
Miranda v. Arizona (1966)

Vocabulary

self-incrimination Giving testimony or other evidence that involves oneself in a crime and makes one subject to being prosecuted; protected against by the Fifth Amendment.

(writ of) habeas corpus Court order requiring that a person in custody be brought before a court so a judge can determine the legality of keeping him or her in jail.

counsel Legal advice or representation.

Reviewing the Case

In March 1963, Ernesto Miranda, an unemployed drifter who was mentally disturbed, was arrested by police in Phoenix, Arizona. He was charged with the kidnapping and rape of a young woman and was taken to the police station. In the police line-up, the young woman identified him as the person who had kidnapped and raped her. After the identification, Miranda was questioned for two hours by two Phoenix police officers. Both police officers testified in court that they had not told Miranda at any time that he had the right to have an attorney present.

After the questioning, the officers left the interrogation room with a signed confession. Above the confession was a paragraph stating that the suspect understood his rights and that the confession was given voluntarily.

At Miranda's trial, the statement was entered as evidence against him. Police officers testified that Miranda had confessed orally to the crime before giving the written confession. The defendant's attorney tried to have the confession ruled inadmissible, but the judge allowed the jury to hear the statement. Miranda was found guilty of both kidnapping and rape and sentenced to 20 to 30 years on both charges. The sentences were to be served concurrently [at the same time].

Miranda appealed his conviction to the Arizona State Supreme Court. He asked to have his conviction overturned on the grounds that the confession was obtained in

violation of his Fifth Amendment protections against **self-incrimination**. The Fifth Amendment provides: "No person . . . shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property without due process of law. . . ."

The Arizona court, however, upheld the conviction. Miranda's attorney then filed for a writ of **habeas corpus**. The case went to the United States Supreme Court, which agreed to review the records of the case. The Court considered it along with three other cases, all dealing with using the statements of suspects who had been questioned in police custody without their lawyers present.

Two years earlier, in *Escobedo v. Illinois*, the Court had not allowed the admission of harmful evidence gained while interrogating Escobedo without his lawyer. Both the suspect and his lawyer had repeatedly asked that the attorney be present but had been refused until the questioning was finished. The Court had ruled that the evidence was obtained unlawfully, in violation of Escobedo's Sixth Amendment right to counsel. The decision had drawn criticism. Many, including four dissenting justices, had felt it would hamper police and prosecutors. The decision also left many law enforcement officers unsure of their obligations to advise suspects of their rights.

The issue before the Court: If police do not tell a suspect of his or her right to have an attorney present during questioning, can statements obtained be admitted into evidence or do they violate the Fifth Amendment right against self-incrimination?

The Court ruled 5-4 to overturn the decision of the Arizona court. It declared that Miranda's confession was unlawfully obtained and so was not admissible as trial evidence. The case was sent back to the Arizona court, which could retry Miranda but without the evidence from his confession.

Writing for the Court, Chief Justice Earl Warren spelled out some new limits:

The cases before us raise questions which go to the roots of our concepts of American criminal jurisprudence: the restraints society must observe consistent with the Federal Constitution in prosecuting individuals for crime. More specifically, we deal with the admissibility of statements obtained from an individual who is subjected to custodial police interrogation. . . .

The Court set up the following procedural safeguards:

1. Prior to questioning, a suspect must be advised of the right to remain silent.
2. Anything a suspect does say may be used against him or her in a court of law.
3. A suspect has a right to have an attorney present during questioning. The attorney may be of the suspect's choice or one retained by the government.
4. A suspect may waive the right to an attorney if desired, provided he or she does so voluntarily.
5. If a suspect wishes to have an attorney present, all questioning will cease until an attorney is present.
6. A suspect may at any time, even if the right to an attorney has been waived, refuse to answer any further questions without benefit of **counsel**.

Four justices dissented. Justice John Marshall Harlan wrote:

The new rules are not designed to guard against police brutality. . . . Those who use

third-degree tactics and deny them in court are equally able and destined to lie as skillfully about warnings and waivers. Rather, the thrust of the new rules is to negate [destroy] all pressure, to reinforce the nervous or ignorant suspect, and ultimately to discourage any confession at all. . . .

In addition to his fears over the damage the rules would cause in eliminating confessions, Justice Harlan feared that the Court was putting society at risk with what he felt was a "hazardous experimentation."

Not surprisingly, the *Miranda* decision was controversial. Police departments all over the country ordered their officers to carry cards with the first four items of the above list printed on them. The warnings on these cards, which came to be known as the "Miranda Warnings," are read to suspects as they are placed in custody and before any questioning is lawfully allowed. Since the decision, the Court has chipped away at the ruling without overturning it. It has generally upheld it, however, in cases in which people have been convicted.

After the decision, Ernesto Miranda was retried in Arizona and convicted without the confession. After Miranda was paroled, he traveled around the southwestern United States autographing "Miranda Warnings" cards for the local police until he was stabbed to death in a quarrel over a card game.

