

JUSTICES NARROW A CRIME DECISION BY WARREN COURT

Vote 5-4 to Limit Miranda Ruling, Which Restricted Interrogation by Police

BURGER WRITES OPINION

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Brennan, for Minority, Sees a Blow to Progress Made on Rights of Suspects

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WASHINGTON, Feb. 24—The Supreme Court split along conservative-liberal lines today in a 5-to-4 ruling that limited the effect of *Miranda v. Arizona*, the Warren Court's landmark decision that restricted police interrogation.

Chief Justice Warren E. Burger wrote the opinion for the majority, which held that a statement that was inadmissible as evidence because the suspect had not been warned of his rights might still be used in court to contradict the suspect's testimony.

He was joined by the four other members of the new majority that has coalesced in several recent decisions to narrow liberal criminal law rulings of the Warren court. They were Harry A. Blackmun who, along with Mr. Burger, was appointed by President Nixon, and three Justices who dissented in the *Miranda* decision in 1966—John M. Harlan, Potter Stewart and Byron R. White.

Ruling Challenged

"This goes far toward undoing much of the progress made in conforming police methods to the Constitution," Justice William J. Brennan Jr. charged in the dissenting opinion.

"The Court today tells the police," he said, "that they may freely interrogate an accused incommunicado and without counsel and know that although any statement they obtain in violation of *Miranda*

can't be used on the state's direct case, it may be introduced if the defendant has the temerity to testify in his own defense."

His dissent was joined by Justices William O. Douglas and Thurgood Marshall. Justice Hugo L. Black noted his dissent without giving reasons.

The *Miranda* case becomes the rallying point for critics and admirers of the libertarian Warren Court after the Court had used it to announce a broad ruling that statements

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could not be used in evidence unless the suspects had first been warned of their rights to silence and to free legal counsel.

Conviction Upheld

Today's decision upheld the narcotics conviction in 1966 of a New Rochelle, N. Y., man, Viven Harris. Shortly after his arrest, he gave a statement to the police, who had not warned him of his rights.

At the trial, the prosecutor conceded that the statement was inadmissible as evidence, but after Harris told a different story from the witness stand, he was asked about the various conflicting remarks that he had made in his post-arrest statement.

Chief Justice Burger based his decision that this was proper on a 1954 Supreme Court decision that allowed a prosecutor to use inadmissible evidence obtained in an illegal search to contradict a defendant's testimony.

Likewise, he said, the *Miranda* doctrine "cannot be perverted into a license to use perjury" by shielding a defendant from exposure if he testifies falsely. He added that the benefits of exposing false testimony outweighed "the spe-

culative possibility that impermissible police conduct will be encouraged" by today's holding.

The ruling today appeared to present the strongest indication to date that President Nixon's appointment of Justice Blackmun has created the conservative majority on criminal law issues that Mr. Nixon has set as his goal.

So far during this Court term, Mr. Blackmun has joined with the other members of today's majority to issue narrowing interpretations of liberal Warren Court decisions on double jeopardy, plea bargaining and immunity of grand jury witnesses.

However, the decision today carries additional symbolic significance because it is the first ruling by the full Burger



The New York Times
Chief Justice Burger

Court on the *Miranda* decision, and because the majority of the lower courts had taken the opposite position.

Yale Kamisar, a law professor at Michigan Law School, said in an interview today that while lower courts had generally given the *Miranda* decision restricted interpretations on other points, most of them had ruled that statements obtained in violation of the *Miranda* case could not be used to impeach the defendants' testimony.

He said that today's decision might "spur on a lot of lower courts to cut down on *Miranda*."

Joel Martin Aurnou argued for Harris. James J. Duggan, Administrative Assistant District Attorney of Westchester County, argued for the state,

supported by Miss Sybil H. Landau of The New York County District Attorney's office, who appeared as friend of the court.

In a unanimous decision today, the Supreme Court held that servicemen could be court-martialed for offenses against civilians on military bases. The court had ruled in 1969 in a case involving an off-base crime by a soldier against a civilian that only the civilian courts could try such offenses that were not "service-connected."

Justice Blackmun said in the Court's opinion today that on-base offenses against civilians were service-connected. The decision upheld the 30-year sentence of Isiah Relford, who was convicted by military court of kidnapping and raping two women at Fort Dix, N. J., in 1961.