

SFChronicle  
**High Court Ruling on  
 Voluntary Confessions**

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**Washington**

The Supreme Court ruled yesterday, 4 to 3, that trial courts could admit into evidence the confessions of criminal defendants even if the courts were not convinced "beyond a reasonable doubt" that the confessions were voluntary.

Ruling on a criminal procedure question that divided the justices along liberal-conservative lines, the court said that although guilt must be proved beyond a reasonable doubt, confessions could go to the jury so long as the preponderant evidence ap-

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peared to show that the confessions were given voluntarily.

The decision followed a recent trend, in which two justices who frequently dissented against liberal rulings of the Warren court, Byron R. White and Potter Stewart, joined President Nixon's two nominees, Warren E. Burger and Harry A. Blackmun, in refusing to extend a Warren court ruling that favored criminal defendants.

**DISSENTERS**

The dissenters were the three holdovers from the liberal Warren majority — William J. Brennan Jr., William O. Douglas and Thurgood Marshall.

In 1964, the Supreme Court ruled that before a confession could be presented in court, the judge would first have to hold a special hearing to determine whether it was voluntarily given. If so, it could be presented in court.

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**UNDECIDED**

What standard judges should follow in deciding whether confessions were voluntary, was left undecided. Some lower courts concluded that the judge must be persuaded of the confession's voluntariness beyond a reasonable doubt — the same level of proof that is required before a defendant can be found guilty.

Other judges held that high barriers should not be erected against the submission of evidence of juries, and that

judges could admit confessions if the weight of the evidence indicated that the confessions were voluntary.

**CASE**

The issue was brought to the Supreme Court by Don Richard Lego, who is serving a 25-to-50 year prison term for armed robbery in Illinois, where courts follow the preponderance-of-the-evidence rule.

He contended that policemen beat him with a pistol to make him confess, but they denied it and the judge admitted the confession.

Yesterday, in an opinion by Justice White, the Supreme Court adopted the "preponderance" test. White said that was sufficient to enforce the rule against admitting evidence obtained in violation of the Fifth Amendment's privilege against self-incrimination.