McCulloch v. Maryland (1819)

Vocabulary

real property Land or buildings, real estate.

implied powers Powers of the national government that are not specified in the Constitution but are based on the "necessary and proper" clause (elastic clause), which gives Congress authority to carry out its specified functions.

delegated powers Powers specifically granted to the national government in the Constitution.

sovereignty A state or nation's authority to govern itself.

Reviewing the Case

The early 1800s were years in which the United States faced unfamiliar situations concerning federalism and the division of authority between the national government and the various state governments. Such questions were often taken to court for definition and interpretation. Some of the decisions made then have had a lasting impact on how the country is governed. One of these early landmark cases is *McCulloch v. Maryland*, which arose in 1819.

In April 1816, Congress chartered the Second National Bank of the United States. This bank was the successor to the first Bank of the United States, started through the efforts of Alexander Hamilton. The original charter had expired in 1811 and was not immediately renewed because of questions about the constitutionality of a national bank. Many people objected to both the idea and the existence of a national bank. They thought it harmed state economies and local businesses and gave the national government too much power. The Second National Bank was in Philadelphia, with branch offices in other states. One branch was in Baltimore, Maryland.

On February 11, 1818, the Maryland state assembly passed an act aimed specifically at the Second National Bank. It imposed a

"stamp tax" on the paper that banks used in printing bank notes. All banks not chartered by the state had to pay either a tax to obtain the special stamped paper or an annual state tax of \$15,000. Each violation would result in a fine of \$500 for the bank and a \$100 fine for each individual responsible.

James McCulloch, cashier of the Baltimore branch, refused to pay the tax, despite repeated notices from the state. The state of Maryland brought suit against him in the County Court of Baltimore and later appealed to the State Court of Appeals, where McCulloch lost.

On behalf of himself and the U.S. government, McCulloch then brought the case to the Supreme Court in an attempt to reverse the decision. As it came to the Supreme Court, the issue became: Does any state have the constitutional right to tax an agency of the United States government?

Some of the most famous lawyers of the time argued the case. The attorneys for the state of Maryland argued that a state did have the right to tax because it was not forbidden by Article I, Section 10, of the Constitution, which lists the powers denied to the states. The only restrictions on the state's power to tax, they said, were those specifically mentioned. Those limits concern mainly imports and exports. The state also questioned the right of the Congress to create a national bank and to place branches in the various states without legislative approval.

The lawyers for the United States government argued that the states were forbidden to tax anything of the national government beyond **real property** that the national government owned in the states. They stated that the power of the state to tax the Second National Bank or any other agency of the national government would create the power to destroy the national government.

The Supreme Court decided on behalf of McCulloch, defining two issues of constitutional law:

First, the Court found that creating a national bank was within the **implied powers** of Congress, based on Article I, Section 8, of the Constitution. The final clause of Article I gives Congress the power to pass the legislation needed, or "necessary and proper," to carry out the other functions for which it is responsible. These are its **delegated powers**. In this instance, the creation of a national bank was necessary in order for Congress to create and coin a national currency, collect taxes, and borrow money in an emergency, among other things. These are delegated powers, specifically granted to Congress alone.

If, however, the act establishing a national bank was constitutional, did the state legislature of Maryland have the right to tax the bank? Citing Article VI of the Constitution, the Court declared that this action violated the principle of the supremacy of the national government over the states. The Court believed that granting individual states the right to tax the national government would in effect place the states in a position of **sovereignty** over the national government.

It would also place the individual states in a position superior to people of the Union collectively. This interpretation would return the country to the turmoil suffered under the Articles of Confederation.

Writing for the Court, Chief Justice John Marshall stated:

It being the opinion of the court that the act incorporating the bank is constitutional, and that the power of establishing a branch in the state of Maryland might be properly exercised by the bank itself, we proceed to inquire: Whether the state of Maryland may, without violation of the Constitution, tax that branch? . . . That the power of taxing it by the states may be exercised so as to destroy it, is too obvious to be denied. . . . We are unanimously of the opinion that the law passed by the legislature of Maryland, imposing a tax on the Bank of the United States, is unconstitutional and void.

The significance of *McCulloch v. Maryland* goes to the very root of the purpose of a federal government, one divided by the Constitution between a central government and state governments. The purpose of such government was "to provide a more perfect union." Limits of power were imposed at both national and state levels, but enough power remained at the national level to carry out what Congress found "necessary and proper" to provide good government for the people of the country as a whole. This decision confirmed the legitimate right of Congress to utilize the implied powers clause in passing laws to carry out its delegated powers. It further declared and validated the supremacy of the people collectively represented by Congress over the powers of individual states.

Marbury v. Madison (1803)

Vocabulary

lame duck Referring to officeholders who have not been re-elected and so serve the remainder of their term in office with little backing or authority.

commission Official document authorizing certain duties and powers.

petition In law, a formal, written request to a court asking for a specific action.

writ of mandamus A court order requiring a government official to carry out his or her official duty.

dilemma Difficult choice between two relatively equal options.

original jurisdiction The authority of a court to be the first to hear and decide a case.

appellate jurisdiction The right of a court to hear a case "on appeal" after the original court has acted.

