



Legal Research 5

Citators: Update Cases

When a case moves through time and space,
its legal Authority may change.



Direct/Subsequent History

Miranda's
right

U.S. Supreme
Ct.

Indirect History
Subsequent treatment

Cited by

Miranda v. Arizona,
384 U.S. 436 (1966);

Cited by

U.S. v. Patane,
124 S.Ct. 2620

(2003)

&

More than
100,00 cases,
ALR, & law
review
Articles, etc.

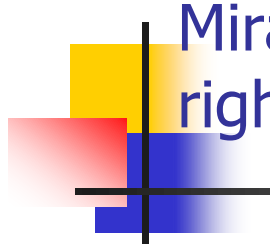
98 Ariz. 11 (1965)

Supreme Ct.
Of Arizona

Brown v. Walker,
161 U.S. 591 &
148 cases

Arizona Ct. of Appeals

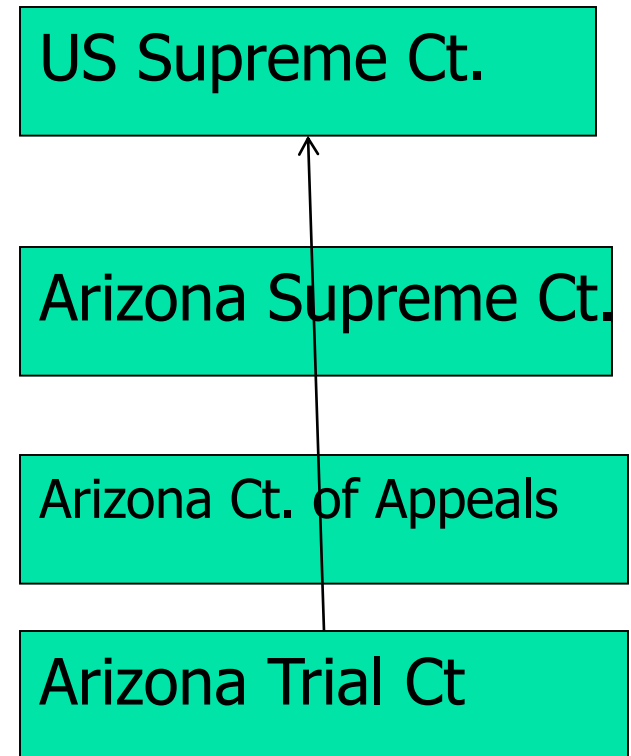
Arizona Trial Ct.



What do you need to know about the case?

- Prior history of the case
- Subsequent history of the case
 - Same case on appeal
 - Same parties, facts, litigation
 - Affirmed, reversed, modified

- *Miranda v. Arizona*,
384 U.S. 436 (1966)



What else do you need to know about the case? (cont.)

- Subsequent treatment of the case
 - How courts unrelated litigation treated the case
 - Different parties, similar facts, litigation
 - Holding criticized, distinguished, followed
- Other resources
 - Such as ALR, Law reviews

Example:

Miranda v. Arizona,
384 U.S. 436 (1966)

Cited by *U.S. v. Patane*,
124 S.Ct. 2620 (2003)

&

thousands of other
similar cases,

What is a Citator?

- A tool which allows you to update your work.
- An index to cases (and other materials) which cite your case.
- In the citator, your case is the “cited reference” and the cases which mention it are the “citing references.”

The title of your division (i.e., the legal source you are Shepardizing) appears at the top of the page.

Printed Sample Citator

State v. Hedgeman
78 N.Y. 513

a: affirmed
r: reversed

Look for the first page number of your case in the columns on the page.

A photograph of a wooden bookshelf filled with books. The shelves are made of dark wood and are densely packed with books of various sizes and colors. The books are arranged in rows, with some standing upright and others lying flat. The word "Shepards" is overlaid in white text on the upper left portion of the image. The background is a plain, light-colored wall.

Shepards

Why Use a Citator?

- Update -- to make sure your case is still valid law
 - It may have been reversed on appeal (or reversed in part).
 - It may have been overruled (or narrowed in applicability) by cases outside its appellate line.

Why Use a Citator cont.

- Research - find other materials about your topic
 - Other cases that cite your case
 - find out what other jurisdictions think
 - find a fact pattern that fits/explains your situation better
 - Law reviews, ALR's that cite your case

How to use citators

- Concepts in Common
- General Steps/Course of Action
- Shepards on Lexis
- KeyCite on Westlaw

Concepts in Common

With both vendors, you enter a citation (your case) and you get:







- History of Case
 - Dismissed
 - Affirmed
 - Reversed
 - Modified
 - Vacated
 - Certiorari/rehearing denied by Sup. Ct
- Treatment of Case (indirect history or how other unrelated but similar cases treat your case)
 - Followed
 - Explained
 - Questioned
 - Criticized
 - Distinguished
 - Limited
 - Overruled

Concepts in Common cont.

