

High Court To Review 'Miranda'

Washington

The U.S. Supreme Court agreed yesterday to reconsider the Warren Court's most controversial criminal ruling, *Miranda v. Arizona*, which laid down strict guidelines for police questioning of suspects.

Scheduled for full hearing and decision later this year was an appeal from a Michigan prosecutor, who said the *Miranda* rules are "to restrictive" and not required by the U.S. Constitution.

Reversal of the *Miranda* decision, or a sharp limitation on its application, seems likely. Two members of the present court — Justices Byron R. White and Potter Stewart — dissented when it was handed down in 1966, and the four justices appointed since by President Nixon could be expected to side with them.

The case involves Thomas W. Tucker, a Pontiac, Mich., man convicted of raping and

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beating Marion Corey, described in the prosecutor's brief as a "43-year-old virgin."

Police were led to Tucker by his dog, Sugarfoot, who was found inside Miss Corey's house after the rape. The officers followed Sugarfoot to Tucker's residence, where the dog curled up and fell asleep on the front porch.

During their interrogation of Tucker, the officers advised him of his right to remain silent and his right to be represented by an attorney — as required by the *Miranda* ruling.

But they failed to tell him that if he could not afford a lawyer, one would be appointed for him — the third requirement imposed on policemen by *Miranda*.

Tucker, who talked freely with the officers, denied committing the rape and told them he had been with a friend, Robert Henderson, at the time of the crime.

At trial, however, Henderson not only broke Tucker's alibi but testified that he had seen the defendant with scratches and bloodstains on his face and clothes shortly after the rape.

The Michigan courts upheld Tucker's conviction and 20-to-40 year sentence, but federal courts ordered

him released because of the arresting officers' failure to give complete *Miranda* warnings.

Because Tucker was not fully apprised of his rights, the federal courts ruled, his mention of Henderson's name — and Henderson's damaging testimony — were illegal as "fruits of the poisonous tree" and must be suppressed at trial.

Without reversing *Miranda*, the Supreme Court could resolve the issue on a narrower ground also raised by the prosecutor's appeal: Whether the evidence offered by Henderson was so far removed from the illegal interrogation of Tucker that it was no longer tainted and could be used at trial after all.

If the high court wishes to modify *Miranda*, whose workability and constitutionality have been criticized by both policemen and legal scholars, it could return to the pre-*Miranda* standards, where the emphasis was on whether confessions were given "voluntarily."

That was the course proposed by the Michigan prosecutor in yesterday's appeal.

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