Reviewing the Case

With the election of 1800, for the first time political parties played an active role in American government. The Federalists supported President John Adams while the Republicans supported Vice President Thomas Jefferson. Each party had its own agenda, based on different governing philosophies and different viewpoints about the Constitution.

In the election, the Federalists lost the presidency and control of both houses of Congress. The only branch of government in which they could exercise any power was the judiciary. Understanding this, the Federalists worked out a strategy to strengthen their hold on the federal courts.

Presidential inaugurations were then in March, giving the "lame duck" Federalists several months. Before the inauguration and the start of the new Republican-dominated Congress, the Federalist Congress passed the Judiciary Act of 1801, which created 62 new judgeships. John Adams, the outgoing President, quickly filled the new jobs with avid Federalists, and the Senate approved his ap-

pointments. Late into the night of March 3, 1801, Adams was still signing the **commissions** of these last-minute nominations. They were sealed with the Seal of the United States by the outgoing Secretary of State and were then to be delivered to the new officials by a State Department clerk. Because of the last-minute rush, not all the commissions could be delivered before Jefferson took office as President on March 4, 1801.

When he learned about the commissions of the "midnight judges," as they were called, Jefferson angrily ordered the commissions withheld. One of the late commissions was for William Marbury, who had been named as a justice of the peace in the District of Columbia. Marbury refused to be denied his job. He convinced three others to accompany him to the State Department, but he was still refused his commission. Marbury then turned to the United States Supreme Court and **petitioned** it for a **writ of mandamus**, which would order the new Secretary of State, James Madison, to deliver the commission or show just cause for not doing so.

Marbury's petition resulted in one of the most significant decisions in the history of the Supreme Court. The issue before the Court: Should the Court issue a writ of mandamus ordering the Secretary of State to deliver commissions to Marbury and the others who had been denied?

The Supreme Court, by unanimous vote, turned down Marbury's request for the court order. Although the justices agreed that Marbury was legally entitled to the commission, the Court would not order the Secretary of State to give it to him. Why not?

Writing for the Court, Chief Justice John Marshall explained the position:

Mr. Marbury, then, since his commission was signed by the President, and sealed by the Secretary of State, was appointed. . . . To withhold his commission, therefore, is an act deemed by the court not warranted by law, but violative of a vested legal right.

The question was not Marbury's right to have the job, but the Court's own constitutional authority. The case had created a **dilemma** for the Court.

On the one hand, if the Court ruled in favor of Marbury and issued the writ, the new administration under Jefferson most likely would ignore it. That would make the Supreme Court look weak, emphasizing the fact that the Court had no way to enforce its decisions. For that, it had to rely on the executive branch—the people to whom the order applied.

On the other hand, deciding *not* to issue the writ also would make the Court look weak. It would appear as if the Court were avoiding its duty by giving in to the executive branch.

How could the Court disentangle itself from such a treacherous decision? Marshall turned to the Constitution itself to point out that it did not give the Court **original jurisdiction** in a case like this:

The Constitution vests the whole judicial power of the United States in one Supreme Court, and such inferior courts as Congress shall from time to time, ordain and establish. . . . In the distribution of this power it is declared that "the Supreme Court shall have original jurisdiction in all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party. In all other cases, the Supreme Court shall have **appellate jurisdiction**." . . . To enable the Court, then, to issue a mandamus, it must be shown to be an exercise of appellate jurisdiction.

Since Marbury's case had not come from a lower court, the Supreme Court could not act, Marshall said. In addition, its power to issue such writs to public officers came from an Act of Congress, not the Constitution. In structuring the federal courts, Congress had passed the Judiciary Act of 1789, which gave the Supreme Court expanded original powers beyond the Constitution. In following this line of reasoning, Marshall then was faced

with the question of what to do about an act of Congress that violated the Constitution.

His explanation established an important principle:

. . . there is no middle ground. The Constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the legislature shall please to alter it. If the former part . . . be true, then a legislative act contrary to the Constitution is not law: if the latter part be true, then written constitutions are absurd attempts, on the part of people, to limit a power in its nature ilimitable. . . .

It is emphatically the province and duty of the judicial department to say what the law is. . . . So if a law be in opposition to the Constitution; if both the law and the Constitution apply to a particular case . . . the court must determine which of these conflicting rules governs the case. This is the very essence of judicial duty. . . .

Thus the particular phraseology [wording] of the Constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the Constitution is void. . . .

The long-term significance of this case was Marshall's use of the Constitution to give the Supreme Court the power of judicial review, even though that was not the original issue. While the justices agreed that Marbury was entitled to his court order, the act of Congress that would allow them to issue it went beyond the Constitution. It was the first time the Court openly declared an act of Congress unconstitutional and claimed the right to be the final authority on the meaning of the U.S. Constitution. Judicial review was not used again by the Court in regard to Congress for another 54 years, but in the twentieth century it became a powerful tool for influencing public policy.