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Vega v. Tekoh

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VEGA V. TEKOH

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INTRODUCTION

Terrence Tekoh was employed as a Certified Nursing Assistant at a Los Angeles, California medical office in 2014, when a patient accused him of sexual assault.[1] The other named party, Deputy Carlos Vega, of the Los Angeles County Sherriff's Department responded to question Mr. Tekoh.[2] After extensive questioning, Mr. Tekoh supposedly confessed and produced a written apology.[3] The parties disagree about many things, including whether Deputy Vega used unlawful coercion to obtain Mr. Tekoh's statement.[4] One thing the parties do agree upon is that Mr. Tekoh was never read his *Miranda* rights.[5] Mr. Tekoh was prosecuted twice in California state court for unlawful sexual penetration.[6] The first trial resulted in a mistrial, and the second trial resulted in a not guilty verdict.[7] The State was allowed to use Mr. Tekoh's un-*Mirandized* statements against him in both trials.[8]

After his criminal trials, Mr. Tekoh brought a civil action under § 1983 of the United States Code, which creates a cause of action against any person acting under color of law for the "deprivation of rights, privileges or immunities secured by the Constitution and

1. Vega v. Tekoh, 142 S. Ct. 2095, 2099 (2022).
2. *Id.*
3. *Id.*
4. *Id.*
5. *Id.*
6. *Id* at 2100.
7. *Id.*
8. *Id.*

laws."[9] Once again, there were two trials; the first civil jury found in Deputy Vega's favor, but the judge ordered a new trial due to an improper jury instruction.[10] The second trial again resulted in a verdict for Deputy Vega, and the Ninth Circuit reversed, holding that, "the 'use of an un-*Mirandized* statement against a defendant in a criminal proceeding violated the Fifth Amendment and may support a § 1983 claim' against the officer who obtained the statement."[11] The Supreme Court granted certiorari.[12]

I. ISSUE

The issue presented to the Court in this case was whether a violation of *Miranda* "provides a basis for a claim under § 1983.[13] To answer this question, the Court was first tasked with resolving whether a *Miranda* violation is a constitutional violation.[14] If a *Miranda* violation is, in fact, a constitutional violation, then a plaintiff like Mr. Tekoh may proceed with a § 1983 claim for that violation.[15] If, on the other hand, it is not, plaintiffs in Mr. Tekoh's shoes will be barred from seeking redress for *Miranda* violations under § 1983.[16] To be clear, the Court was not asked to rule on the merits of Mr. Tekoh's claim. They did not specifically address whether Mr. Tekoh's rights were in fact violated under *Miranda*, just whether a *Miranda* violation could create a cause of action under § 1983 at all.[17]

II. DEVELOPMENT OF THE ISSUE

There are two doctrines, both civil and criminal at issue in this case: *Miranda* and § 1983. One provides protection against unconstitutional police interrogation[18], and another provides a statutorily created cause of action against unlawful conduct by anyone acting under color of law.[19] *Miranda* is designed to prevent a

9. *Id.*
10. *Id.*
11. *Id.*
12. *Id.*
13. *Id* at 2101.
14. *Id.*
15. *Id.*
16. *Id.*
17. *Id.*
18. Miranda v. Arizona, 384 U.S. 436 (1966).
19. 18 U.S.C. § 1983.

Constitutional violation[20], while § 1983 provides a remedy after a Constitutional violation has already occurred.[21]

A. *Miranda v. Arizona*

The Fifth Amendment to the United States Constitution codifies a defendant's right against self-incrimination, stating that persons shall not "be compelled in any criminal case to be a witness against himself."[22] In 1966, the Warren Court published its watershed decision *Miranda v. Arizona*, solidifying protections for criminal defendants against self-incrimination during custodial interrogations.[23] The *Miranda* court held that, "the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination."[24] To ensure these protections, the majority explicitly state that, "Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed."[25] With this decision, the Court prescribed the all-too-familiar *Miranda* warnings with which nearly every American is familiar today. If the prosecution seeks to use custodial statements by a defendant at trial, that party bears the burden of showing that *Miranda* warnings were properly given to the defendant; without this showing, such statements may not be admitted into evidence.[26]

In 2000, the Court issued an opinion interpreting *Miranda*, *Dickerson v. United States*.[27] In *Dickerson*, the court was asked to determine the constitutionality of a federal statute: 18 U.S.C. § 3501, enacted in 1968, which provided that voluntariness should be a court's sole inquiry when determining the admissibility of confessions.[28] Conspicuously missing from the statute was any *Miranda* warning

20. *Miranda*, 384 U.S. at 516.

21. § 1983

22. U.S. CONST. amend. V.

23. *Miranda*, 384 U.S. at 444. (Defining custodial interrogation as "questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way").

24. *Id.*

25. *Id.*

26. *Id.* at 479.

