The Burger Court Opinion Writing Database

Rhode Island v. Innis

446 U.S. 291 (1980)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

January 31, 1980

Re: 78-1076 - Rhode Island v. Innis

Dear Potter:

I join.

Regards,

Mr. Justice Stewart

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

February 1, 1980

Re: 78-1076 - Rhode Island v. Innis

Dear Potter:

The "I join" circulated under the above style was intended for another case.

I cannot join the opinion but will join the judgment. My concurring opinion will be around shortly.

Regards,

Mr. Justice Stewart
Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

February 1, 1980

RE: No. 78-1076 - Rhode Island v. Innis

Dear Potter:

My memo of today should strike "plurality" and substitute "Court".

A Freudian slip, no less.

Regards,

Mr. Justice Stewart

Copies to the Conference

To: Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: The Chief Justice

Circulated: FEB 1 1980

Recirculated: _____

No. 78-1076 - Rhode Island v. Innis

MR. CHIEF JUSTICE BURGER, concurring in the judgment.

Since the result is consistent with Miranda v. Arizona, 384 U.S. 436 (1966), I concur in the judgment in this case.

I doubt I would have joined the sweeping generalizations in the Miranda opinion, but its meaning has become reasonably clear and enforcement practices have adjusted to its strictures. I would neither overrule Miranda nor disparage it at this late date. It seems to me very likely that the rationale in Part II, A & B, of the plurality opinion will confuse rather than clarify the tension between this holding and Brewer v. Williams, 430 U.S. 387 (1977), and other cases. It may introduce new elements of uncertainty; it opens to

STYLISTIC CHANGES

To: Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: The Chief Justice

Circulated: _____

Recirculated: MAR 1 7 1980

1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78–1076

State of Rhode Island, Petitioner, v. Thomas J. Innis. | On Writ of Certiorari to the Supreme Court of Rhode Island.

[March —, 1980]

MR. CHIEF JUSTICE BURGER, concurring in the judgment.

Since the result is not inconsistent with *Miranda* v. *Arizona*, 384 U. S. 436 (1966), I concur in the judgment.

The meaning of *Miranda* has become reasonably clear and law enforcement practices have adjusted to its structures; I would neither overrule *Miranda*, disparage it, nor extend it at this late date. I fear, however, that the rationale in Part II, A and B, of the Court's opinion will not clarify the tension between this holding and *Brewer* v. *Williams*, 430 U. S. 387 (1977), and our other cases. It may introduce new elements of uncertainty; under the Court's test, a police officer in the brief time available, apparently must evaluate the suggestibility and susceptibility of an accused. See, *e. g.*, *ante*, at 10, n. 8. Few, if any, police officers are competent to make the kind of evaluation seemingly contemplated except by close and careful observation. Even a psychiatrist asked to express an expert opinion on these aspects of the suspect in custody would very likely employ extensive questioning and observation to make the judgment now charged to the police.

Trial judges have enough difficulty discerning the boundaries and nuances flowing from post-*Miranda* opinions, and we do not clarify that situation today.*

*That we may well be adding to the confusion is suggested by the problem dealt with in *State of California* v. *Braeseke*, 444 U. S. — (1980) (REHNQUIST, J., in chambers) (difficulty of determining whether a defendant has waived his *Miranda* rights), and cases cited therein.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

November 13, 1979

RE: No. 78-1076 Rhode Island v. Innis

Dear John:

You, Thurgood and I are in dissent in the above. Would you care to undertake the dissent?

Sincerely,

Bill

Mr. Justice Stevens

cc: Mr. Justice Marshall

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

Supreme Court of the United States
Washington, D. C. 20543

April 29, 1980

RE: No. 79-1076 Rhode Island v. Innis

Dear Thurgood:

I want to join your dissent but I am troubled that it joins the Court's Parts I and IIA. Could you see your way to dropping that sentence?

Sincerely,

Bill

Mr. Justice Marshall

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 30, 1980

RE: No. 78-1076 Rhode Island v. Innis

Dear Thurgood:

Please join me in your dissent in the above.

Sincerely,

Bill

Mr. Justice Marshall

cc: The Conference

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Stewart

Circulated: 21 DEC 1979

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78–1076

State of Rhode Island, Petitioner, v. Thomas J. Innis. | On Writ of Certiorari to the Supreme Court of Rhode Island.

[January —, 1980]

MR. JUSTICE STEWART delivered the opinion of the Court.

In *Miranda* v. *Arizona*, 384 U. S. 436, 474, the Court held that, once a defendant in custody asks to speak with a lawyer, all interrogation must cease until a lawyer is present. The issue in this case is whether the respondent was "interrogated" in violation of the standards promulgated in the *Miranda* opinion.

