

# Voiding of Miranda Ruling at Issue In Case Before High Court Today

## Iowa Attorney General Seeks to Overturn Curb on Confessions in Appeal on Murder

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WASHINGTON, Oct. 3—Every murder is awful, but Pamela Powers's was especially terrible.

It was Christmas Eve 1968. Pamela was 10, and she and her mother were at the Y.M.C.A., watching her brother compete in a wrestling match. Pamela went to find a restroom to wash her hands so she could eat some candy. On her trip to the restroom, she was abducted.

She was sexually molested. Her body was thrown into a culvert along a rural road. Animals nibbled at it.

And her apparent killer, the man convicted of her murder, now has a chance to go free—in part because of what the Attorney General of Iowa, the state where the killing occurred, calls the "technical" requirements of the Supreme Court's 1966 Miranda decision on the admissibility of confessions, the decision that for many is the symbol of the Warren Court.

The Supreme Court will hear arguments on the case of Pamela Powers's alleged killer, Robert Anthony Williams, tomorrow morning on the opening day of its new term.

A large part of the arguments will be devoted to whether the Supreme Court should throw out or strictly limit the Miranda ruling.

It is the most serious challenge to date of the Miranda ruling. The Court, which has clearly taken form as the Burger Court, is not expected to overrule, flatly and explicitly, the Warren Court symbol—both because it is so symbolic, and because the Justices feel it unnecessary.

### Appeal by Iowa Official

But the Burger Court has already trimmed the Miranda decision somewhat, and if the justices reach the Miranda question in this case—it is possible they will not because there are other issues involved—it is considered likely by many court observers that they will further restrict Miranda, perhaps substantially.

Iowa's Attorney General, Richard C. Turner, appealed the case to the Supreme Court after a Federal District Court reversed Mr. Williams's conviction on the ground that his rights under Miranda and other rulings had been violated, and a Federal appeals court affirmed the District Court.

Mr. Turner is asking the Court to overturn Miranda. In his brief, speaking of the rule requiring that illegally obtained confessions be excluded from the trial, he says, "We in the heartland ask this Court to reassess the situation and give a little less emphasis to rights and a little more to duty."

New York, New Jersey and 19 other states, along with the National District Attorneys Association and a citizens group called Americans for Effective Law Enforcement Inc., have joined in a second, friend-of-the-court brief to the Court, contending that the rationale of Miranda is "too restrictive" and "should be abandoned in favor of a more flexible standard."

Louisiana filed its own friend-of-the-court brief contending that the Miranda rule is "inapposite" to the Williams case, but that if the Court finds it is applicable, it should "reconsider" Miranda.

### Thrust of Miranda Decision

The Miranda decision states that the prosecution may not use, as evidence, statements made by a defendant "stemming from custodial interrogation of the defendant," unless the prosecution demonstrates that procedural "safeguards" were followed that were effective enough to assure the defendant his Fifth Amendment protection against being compelled to incriminate himself—in other words, to assure that a confession is voluntary, rather than coerced.

The Court in the Miranda case said that unless other fully effective means were devised, the required safeguards would be giving the defendant what have come to be known as the "Miranda warnings": That he has a right to remain silent; that anything he says may be used against him, and that he has a right to have a lawyer present—and that if he cannot afford a lawyer, one will be appointed for him.

The Court said that while a defendant may waive these rights, if the defendant indicates at any time before or during questioning that he wishes to remain silent, "the interrogation must cease."

Although there is dispute on some aspects, what happened in the Pamela Powers case, according to the findings of the Federal District Court, is this:

Mr. Williams telephoned his attorney in Des Moines, Henry T. McKnight, from Rock Island on Dec. 26. Mr. McKnight advised Mr. Williams to turn himself in to the police at Davenport, nearby. Mr. Williams did so, and was given his Miranda warnings there. He was given the warnings again at his arraignment, by a judge.

Mr. McKnight, meanwhile, had gone to the Des Moines police to discuss the surrender and the transfer of the defendant to Des Moines. In the presence of the police, he had a second phone conversation with Mr. Williams, and advised him not to make statements to the police until he had come back to town and talked to Mr. McKnight. Des Moines police officers, including a detective, Cleatus M. Leaming, agreed with Mr. McKnight there would be no questioning of the defendant until after the lawyer and the defendant had spoken in Des Moines.

Mr. Williams, while in Davenport, also consulted a lawyer there, who advised him not to make any statement until he reached Des Moines. Mr. Leaming and another officer arrived in Davenport, and gave Mr. Williams the Miranda warnings again. According to the District Court, the Davenport lawyer asked to accompany them on the trip to Des Moines but was refused.

### Finding of Federal Courts

In the car, Mr. Williams told the officers several times that he would tell the full story after he had consulted with Mr. McKnight in Des Moines. Mr. Leaming, however, in what he later testified was an attempt to get information before the defendant's meeting with his lawyer, began a discussion—with statements, rather than questions—regarding such matters as the importance of finding the girl's body so she could have a Christian burial. He knew the defendant was a former mental patient and very religious. Eventually, after riding a distance, Mr. Williams directed the officers to the body.

The Federal courts found the discussion to be interrogation, and found Mr. Williams had been denied his right to counsel, and that he had not voluntarily waived his rights.

The state defends the use of the "psychological" system of questioning, or as its brief puts it, of "trickery and deceit," saying: "What is really wrong with tricking a man into telling the truth? That is one of the goals of a good Perry Mason-type cross-examination."

It contends also that the Miranda decision has posed grave problems for law enforcement, saying, "Let's take the handcuffs off the police."

Mr. Williams's brief in response, by Robert Bartels of the University of Iowa College of Law, vigorously disagrees on the impact of Miranda, contending that it has not hamstrung the police. He also contends that the question of overruling Miranda need not be reached at all.