27. Dickerson v. United States, 530 U.S. 428 (2000).

28. *Id.* at 435-36.

requirement, a direct contravention of the Court's ruling just two years prior.[29] Thus, the Court considered whether Congress may statutorily override their decision in *Miranda*.[30] Writing for the majority, Chief Justice Rehnquist determined that it may not; *Miranda* was a constitutional decision that Congress does not have the power to override.[31]

B. *§ 1983*

Section 1983 was originally enacted as the Ku Klux Klan act of 1871 in response to racial terror in the Reconstruction-Era South[32] and is now codified at 42 U.S.C. § 1983. This statute provides a federal cause of action for the deprivation of rights, reading:

> "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress[.]"[33]

Despite being enacted in the 19th century, § 1983 was seldom used until 1961 due to a narrow interpretation of who could be sued under the statute.[34] In another seminal Warren Court decision, *Monroe v. Pape*, the Supreme Court broadened the definition of state action, reinvigorating § 1983 as a means to enforce Constitutional rights.[35] The *Monroe* court held that a person acting "under color of law" refers to a government or municipal official acting in their official capacity.[36] Writing for the majority, Justice Douglas emphasized the original policy goals that motived the Ku Klux Klan Act of 1871, including the

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29. *Id.* at 436.

30. *Id.* at 437.

31. *Id.* at 437-38.

32. Bailey D. Barnes, *The Constitution's Waning Enforceability*, 50 HASTINGS CONST. L.Q. 69, 75 (2023).

33. § 1983

34. Barnes, *supra* note 32, at 75 (describing how state action was construed narrowly, preventing many suits from proceeding).

35. *Id.*

36. Monroe v. Pape, 365 U.S. 167, 172 (1961).

necessity of providing, "a federal remedy where the state remedy, though adequate in theory, was not available in practice."[37] *Monroe* further held that municipalities themselves could not be sued under § 1983, but the Court overturned this ruling in *Monell v. Department of Social Services*.[38] After expanding § 1983 during the Warren era, the Court began steadily narrowing its interpretation in the 1980s, when it began to, "[exhibit] an increasingly assertive hostility to a broad range of suits to enforce the Constitution against federal and state officials, especially actions seeking damages relief,"[39] through the doctrine of Qualified Immunity.[40] It was in the wake of this steady weakening of § 1983 that Mr. Tekoh found himself in front of the Supreme Court.

III. ANALYSIS

A. *Majority*

Writing for the majority, Justice Alito starts by immediately rejecting the theory that a *Miranda* violation is necessarily a Fifth Amendment violation.[41] Rather, the majority draws a distinction between a constitutional rule and a constitutionally-based rule, focusing on the "prophylactic" nature of *Miranda* warnings.[42] Justice Alito emphasizes that the *Miranda* court held that the rules it created, "were needed to safeguard [the right against self-incrimination] during custodial interrogation."[43] Next, the majority described the way the Court went on to decide the "dimensions of these new prophylactic rules," outlining circumstances where an un-*Mirandized* statement may be permissible.[44] These include impeachment purposes,[45] the admission of the fruits of an un-*Mirandized* statement,[46] and un-*Mirandized* questioning during an ongoing emergency.[47] According to Justice Alito, these exceptions

37. *Id.* at 174.

38. See Monell v. Dep't of Soc. Servs., 436 U.S. 658 (1978).

39. Richard H. Fallon, Jr., *Bidding Farewell to Constitutional Torts*, 107 CALIF. L. REV. 933, 951 (2019).

40. Barnes, *supra* note 32, at 80.

41. *Vega*, 142 S. Ct. at 2101.

42. *Id.*

43. *Id.*

44. *Id* at 2103.

45. *Id.* (Citing Mincey v. Arizona, 437 U.S. 385, 398 (1978)).

46. *Id.* (Citing Michigan v. Tucker, 417 US 433, 54-452 (1974)).

47. *Id.* (Citing New York v. Quarles 467 U.S. 649, 654-57 (1984)).

could not possibly exist if a *Miranda* violation is a Fifth Amendment Violation. Next, the majority described situations where *Miranda* was expanded in subsequent decisions, including the prohibition of the use of silence following a *Miranda* warning for impeachment.[48]

After acknowledging the way the Court has calibrated the prophylactic nature of *Miranda*, Justice Alito notes that, "'[a judicially crafted' prophylactic rule should apply only where its benefits outweigh its costs[.]"[49] With this in mind, he states that the costs of permitting claims like Mr. Tekoh's to go forward substantially outweigh the benefits.[50] The majority asserts that a successful § 1983 claim against an officer for failure to *Mirandize* would not have a deterrent effect.[51] Rather, Justice Alito cites the oft-repeated concerns of judicial efficiency and procedural friction between the federal and state courts as substantial costs in allowing these types of suits to move forward.[52] With this, the majority concludes its opinion, holding that *Miranda* does not "confer a right to sue under § 1983."[53]