With both vendors, you enter a citation (your case) and you get:

- A Signal about Your Case (summary of the citing references). E.g., KeyCite: red/yellow flag or Shepards: red stop sign/yellow triangle to warn of negative history.
- Additional Signals
 - there may be additional signals next to the *citing* reference indicating *its* treatment

Lexis and Westlaw Signals

-  - Warning: Negative treatment is indicated
-  - Questioned: Validity questioned by citing refs
-  - Caution: Possible negative treatment
-  - Positive treatment is indicated
-  - Citing Refs. With Analysis Available
-  - Citation information available



Case overruled/reversed in whole/part



Case has negative history but not overruled/reversed



Case has history not known to be negative



Case has citing refs but not negative



Lexis Advance:



Warning



Caution (



Positive (



Neutral (



Cited By

Westlaw Next:



A yellow flag indicates a document has some negative treatment.



A red flag indicates a document is no longer good law for at least one point of law.



A blue-striped flag indicates a document has been appealed to the U.S. Courts of Appeals or the U.S. Supreme Court (excluding appeals originating from agencies).

Steps to Take

- Check subsequent and prior history
- Check negative cases
 - Are they in your jurisdiction?
 - Are they mandatory or persuasive authority?
 - Are they distinguishable from your case?
- Find other citing cases which may bolster your case

Citator Publication History

- LEXIS -- Shepards
 - Begun in 1873 in paper, later cd-rom, and online,
 - cited references: cases, statutes, administrative regulations and decisions, secondary sources (such as ALR, law review articles)
- WESTLAW -- KeyCite
 - introduced in 1997, electronic only
 - cited references: cases, statutes, federal administrative regulations and decisions, ALR, law review articles

Document: Miranda v. Ariz., 384 U.S. 436

[Results list](#)

● Miranda v. Ariz., 384 U.S. 436

Supreme Court of the United States

February 28, 1966-March 1, 1966, Argued ; June 13, 1966, Decided

No. 759

Reporter

384 U.S. 436 | [86 S. Ct. 1602](#) | [16 L. Ed. 2d 694](#) | [1966 U.S. LEXIS 2817](#) | 10 Ohio Misc. 9 | 36 Ohio Op. 2d 237 | 10 A.L.R.3d 974

MIRANDA v. ARIZONA

Prior History: CERTIORARI TO THE SUPREME COURT OF ARIZONA.

Disposition: [98 Ariz. 18, 401 P. 2d 721](#); [15 N. Y. 2d 970, 207 N. E. 2d 527](#); [16 N. Y. 2d 614, 209 N. E. 2d 110](#); [342 F.2d 684](#), reversed; [62 Cal. 2d 571, 400 P. 2d 97](#), affirmed.

Core Terms

Shepard's®

No negative subsequent appellate history

Citing Decisions (56733)

- Warning (3)
- ▲ Caution (1067)
- ◆ Positive (3262)
- Ⓐ Neutral (2993)
- Ⓘ Cited By (52216)

Other Citing Sources (9960)

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Topic Summaries

[View reports \(7\)](#)

Legal Issue Trail™ | [Tips](#)

same case(s)

Appellate History (24)

List Map

No negative subsequent appellate history

☐ Add to ▾ ▾

Prior

- ☐ 1. [People v. Vignera](#) ●
21 A.D.2d 752, 252 N.Y.S.2d 19, 1964 N.Y. App. Div. LEXIS 5345
[Show in map](#)

Court
N.Y. App. Div. 2d
Dep't
Date
1964
- ☐ 2. Motion granted by:
[People v. Vignera](#) A
14 N.Y.2d 950, 1964 N.Y. LEXIS 2256
[Show in map](#)

Court
N.Y.
Date
1964
- ☐ 3. Motion granted by:
[People v. Vignera](#) A
14 N.Y.2d 951, 1964 N.Y. LEXIS 2307
[Show in map](#)

Court
N.Y.
Date
1964
- ☐ 4. Motion granted by:
[People v. Vignera](#) A

Combined with several similar cases:

1965		
7.	<div> <div>Writ of certiorari granted:</div> <div>Vignera v. New York</div> </div> <div>382 U.S. 925, 86 S. Ct. 320, 15 L. Ed. 2d 339, 1965 U.S. LEXIS 221</div> <div>Show in map</div>	<div>Court</div> <div>U.S.</div> <div>Date</div> <div>1965</div>
8.	<div> <div>Motion granted by and in part:</div> <div>California v. Stewart</div> </div> <div>383 U.S. 903, 86 S. Ct. 882, 15 L. Ed. 2d 661, 1966 U.S. LEXIS 2229</div> <div>Show in map</div>	<div>Court</div> <div>U.S.</div> <div>Date</div> <div>1966</div>
9.	<div> <div>Citation you Shepardized™</div> <div>Reversed by:</div> <div>Miranda v. Arizona</div> </div> <div>384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694, 1966 U.S. LEXIS 2817, 10 Ohio Misc. 9, 36 Ohio Op. 2d 237, 10 A.L.R.3d 974</div> <div>Show in map</div>	<div>68</div> <div>Court</div> <div>U.S.</div> <div>Date</div> <div>1966</div>
Prior		
10.	<div> <div>People v. Stewart</div> </div> <div>62 Cal. 2d 571, 43 Cal. Rptr. 201, 400 P.2d 97, 1965 Cal. LEXIS 275</div> <div>Show in map</div>	<div>Court</div> <div>Cal.</div> <div>Date</div> <div>1965</div>



same case(s)

Appellate History (24)

List Map

No negative subsequent appellate history

☐ Add to ▾ ▾

Prior

- ☐ 1. [People v. Vignera](#) ●
21 A.D.2d 752, 252 N.Y.S.2d 19, 1964 N.Y. App. Div. LEXIS 5345
[Show in map](#)

Court
N.Y. App. Div. 2d
Dep't
Date
1964
- ☐ 2. Motion granted by:
[People v. Vignera](#) A
14 N.Y.2d 950, 1964 N.Y. LEXIS 2256
[Show in map](#)

Court
N.Y.
Date
1964
- ☐ 3. Motion granted by:
[People v. Vignera](#) A
14 N.Y.2d 951, 1964 N.Y. LEXIS 2307
[Show in map](#)

Court
N.Y.
Date
1964
- ☐ 4. Motion granted by:
[People v. Vignera](#) A

Appellate History

● Citing Decisions

Other Citing Sources

Table of Authorities

Appellate History

● Citing Decisions

Other Citing Sources

Table of Authorities

Appellate History (24)