I

On the night of January 12, 1975, John Mulvaney, a Providence, R. I., taxicab driver, disappeared after being dispatched to pick up a customer. His body was discovered four days later buried in a shallow grave in Coventry, R. I. He had died from a shotgun blast aimed at the back of his head.

On January 17, 1975, shortly after midnight, the Providence police received a telephone call from Gerald Aubin, also a taxicab driver, who reported that he had just been robbed by a man wielding a sawed-off shotgun. Aubin further reported that he had dropped off his assailant near Rhode Island College in a section of Providence known as Mount Pleasant. While at the Providence police station waiting to give a statement, Aubin noticed a picture of his assailant on a bulletin board. Aubin so informed one of the police officers present. The officer prepared a photo array, and again Aubin identified a picture of the same person. That person was the respond-

SEE PAGES: 2, 3, 5, 8, 9, 12

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Stewart

Circulated: 5 JAN 1980

Recirculated: _____

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78–1076

State of Rhode Island, Petitioner, v. Thomas J. Innis.	On Writ of Certiorari to the Supreme Court of Rhode Island.

[January —, 1980]

MR. JUSTICE STEWART delivered the opinion of the Court.

In *Miranda* v. *Arizona*, 384 U. S. 436, 474, the Court held that, once a defendant in custody asks to speak with a lawyer, all interrogation must cease until a lawyer is present. The issue in this case is whether the respondent was "interrogated" in violation of the standards promulgated in the *Miranda* opinion.

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SEE PAGES: 7, 9-11, 4
footnotes renumbered

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Stewart

Circulated: 7 MAR 1980

Recirculated: _____

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78–1076

State of Rhode Island, Petitioner, *v.* Thomas J. Innis. | On Writ of Certiorari to the Supreme Court of Rhode Island.

[January —, 1980]

MR. JUSTICE STEWART delivered the opinion of the Court.

In *Miranda* v. *Arizona*, 384 U. S. 436, 474, the Court held that, once a defendant in custody asks to speak with a lawyer, all interrogation must cease until a lawyer is present. The issue in this case is whether the respondent was "interrogated" in violation of the standards promulgated in the *Miranda* opinion.

I

On the night of January 12, 1975, John Mulvaney, a Providence, R. I., taxicab driver, disappeared after being dispatched to pick up a customer. His body was discovered four days later buried in a shallow grave in Coventry, R. I. He had died from a shotgun blast aimed at the back of his head.

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SEE PAGES: 9-11

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Stewart

Circulated: 13 MAR 1980

Recirculated: _____

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1076

State of Rhode Island, Petitioner, *v.* Thomas J. Innis. | On Writ of Certiorari to the Supreme Court of Rhode Island.

[January —, 1980]

MR. JUSTICE STEWART delivered the opinion of the Court.

In *Miranda* v. *Arizona*, 384 U. S. 436, 474, the Court held that, once a defendant in custody asks to speak with a lawyer, all interrogation must cease until a lawyer is present. The issue in this case is whether the respondent was "interrogated" in violation of the standards promulgated in the *Miranda* opinion.

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On the night of January 12, 1975, John Mulvaney, a Providence, R. I., taxicab driver, disappeared after being dispatched to pick up a customer. His body was discovered four days later buried in a shallow grave in Coventry, R. I. He had died from a shotgun blast aimed at the back of his head.

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Stylistic changes
2, 6, 8-11

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Stewart

Circulated: _____

Recirculated: 6 MAY 1980

5th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1076

State of Rhode Island, Petitioner, v. Thomas J. Innis. | On Writ of Certiorari to the Supreme Court of Rhode Island.

[January —, 1980]

MR. JUSTICE STEWART delivered the opinion of the Court.

In *Miranda* v. *Arizona*, 384 U. S. 436, 474, the Court held that, once a defendant in custody asks to speak with a lawyer, all interrogation must cease until a lawyer is present. The issue in this case is whether the respondent was "interrogated" in violation of the standards promulgated in the *Miranda* opinion.

I

On the night of January 12, 1975, John Mulvaney, a Providence, R. I., taxicab driver, disappeared after being dispatched to pick up a customer. His body was discovered four days later buried in a shallow grave in Coventry, R. I. He had died from a shotgun blast aimed at the back of his head.