B. *Dissent*

Writing for the dissenting justices, Justice Kagan outlines the reasoning of herself and Justices Breyer and Sotomayor. The dissent points to the Court's decision in *Dickerson*, finding that *Miranda* is a constitutional rule that "grants a corresponding right," namely, the suppression at trial of un-*Mirandized* statements.[54] Justice Kagan states the obvious: that the majority has prevented "individuals from obtaining any redress when police violate their rights under *Miranda*."[55] The dissent addresses the policy rationale behind *Miranda*, the prevention of self-incriminating, coerced confessions made in violation of the Fifth Amendment.[56] Turning to whether *Miranda* is secured by the Constitution, Justice Kagan again looks to *Dickerson*, citing the many instances where the Court explicitly referred to *Miranda* as a constitutional rule.[57] Beyond stating that it is so, Justice Kagan emphasizes the substance of *Miranda*'s

48. *Id* at 2104. (Citing Doyle v. Ohio, 426 U.S. 610, 617-619 (1976)).
49. *Id* at 2107 (Citing Maryland v. Shatzer, 559 U.S. 98, 106 (2010)).
50. *Id.*
51. *Id.*
52. *Id.*
53. *Id* at 2108.
54. *Id.*
55. *Id.*
56. *Id.*
57. *Id* at 2109.

constitutionality, including the fact that it, "cannot be abrogated by any legislation."[58] Further, *Miranda* is a decision that extends to all prosecutions, whether they occur in federal or state courts.[59] Finally, there is a corresponding right held by defendants not to have their un-*Mirandized* statements introduced against them at trial.[60]

Ironically, as Justice Kagan points out, the majority agrees with the principles just outlined. The dissent identifies its perceived deficiencies in the majority opinion, specifically attacking the idea that *Miranda*'s prophylactic nature means that it is not a right for the purposes of § 1983. Further, the dissent describes another case where the Court held that a plaintiff could sue for a violation of the Commerce Clause under § 1983, an admittedly implied constitutional protection.[61] In conclusion, the dissent states the legal realities of the majority's decision, finding that the majority, "injures the right by denying the remedy."[62]

IV. IMPLICATIONS

While the court did not explicitly rule on the merits of Mr. Tekoh's claim, the majority made it clear that no court will ever rule on the merits of another case like it. The majority foreclosed the possibility of any future § 1983 actions based on a *Miranda* violation. Justice Alito could not hide his disdain for § 1983 claims; he stated, without justification, that "allowing the victim of a *Miranda* violation to sue a police officer for damages under § 1983 would have little additional deterrent value[.]"[63] Harkening back to the original policy goals motivating § 1983, In this opinion, the Court explicitly contravened one of the original policy goals of the Ku Klux Klan act of 1871: to provide a federal remedy when a state remedy is inadequate.[64] In Mr. Tekoh's view, the state remedy for Deputy Vega's failure to *Mirandize* him–the suppression of his un-*Mirandized* confession–was inadequate; the confession was not in fact suppressed. Thus, he attempted to have his case heard at the federal level, to address what he considered a failure of *Miranda*'s "prophylactic" purpose.

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58. *Id.* (Quoting Dickerson v. United States, 530 U.S. 428, 444) (internal quotation marks omitted).

59. *Id.*

60. *Id.*

61. *Id* at 2110. (Citing Dennis v. Higgins, 498 U.S. 439, 445 (1991).

62. *Id* at 2111.

63. *Id* at 2107.

64. *Monroe*, 365 U.S. at 174.

The Constitution is more than a piece of paper; in *Marbury*, the Supreme Court declared it "the supreme law of the land."[65] "Overall, *Marbury's* dictum has constituted a narrower guarantee of remedies than may have been grasped, but it has also symbolized an aspiration--albeit one subject to compromise in light of competing values--to redress legal wrongs on an individual basis."[66] *Miranda* was decided after an individual alleged that his Fifth Amendment rights were violated.[67] The Court created prophylactic measures to ensure that this type of constitutional violation did not occur in the future. The prophylactic measures the majority so often refers to were created to protect a constitutional right. To say that a *Miranda* violation is not a constitutional violation is illogical and disingenuous. By stripping *Miranda* of its full effect, the court has stripped our rights under the Constitution. Without a right at all, there can be no action for the deprivation of rights, and thus no remedy. When this occurs, the Constitution becomes just a merely aspirational document, rather than the "supreme law of the land" envisioned in *Marbury*.

CONCLUSION

Whether Mr. Tekoh's deprivation of rights claim was meritorious was not for the Supreme Court to determine and is not the subject of this article. Perhaps Deputy Vega violated Mr. Tekoh's rights; perhaps he did not. This decision was to be made by either a judge or a jury at the trial level. Mr. Tekoh lost twice at trial, but another plaintiff with a similar claim might not have. By so narrowly focusing on the specific facts of Mr. Tekoh's case, and playing a semantic game with *Miranda*, the court has foreclosed the opportunity for another individual alleging a *Miranda* violation to be heard in court. By abolishing the right to have claims heard, whether meritorious or not, the Supreme Court has closed the courthouse door to anyone who dares to assert that the government violated their rights under the Constitution.

65. Marbury v. Madison, 5 U.S. 137, 180 (1803).

66. Fallon, *supra* note 39 at 935-36.

67. *Miranda*, 384 U.S.