List

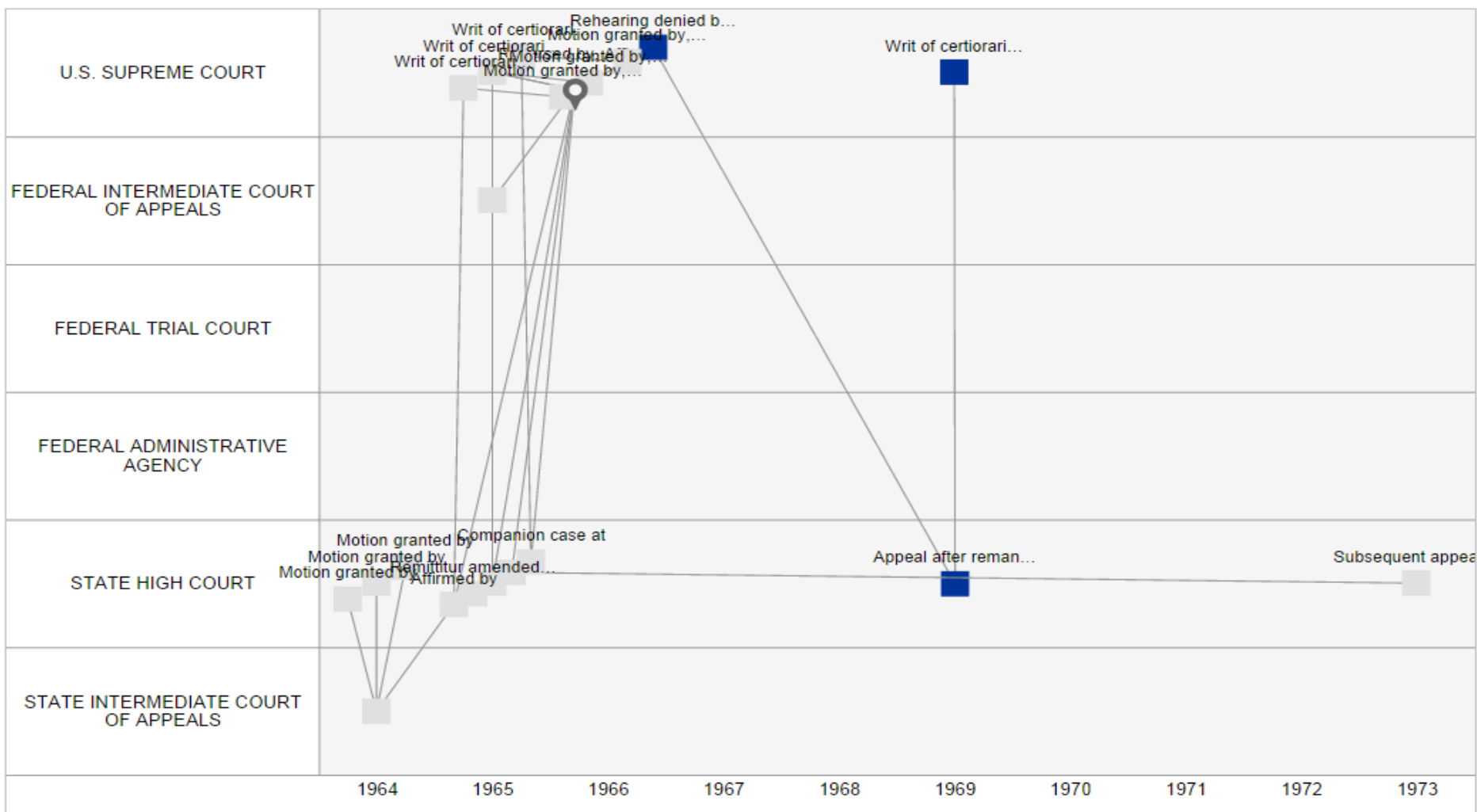
Map

No negative **subsequent appellate history**



Legend

Display Options



[Appellate History](#)● [Citing Decisions](#)[Other Citing Sources](#)[Table of Authorities](#)

Table of Authorities (143)

No negative [subsequent appellate history](#)

Add to

Sort by: [Court \(Highest to Lowest\)](#) ▾

Narrow By

▼ Analysis

Warning 2

Overruling 2

Caution 1

Distinguishing 1

Positive 2

Following 2

Neutral 87

Dissenting opinion citing 86

Explaining 1

"Citing" 55[Select multiple](#)

▼ Court

Federal Courts 112

U.S. Supreme Court 86

2nd Circuit 7

7th Circuit 4

9th Circuit 3

10th Circuit 2

▼ [More](#)[Select multiple](#)**State Courts** 311. [Escobedo v. Illinois](#) ●

378 U.S. 478, 84 S. Ct. 1758, 12 L. Ed. 2d 977, 1964 U.S. LEXIS 827, 4 Ohio Misc. 197, 32 Ohio Op. 2d 31

Following

Outcome

The Supreme Court reversed the judgment of conviction because petitioner was denied

- 2 the assistance of counsel, and remanded the case for further proceedings with the instruction that the statement obtained from petitioner during interrogation while in police custody was inadmissible against him.

3. [Weems v. United States](#)

217 U.S. 349, 30 S. Ct. 544, 54 L. Ed. 793, 1910 U.S. LEXIS 1966

Citing

First Ref: 86 S. Ct. 1602 at p.1611**Depth of Discussion**
Depth of Discussion
Court
U.S.**Date**
19104. [Brown v. Walker](#) ▲

[Appellate History](#)[● Citing Decisions](#)[Other Citing Sources](#)[Table of Authorities](#)

Narrow By

▼ Analysis

Warning 3

Superseded by statute as stated
in 2

Abrogated in part as stated in 1

Caution 1,067

Distinguished by 1,063

Criticized by 5

Limited by 1

Criticized in 1

Positive 3,262

Followed by 3,242

Followed in Concurring Opinion at 28

Neutral 2,993

Cited in Concurring Opinion at 1,422

Cited in Dissenting Opinion at 972

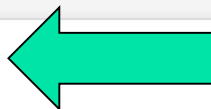
Explained by 586

Cited in questionable precedent at 116

Distinguished in Concurring Opinion at 10

Harmonized by 9

Citing Decisions (56733)



List

Grid

No negative subsequent appellate history



Add to



Sort by: Court (Highest to Lowest) ▾

U.S. Supreme Court

1. [White v. Woodall](#) ◆

134 S. Ct. 1697, 188 L. Ed. 2d 698, 2014 U.S. LEXIS 2935, 82 U.S.L.W. 4288, 24 Fla. L. Weekly Fed. S 695

Cited by:

134 S. Ct. 1697 p.1705 188 L. Ed. 2d 698 p.707 ...). Of course, it did not "hold" that. Rather, it held that the defendant's Fifth Amendment "rights were abridged by the State's introduction of " a pretrial psychiatric evaluation that was administered without the preliminary warning required by **Miranda v. Arizona , 384 U.S. 436 , 86 S. Ct. 1602 , 16 L. Ed. 2d 694 (1966)** . 451 U.S., at 473 , 101 S. Ct. 1866, 68 L. Ed. 2d 359 . In any event, even Estelle 's dictum did not assume an entitlement to a blanket no-adverse-inference ...