On January 17, 1975, shortly after midnight, the Providence police received a telephone call from Gerald Aubin, also a taxicab driver, who reported that he had just been robbed by a man wielding a sawed-off shotgun. Aubin further reported that he had dropped off his assailant near Rhode Island College in a section of Providence known as Mount Pleasant. While at the Providence police station waiting to give a statement, Aubin noticed a picture of his assailant on a bulletin board. Aubin so informed one of the police officers present. The officer prepared a photo array, and again Aubin identified a picture of the same person. That person was the respond-

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

Presents the "waiver" issue that we have avoided. Join 3

May 12, 1980

MEMORANDUM TO THE CONFERENCE

Re: Case held for 78-1076, Rhode Island v. Innis

In Edwards v. Arizona, No. 79-5269, a case held for Rhode Innis v. Innis, the petitioner seeks review of several questions, one of which is whether the police violated Miranda by interrogating the petitioner outside the presence of counsel after the petitioner had requested the assistance of counsel. The Arizona Supreme Court held that Miranda does not create a per se rule that once a defendant invokes his right to counsel he may not be questioned again by the police until counsel is present. On the facts of this case, the Arizona Supreme Court concluded that the trial court had correctly found that petitioner had knowingly and intelligently waived his right to counsel under Miranda before further interrogation took place.

The petitioner now argues that the Arizona Supreme Court erred in holding that Miranda does not create a per se rule against police interrogation after a defendant has invoked his right to counsel. The petitioner asserts that the courts of appeals are in conflict on this question. Compare United States v. Rodriguez-Gastelum, 569 F.2d 482 (CA9 1978)(en banc)(no per se rule against further interrogation after the Miranda right to counsel has been asserted), with Nash v. Estelle, 597 F.2d 513 (CA5 1979) (en banc) (reaffirming the holding of a CA5 panel in United States v. Priest, 409 F.2d 491, that a suspect may not waive his Miranda right to counsel "when, prior to any questioning, the suspect makes an unequivocal request for an attorney's presence").

The Court has previously declined to consider the Miranda "waiver" issue, but the lower courts are struggling with it a little. I would join 3 - Jon

Since the Court concluded in Innis that the respondent had not been interrogated by the police after he had requested counsel, it was unnecessary to reach any question of waiver. The decision in Innis thus does not control the outcome of Edwards. Accordingly, it is my view that the Miranda question presented in Edwards, along with the remaining questions presented, must be considered quite independently of the decision in Innis.

P.S.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 2, 1980

Re: No. 78-1076 - Rhode Island v. Innis

Dear Potter,

Please place at the foot of your opinion in this case the following:

MR. JUSTICE WHITE, concurring: I would prefer to reverse the judgment for the reasons stated in my dissenting opinion in Brewer v. Williams, 430 U.S. 387; but given that judgment and the Court's opinion in Brewer, I join the opinion of the Court in the present case.

Sincerely yours,

Byron

Mr. Justice Stewart

Copies to the Conference

cmc

28 APR 1980

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78–1076

State of Rhode Island, Petitioner, *v.* Thomas J. Innis. | On Writ of Certiorari to the Supreme Court of Rhode Island.

[May —, 1980]

MR. JUSTICE MARSHALL, concurring in part and dissenting in part.

I am substantially in agreement with the Court's definition of "interrogation" within the meaning of *Miranda* v. *Arizona*, 384 U. S. 436 (1966). In my view, the *Miranda* safeguards apply whenever police conduct is intended or likely to produce a response from a suspect in custody. As I read the Court's opinion, its definition of "interrogation" for *Miranda* purposes is equivalent to my formulation for practical purposes, since it contemplates that "where a police practice is designed to elicit an incriminating response from the accused, it is unlikely that the practice will not also be one which the police should have known was reasonably likely to have that effect." *Ante*, at 10, n. 7. Thus, the Court requires an objective inquiry into the likely effect of police conduct on a typical individual, taking into account any special susceptibility of the suspect to certain kinds of pressure of which the police know or have reason to know. Therefore, I join Parts I and II–A of the opinion for the Court.

I am utterly at a loss, however, to understand how this objective standard as applied to the facts before us can rationally lead to the conclusion that there was no interrogation. Innis was arrested at 4:30 a. m., handcuffed, searched, advised of his rights, and placed in the back seat of a patrol car. Within a short time he had been twice more advised of his rights and driven away in a four door sedan with three police officers. Two officers sat in the front seat and one sat

p. 1

29 APR 1980

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78–1076

State of Rhode Island, Petitioner, *v.* Thomas J. Innis. | On Writ of Certiorari to the Supreme Court of Rhode Island.

[May —, 1980]

MR. JUSTICE MARSHALL, dissenting.

