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SUPREME COURT RULING GIVES LAW ENFORCEMENT GREATER LEEWAY UNDER *MIRANDA*

In a 7-2 decision, the United States Supreme Court has ruled that police officers can try again to question criminal suspects who have invoked their *Miranda* rights, provided that at least two weeks or more have passed. At that point, if the suspect voluntarily agrees to talk to the police, any incriminatory statements can be used against him. The decision is being considered highly favorable toward law enforcement.

In *Maryland v. Shatzer*, the Court overturned a prior 1981 Supreme Court ruling that strictly barred police from questioning a suspect once he had asked to remain silent and to speak with a lawyer. The earlier ruling was intended to prevent investigators from “badgering” a suspect who was held in jail into coerced self-incrimination after he had already invoked his *Miranda* rights to remain silent and asked for an attorney.

The original criminal matter involved a man questioned in connection with the sexual abuse of his three year old son. When questioned about the crime, Michael Shatzer invoked his *Miranda* rights, asked for a lawyer and refused to answer any questions. However, when questioned again two and a half years later, while serving jail time for an unrelated crime, Shatzer made incriminating statements as to the earlier abuse case. A lower court originally ruled those remarks inadmissible, saying the original *Miranda* invocation still held. In this ruling, the Supreme Court disagreed.

The decision acknowledges that the 14 day period is purely arbitrary, but it has the value of giving law enforcement officers a “bright line” rule to follow. Joining with the majority, Justice Scalia noted, “[t]hat provides plenty of time for the suspect to get reacclimated to his normal life, to consult with friends and counsel, and to shake off any residual coercive effects of his prior custody.

While the Court was unanimous in ruling that the questioning of Michael Shatzer, two and a half years after his *Miranda* invocation, was proper, Justice John Paul Stevens objected to creation of the 14-day rule. “The most troubling aspect of the court’s time-based rule is that it disregards the compulsion caused by a second (or third, or fourth) interrogation of an indigent suspect who was told that if he requests a lawyer, one will be provided for him.”

Another *Miranda* case is still pending before the Supreme Court.. *Berghius v. Tompkins*, which will be argued on March 1, asks whether police can try to non-coercively persuade a suspect to answer questions after the *Miranda* warning has been given, but before the suspect has invoked or waived the right.

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