2. [Salinas v. Texas](#) ▲

133 S. Ct. 2174, 186 L. Ed. 2d 376, 2013 U.S. LEXIS 4697, 81 U.S.L.W. 4467, 24 Fla. L. Weekly Fed. S 294

Distinguished by:

133 S. Ct. 2174 p.2180 186 L. Ed. 2d 376 p.385

Cited in Dissenting Opinion at:

133 S. Ct. 2174 p.2185 186 L. Ed. 2d 376 p.391

Cited by:

133 S. Ct. 2174 p.2178 186 L. Ed. 2d 376 p.383

... unqualified right not to speak during his police interview. Second, a witness' failure to invoke the privilege against self-incrimination must be excused where governmental coercion makes his forfeiture of the privilege involuntary. See, e.g. , **Miranda v. Arizona , 384 U.S. 436 , 467-468 , 86 S. Ct. 1602 ,**

Analysis (Red to Blue)

Discussion (High to Low)

Court (Highest to Lowest)

Date (Newest to Oldest)

Discussion



LexisNexis®

Headnotes

HN10

Court

U.S.

Date

2014

Depth of Discussion



LexisNexis®

Headnotes

HN10 | HN16

Court

U.S.

Date

2013

Warning

Clear

Analysis

Warning

3

Superseded by statute as stated
in

2

Abrogated in part as stated in

1

Neutral

1

Explained by

1

"Cited by"

3

Select multiple

Court

Federal Courts

2

10th Circuit

1

4th Circuit

1

Select multiple

State Courts

1

Idaho

1

Discussion

Analyzed

2

Discussed

1

Select multiple

Headnotes

View text of headnotes

HN10

3

HN13

3

HN16

3

HN17

2

HN19

2

1. United States v. Dickerson

166 F.3d 667, 1999 U.S. App. LEXIS 1741

■ **Superseded by statute as stated in:**

166 F.3d 667 p.686

■ **Cited by:**

166 F.3d 667 p.671 166 F.3d 667 p.672 166 F.3d 667 p.685
 ... S. Rep. No. 90-1097 (1968), reprinted in 1968 U.S.C.C.A.N.
 2112. Although certainly not dispositive, it is worth noting that
 the Senate Report accompanying § 3501 specifically stated that
 "the intent of the bill is to reverse the holding of **Miranda v.**
Arizona, 384 U.S. 436, 16 L. Ed. 2d 694, 86 S. Ct. 1602
 (1966)." Id. 1968 U.S.C.C.A.N. at 2141. Indeed, although
 acknowledging that "the bill would also set aside the holdings of
 such cases as *McNabb v. United States*, 318 ...

60

Depth of
DiscussionLexisNexis®
Headnotes
[HN1](#) | [HN4](#) | [HN7](#) |
[HN8](#) | [HN10](#) |
[HN13](#) | [HN16](#) |
[HN17](#)
Court
4th Cir. Va.Date
1999

10th Circuit - U.S. District Courts

2. United States v. Rivas-Lopez

988 F. Supp. 1424, 1997 U.S. Dist. LEXIS 21126

■ **Superseded by statute as stated in:**

988 F. Supp. 1424 p.1430

■ **Explained by:**

988 F. Supp. 1424 p.1434

■ **Cited by:**

988 F. Supp. 1424 p.1429
 In **Miranda v. Arizona**, 384 U.S. 436, 86 S. Ct. 1602, 16 L.
 Ed. 2d 694 (1966), the Supreme Court announced a new
 analytical approach under the Self-Incrimination Clause of the
 Fifth Amendment in cases involving custodial interrogation.
 Miranda held that no statements stemming from custodial
 interrogation of a suspect would be admissible unless the police
 first provided four "warnings." 5 The four well-known warnings
 are: (1) that the suspect has the right to remain silent; (2) ...

Depth of
DiscussionLexisNexis®
Headnotes
[HN9](#) | [HN10](#) |
[HN13](#) | [HN16](#) |
[HN17](#)
Court
D. UtahDate
1997

Idaho Court of Appeals

3. State v. Silver

Warning example

Opinion

[671] WILLIAMS, Circuit Judge:

In response to the Supreme Court's decision in [Miranda v. Arizona, 384 U.S. 436, 16 L. Ed. 2d 694, 86 S. Ct. 1602 \(1966\)](#), the Congress of the United States enacted [18 U.S.C.A. § 3501 \(West 1985\)](#), with the clear intent of restoring voluntariness as the test for admitting confessions in federal court. Although duly enacted by the United States Congress and signed into law by the President of the United States, the United States Department of Justice has steadfastly refused to enforce the provision. In fact, after initially "taking the Fifth" on the statute's constitutionality, the Department of Justice has now asserted, without explanation, that the provision is unconstitutional. With the issue squarely presented, we hold that Congress, pursuant to its power to establish the rules of evidence and procedure in the federal courts, acted well within its authority in enacting [§ 3501](#). As a consequence, [§ 3501](#), rather than *Miranda*, governs the admissibility of confessions in federal court. Accordingly, the district court erred in suppressing Dickerson's voluntary confession on the grounds that it was obtained in technical violation of *Miranda*.