I am substantially in agreement with the Court's definition of "interrogation" within the meaning of *Miranda* v. *Arizona*, 384 U. S. 436 (1966). In my view, the *Miranda* safeguards apply whenever police conduct is intended or likely to produce a response from a suspect in custody. As I read the Court's opinion, its definition of "interrogation" for *Miranda* purposes is equivalent, for practical purposes, to my formulation, since it contemplates that "where a police practice is designed to elicit an incriminating response from the accused, it is unlikely that the practice will not also be one which the police should have known was reasonably likely to have that effect." *Ante*, at 10, n. 7. Thus, the Court requires an objective inquiry into the likely effect of police conduct on a typical individual, taking into account any special susceptibility of the suspect to certain kinds of pressure of which the police know or have reason to know.

I am utterly at a loss, however, to understand how this objective standard as applied to the facts before us can rationally lead to the conclusion that there was no interrogation. Innis was arrested at 4:30 a. m., handcuffed, searched, advised of his rights, and placed in the back seat of a patrol car. Within a short time he had been twice more advised of his rights and driven away in a four door sedan with three police officers. Two officers sat in the front seat and one sat beside Innis in the back seat. Since the car traveled no more than a mile before Innis agreed to point out the location of

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 26, 1979

Re: No. 78-1076 - Rhode Island v. Innis

Dear Potter:

Please join me.

Sincerely,

H.A.B.

Mr. Justice Stewart

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

December 27, 1979

78-1076 Rhode Island v. Innis

Dear Potter:

Please join me.

Sincerely,

Lewis

Mr. Justice Stewart

lfp/ss

cc: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

December 28, 1979

Re: No. 78-1076 - Rhode Island v. Innis

Dear Potter:

Please join me.

Sincerely,

WHR

Mr. Justice Stewart

Copies to the Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

November 13, 1979

Re: 78-1076 - Rhode Island v. Innis

Dear Bill:

I shall be happy to undertake the dissent in this case.

Respectfully,

John

Mr. Justice Brennan

cc: Mr. Justice Marshall

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 3, 1980

Re: 78-1076 - State of Rhode Island v. Innis

Dear Potter:

In due course I shall circulate a dissent.

Respectfully,

JPS

Mr. Justice Stewart

Copies to the Conference

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

From: Mr. Justice Stevens

Circulated: MAR 4 '80

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1076

State of Rhode Island, Petitioner, v. Thomas J. Innis. | On Writ of Certiorari to the Supreme Court of Rhode Island.

[March —, 1980]

MR. JUSTICE STEVENS, dissenting.

An original definition of an old term coupled with an original finding of fact on a cold record makes it possible for this Court to reverse the judgment of the Supreme Court of Rhode Island. That court, on the basis of the facts in the record before it, concluded that members of the Providence, R. I. police force had interrogated respondent, who was clearly in custody at the time, in the absence of counsel after he had requested counsel. In my opinion the state court's conclusion that there was interrogation rests on a proper interpretation of both the facts and the law; thus, its determination that the products of the interrogation were inadmissible at trial should be affirmed.

The undisputed facts can be briefly summarized. Based on information that respondent, armed with a sawed-off shotgun, had just robbed a cab driver in the vicinity of Rhode Island College, a number of Providence police officers began a thorough search of the area in the early morning of January 17, 1975. One of them arrested respondent without any difficulty at about 4:30 a. m. Respondent did not then have the shotgun in his possession and presumably had abandoned it, or hidden it, shortly before he was arrested. Within a few minutes, at least a dozen officers were on the scene. App., at 37. It is fair to infer that an immediate search for the missing weapon was a matter of primary importance.

When a police captain arrived, he repeated the *Miranda* warnings that a patrolman and a sergeant had already given

Changes pp 3-6, 8-9
footnote 6-20 renumbered

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

From: Mr. Justice Stevens

Circulated: _____

2nd DRAFT Recirculated: MAR 11 '80

SUPREME COURT OF THE UNITED STATES

No. 78–1076

State of Rhode Island, Petitioner, v. Thomas J. Innis. | On Writ of Certiorari to the Supreme Court of Rhode Island.

[March —, 1980]

MR. JUSTICE STEVENS, dissenting.

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To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

pp. 3-4, 6-8

footnotes 6-19 renumbered

From: Mr. Justice Stevens

Circulated: _____

Recirculated: MAR 14 '80

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78–1076

State of Rhode Island, Petitioner, *v.* Thomas J. Innis.	On Writ of Certiorari to the Supreme Court of Rhode Island.

[March —, 1980]

MR. JUSTICE STEVENS, dissenting.

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When a police captain arrived, he repeated the *Miranda* warnings that a patrolman and a sergeant had already given