a matter of Supreme Court concern. Specter insisted that the state judges had acted under the apparent compulsion of the court's interpretation of the federal Constitution.

In yesterday's brief about-face, the court announced simply that the city's petition for review "is denied, it appearing that the judgment below rests upon an adequate state ground."

With the retroactivity issue settled in Ware's favor, the high court could have gone on to tackle the Miranda rules on their merits. Its failure to do so appeared to indicate that even if the justices were anxious to take a new look at Miranda, they decided that the Ware case did not offer the appropriate setting.

Other cases from lower courts could provide such an opportunity in the future. For example, last month a divided federal court of appeals in New York held that a suspect's rights were not violated when he confessed after FBI agents repeatedly asked him to "reconsider" his refusal to talk.

Turnabouts such as yesterday's are not unprecedented but they are very rare—especially when they are announced within weeks of a decision to grant review. More commonly the court dismisses a case after oral argument discloses that for some reason the evidence in the case does not present the issues in which the justices had been interested.

In other action:

Illegitimate Children

Over the lone dissent of Justice William H. Rehnquist, the court struck down a Louisiana law that denied a workman's illegitimate offspring the same rights to workman's compensation benefits that were afforded his legitimate children.

Justice Lewis F. Powell Jr., who was nominated for the court at the same time as Rehnquist, wrote the majority opinion.

Powell said the state violated the Constitution's equal protection guarantee by discriminating against infants without advancing any legitimate state interest. "Visiting this condemnation on the head of an infant is illogical and unjust."

Justice Harry A. Blackmun concurred in the 8 to 1 ruling on grounds that the worker, Henry Stokes, could not have acknowledged the children born out of wedlock. Rehnquist said the court has erred over many decades in applying the Fourteenth Amendment to areas other than racial discrimination.

Government Contracts

Reversing the U.S. Court of Claims, the court ruled, 5 to 3, that the government does not have the same right as a private contractor to appeal in the courts from an adverse ruling by the Atomic Energy Commission or other administrative agency in a contracts dispute.

Indians

The court refused to hold the federal government accountable for securities fraud perpetrated against a band of Ute Indians. The justices agreed to decide whether New Mexico has the Mescalero Apache tribe. They declined to consider whether Muckleshoot Indians in Washington State were being denied treaty rights to fish.

Obscenity

The court agreed to decide whether a film, later found obscene by a Kentucky jury, was properly seized from a theater manager as an incident to an arrest without a prior judicial hearing.