Appellate History

● Citing Decisions

Other Citing Sources

Table of Authorities

Narrow By

Positive



8th Circuit



Clear

Analysis

Caution 5

Distinguished by 5

Positive 214

Followed by 214

Neutral 4

Cited in Dissenting Opinion at 2

Explained by 2

"Cited by" 20

Select multiple

Court

Federal Courts 214

8th Circuit 214

Discussion

██████████ Analyzed 14

██████████ Discussed 66

██████████ Mentioned 36

██████████ Cited 94

Select multiple

Citing Decisions (214)

List

Grid

No negative subsequent appellate history

Add to

Sort by: Court (Highest to Lowest) ▼

8th Circuit - Court of Appeals

1. United States v. Muhlenbruch ▲

634 F.3d 987, 2011 U.S. App. LEXIS 3155, 84 Fed. R. Evid. Serv. (CBC) 960

■ **Followed by:**

634 F.3d 987 p.995

... Muhlenbruch reiterated, "I'll give you consent because you guys have been more than straightforward with me, and I don't think you're trying to hang me, I really don't." It is undisputed that Muhlenbruch was not advised of his rights under **Miranda v. Arizona**, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966) at any point before or during the recorded interview.

Depth of Discussion



LexisNexis® Headnotes
HN9

Court
8th Cir. Iowa

Date
2011

2. United States v. Quintana ◆

623 F.3d 1237, 2010 U.S. App. LEXIS 22404

■ **Followed by:**

623 F.3d 1237 p.1242

■ **Cited by:**

623 F.3d 1237 p.1238

... revealed that Diaz-Quintana's prints matched those of an alien named Saul Rojo-Flores, who had two prior drug convictions, had been deported twice, and had no permission to reenter the country. Lotvedt advised Diaz-Quintana of his rights under **Miranda v. Arizona**, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966). Diaz-Quintana waived those rights, admitted being previously removed and not applying for permission to re-enter, and claimed that he entered the United States at ...

Depth of Discussion



Court
8th Cir. N.D.

Date
2010

3. United States v. Van Phong Nguyen ◆

623 F.3d 1237, 2010 U.S. App. LEXIS 22404

Depth of Discussion

Add to  ▼



Muhlenbruch that they would proceed to prepare a search warrant and that Muhlenbruch would need to remain at the police station until the warrant was secured to prevent Muhlenbruch from destroying or hiding the computer. Muhlenbruch then asked the officers whether his computer would be destroyed during the search. The officers explained that the computer would not be destroyed and Muhlenbruch replied that if he got his computer back, he would consent to the search. Later, Muhlenbruch reiterated, "I'll give you consent because you guys have been more than straightforward with me, and I don't think you're trying to hang [995] me, I really don't." It is undisputed that Muhlenbruch was not advised of his rights under [Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 \(1966\)](#) at any point before or during the recorded interview.

Opinion at	1
"Cited by"	52,216
Select multiple	
▼ Court	
Federal Courts	16,155
9th Circuit	2,555
2nd Circuit	1,803
8th Circuit	1,603
6th Circuit	1,587
11th Circuit	1,262
▼ More	
Select multiple	
State Courts	40,578
California	6,825
Texas	2,656
Ohio	2,356
Washington	2,278
Michigan	1,868
▼ More	
Select multiple	
▼ Discussion	
■ ■ ■ ■ ■ Analyzed	881
■ ■ ■ ■ ■ Discussed	3,859
■ ■ ■ ■ ■ Mentioned	4,677
■ ■ ■ ■ ■ Cited	45,069
Select multiple	

4. **Howes v. Fields** ▲

132 S. Ct. 1181, 182 L. Ed. 2d 17, 2012 U.S. LEXIS 1077, 80 U.S.L.W. 4154, 23 Fla. L. Weekly Fed. S 126

■ **Cited in Dissenting Opinion at:**

132 S. Ct. 1181 p.1194 182 L. Ed. 2d 17 p.33

■ **Cited by:**

132 S. Ct. 1181 p.1185 182 L. Ed. 2d 17 p.23

The trial court denied Fields' motion to suppress his confession under **Miranda v. Arizona**, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694, and he was convicted. The Michigan Court of Appeals affirmed, rejecting Fields' contention that his statements should have been suppressed because he was subjected to custodial interrogation without a Miranda warning. The United States District Court for the Eastern District of Michigan subsequently granted Fields habeas relief under 28 U.S.C. § ...

Depth of Discussion



LexisNexis® Headnotes

HN1 | HN2 | HN9 | HN10 | HN13 | HN15 | HN16

Court U.S.

