

## ***ROBERT S. MINNICK v. MISSISSIPPI (1990)*** **Interrogations: How Far Can Police Go?**

### **SUMMARY**

By a vote of 6 to 2 the Supreme Court said that once a prisoner asks for a lawyer he cannot subsequently be interrogated unless the lawyer is present. The decision was handed down December 3, 1990 in the case of *Robert S. Minnick v. Mississippi*.

### **BACKGROUND**

In the fall of 1986, Robert Minnick and fellow prisoner James Dyess escaped from a county jail in Mississippi. The following day they broke into a mobile home in search of weapons, but were interrupted in the course of their burglary when the trailer's owners arrived home. Minnick and Dyess shot and killed the owner and his friend. Before they could flee, Minnick and Dyess were confronted by two young women who arrived at the trailer. The women were held at gunpoint and tied up.

Minnick and Dyess fled by truck to New Orleans, where they abandoned their vehicle. The two fugitives went on to Mexico where they got into an argument. Minnick proceeded alone to California, where he was later arrested.

According to Minnick, the day after his arrest two FBI agents interviewed him in his jail cell against his will. FBI records indicate that Minnick was read his "Miranda rights" (informed that he has the right to remain silent and to a lawyer). Although Minnick told the agents that he would not answer many questions, he did describe the jail break and claimed that Dyess threatened and beat him. Minnick did not discuss the trailer incident and told the FBI to come back when he had a lawyer.

After Minnick had consulted several times with his court appointed lawyer, he was visited by a deputy sheriff from Mississippi. Minnick claims that the jailers told him he had no choice but to talk to the sheriff. The deputy sheriff again advised Minnick of his rights, and Minnick began to describe the events at the mobile home. He claimed that Dyess shot the first victim in the back and head and then handed the gun to him and ordered him to shoot the other man. Minnick said that Dyess pointed a shot gun at him until he killed the second man. He also told the sheriff that when the two women arrived at the trailer, he talked Dyess out of raping or beating them. Minnick's lawyer was not present when he gave his statement about the trailer incident.

When it came time for Minnick to be tried, he asked the court not to allow into evidence the statements he made to the FBI agents and the deputy sheriff. The judge excluded the confession Minnick made to the FBI but allowed into evidence the statement he gave the deputy from Mississippi. The judge found that the statement about the trailer incident was given after he had an opportunity to consult with his lawyer. Minnick was convicted of two counts of capital murder and sentenced to death.

On appeal, Minnick alleged that permitting his confession into evidence violated his right to counsel. However, the appeals court found that Minnick's statements to the deputy sheriff were admissible because they were made after he had consulted with his lawyer.

## **ANALYSIS**

In its 1966 landmark Miranda ruling, the Supreme Court said that once a prisoner asks for a lawyer, all interrogation must cease until an attorney is present. Further, the prisoner must be afforded an opportunity to confer with the lawyer and to have him/her present during any future questioning.

One question that immediately arises is what happens if a prisoner asks for and receives a lawyer but chooses to make a confession when the lawyer is not present? In previous cases, the justices said it depends on whether the prisoner confesses without being interrogated or confesses in response to interrogation. The former would be permissible; the latter would not. This means that once a prisoner has indicated his desire to have a lawyer, law enforcement officers may not initiate questioning without that lawyer being present. This prohibition does not just apply to questioning upon arrest. It applies to all stages of the investigation.

This is an important case for several reasons. While the conclusion reached by the justices in the case may make sense, it was a surprise to many and rated as front page news. In recent years, the Supreme Court has increasingly given leeway to law enforcement officers in conducting investigations. As the nation became more and more fed up with the crime and drug problem that seems to have touched the lives of nearly all Americans, courts have tended to turn the other way as long as justice was done in the end. The decision in the Minnick case departs from this trend. It makes a strong statement to law enforcement officers and could impact on thousands of criminal investigations.

Further, it is unusual for the Chief Justice to not be joined by his conservative colleague, Justice Kennedy, in a criminal law case. In this case, not only did Kennedy differ with his Chief, he held the opposition by writing the majority opinion. Although also a conservative, Justice O'Connor did not as frequently side with Rehnquist. The newest member of the court, Justice Souter, did not participate in consideration of the Minnick case.

Chief Justice Rehnquist and Justice Scalia, the sole dissenters in the case, say the majority has bent over backwards to protect the right of the defendant. The dissenters caution that the rule adopted by the court may exclude all confessions by a person in police custody. Minnick was read his Miranda rights twice and consulted with his counsel several times. Was it not then his option to waive his right to have counsel present when he made his confession, Scalia asked?

**EXCERPTS FROM THE MAJORITY OPINION** (By Justice Kennedy)

“We now hold that when counsel is requested, interrogation must cease, and officials may not reinstate interrogation without counsel present, whether or not the accused has consulted with his attorney.”

“A single consultation with an attorney does not remove the suspect from persistent attempts by officials to persuade him to waive his rights, nor from the coercive pressures that accompany custody and that may increase as custody is prolonged.”

**EXCERPTS FROM THE DISSENTING OPINION** (By Justice Scalia)

“Today’s ruling, that the invocation of a right to counsel permanently prevents a police-initiated waiver, makes it largely impossible for the police to urge a prisoner who has initially declined to confess to change his mind — or indeed, even to ask whether he has changed his mind. Many persons in custody will invoke the Miranda right to counsel during the first interrogation, so that the permanent prohibition will attach at once. Those who do not do so will almost certainly request or obtain counsel at arraignment.”