Date 2012

5. **Bobby v. Dixon** ▲

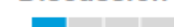
132 S. Ct. 26, 181 L. Ed. 2d 328, 2011 U.S. LEXIS 7926, 80 U.S.L.W. 4008, 23 Fla. L. Weekly Fed. S 9

■ **Cited by:**

132 S. Ct. 26 p.28 181 L. Ed. 2d 328 p.330

... encounter--Dixon was apparently visiting the police station to retrieve his own car, which had been impounded for a traffic violation. The detective issued Miranda warnings to Dixon and then asked to talk to him about Hammer's disappearance. See **Miranda v. Arizona**, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966). Dixon declined to answer questions without his lawyer present and left the station.

Depth of Discussion



Court U.S.

Date 2011

6. **Davis v. United States** ▲

131 S. Ct. 2419, 180 L. Ed. 2d 285, 2011 U.S. LEXIS 4560, 79 U.S.L.W. 4495, 22 Fla. L. Weekly Fed. S 1144, 68 A.L.R. Fed.

Depth of Discussion

Date
2011

[Appellate History](#)● [Citing Decisions](#)[Other Citing Sources](#)[Table of Authorities](#)

Narrow By

HN16



Self incrimination

▼ Analysis

Warning 3

Superseded by statute as stated

in 2

Abrogated in part as stated in 1

Caution 437

Distinguished by 435

Criticized by 4

Limited by 1

Positive 1,423

Followed by 1,415

Followed in Concurring Opinion at

15

Neutral 1,063

Cited in Concurring Opinion at

543

Cited in Dissenting Opinion at 373

Explained by 323

Citing Decisions (12681)

List

Grid

No negative [subsequent appellate history](#)

Add to

Sort by: [Court \(Highest to Lowest\)](#) ▾

U.S. Supreme Court

1. [Salinas v. Texas](#) ▲

133 S. Ct. 2174, 186 L. Ed. 2d 376, 2013 U.S. LEXIS 4697, 81 U.S.L.W. 4467, 24 Fla. L. Weekly Fed. S 294

■ Distinguished by:

133 S. Ct. 2174 [p.2180](#) 186 L. Ed. 2d 376 [p.385](#)

■ Cited in Dissenting Opinion at:

133 S. Ct. 2174 [p.2185](#) 186 L. Ed. 2d 376 [p.391](#)

■ Cited by:

133 S. Ct. 2174 [p.2178](#) 186 L. Ed. 2d 376 [p.383](#)

... unqualified right not to speak during his police interview. Second, a witness' failure to invoke the privilege against self-incrimination must be excused where governmental coercion makes his forfeiture of the privilege involuntary. See, e.g., [Miranda v. Arizona](#), 384 U.S. 436, 467-468, 86 S. Ct. 1602, 16 L. Ed. 2d 694. Petitioner cannot benefit from this principle because it is undisputed that he agreed to accompany the officers to the station and was free to leave at any time. ...

Depth of Discussion

LexisNexis®
Headnotes
[HN10](#) | [HN16](#)Court
U.S.Date
20132. [Howes v. Fields](#) ▲

132 S. Ct. 1181, 182 L. Ed. 2d 17, 2012 U.S. LEXIS 1077, 80 U.S.L.W. 4154, 23 Fla. L. Weekly Fed. S 126

■ Cited in Dissenting Opinion at:

132 S. Ct. 1181 [p.1194](#) 182 L. Ed. 2d 17 [p.33](#)

Depth of Discussion



LexisNexis®

Appellate History

● Citing Decisions

Other Citing Sources

Table of Authorities

Narrow By

Court Documents



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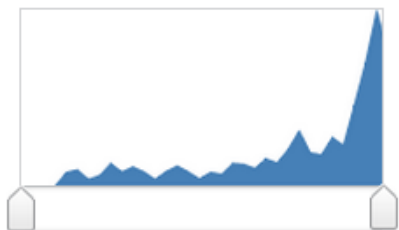
3,110

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▼ Timeline



1975

2014

1975

2014

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Other Citing Sources (3110)

No negative subsequent appellate history



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Briefs

1. IRVING MAGANA GARCIA, PETITIONER, v. STATE OF TEXAS, RESPONDENT.

2014 U.S. Briefs 295, 2014 U.S. S. Ct. Briefs LEXIS 3175

In the context of a waiver of Miranda 3 **Miranda v. Arizona, 384 U.S. 436 (1996)**, rights, the Supreme Court has explained that "the relinquishment of the [constitutional] right must have been voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception." *Moran v. Burbine*, 475 U.S. 412 , 421 (1986). "Only if the totality of the circumstances surrounding [the waiver] reveal both an uncoerced choice and the requisite level ...

Date

Sept. 9, 2014

Content

Court Documents

2. SMITH v. BALDWIN

2014 U.S. Briefs 136, 2014 U.S. S. Ct. Briefs LEXIS 2972

Brown is by no means an anomaly in this respect. In the case now known simply as **Miranda v. Arizona, 384 U.S. 436 (1966)**, this Court actually granted and decided separate cases from Arizona , California , and New York , allowing it to hear law enforcement perspectives from a variety of jurisdictions. More recently, in *Miller v. Alabama*, 132 S. Ct. 2455 (2012), this Court granted cases from Alabama and Arkansas to decide whether states run afoul of the Eighth Amendment by imposing ...

Date

Aug. 27, 2014

Content

Court Documents

3. MICHAEL F. MARTEL, WARDEN, Petitioner, v. REUBEN KENNETH LUJAN, Respondent.

Appellate History

Citing Decisions

Other Citing Sources

Table of Authorities

Other Citing Sources (5585)

No negative **subsequent appellate history**



Law Reviews and Periodicals

- ☐ 1. **FEATURE: "THINK LIKE A LAWYER": YEAH, BUT WHAT THE HELL DOES THAT MEAN?**

50 AZ Attorney 16

Date
2014

Content
Law Reviews

- ☐ 2. **BACK: APPELLATE HIGHLIGHTS: SUPREME COURT PETITIONS**

49 AZ Attorney 40

- To prevent coerced waivers of the **Miranda [v. Arizona, 384 U.S. 436 (1966)]** right to counsel and, by extension, the Fifth Amendment privilege against self-incrimination, Edwards v. Arizona, 451 U.S. 477 (1981), prohibits law enforcement from resuming custodial interrogation of a suspect who has invoked his right to counsel unless counsel is present or the suspect initiates further discussions about the case. Here, the court of appeals held in a published opinion that the State violated ...

Date
2013

Content
Law Reviews

- ☐ 3. **ARTICLE: THE MAN BEHIND THE WARNING**

43 AZ Attorney 16

This determination of the Arizona Supreme Court in the kidnapping and rape case (the robbery conviction was not appealed) was reversed by the United States Supreme Court in *Miranda v. Arizona*, 8 **384 U.S. 436 (1966)**, which held that *Miranda* should have been apprised of his right to consult with

Date
2006

Content
Law Reviews

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Law Reviews



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Content

Law Reviews

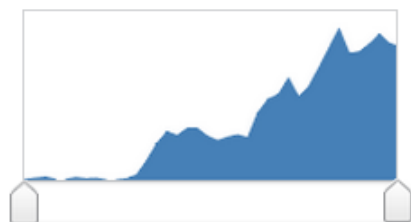
5,585

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Timeline



1970

2014

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2014

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**Miranda v. Arizona**Supreme Court of the United States | June 13, 1966 | 384 U.S. 436 | 10 Ohio Misc. 9 | 86 S.Ct. 1602 | [See Additional Citations](#) (Approx. 80 pages)

Document

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Part: 1 of 2

Superseded by Statute as Stated in [U.S. v. Dickerson](#), 4th Cir.(Va.), February 8, 1999

Original Image of 86 S.Ct. 1602 (PDF)

86 S.Ct. 1602
Supreme Court of the United States

Ernesto A. MIRANDA, Petitioner,

v.

STATE OF ARIZONA.

Michael VIGNERA, Petitioner,

v.

STATE OF NEW YORK.

Carl Calvin WESTOVER, Petitioner,

v.

UNITED STATES.

STATE OF CALIFORNIA, Petitioner,

v.

Roy Allen STEWART.

Nos. 759—761, 584. | Argued Feb. 28, March 1 and 2, 1966. | Decided June 13, 1966. | Rehearing Denied No. 584 Oct. 10, 1966.

See 87 S.Ct. 11.

Criminal prosecutions. The Superior Court, Maricopa County, Arizona, rendered judgment, and the Supreme Court of Arizona, 98 Ariz. 18, 401 P.2d 721, affirmed. The Supreme Court, Kings County, New York, rendered judgment, and the Supreme Court, Appellate Division, Second Department, 21 A.D.2d 752, 252 N.Y.S.2d 19, affirmed, as did the Court of Appeals of the State of New York at 15 N.Y.2d 272, 252 N.Y.S.2d 1957, 227 N.E.2d 527. The United States District Court for the Northern District of California, Northern



Miranda v. Arizona

Supreme Court of the United States | June 13, 1966 | 384 U.S. 436 | 10 Ohio Misc. 9 | 86 S.Ct. 1602 | [See Additional Citations](#) (Approx. 80 pages)

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<input type="checkbox"/>	2. Brief for the United States Carl Calvin WESTOVER, Petitioner, v. UNITED STATES OF AMERICA. 1966 WL 87735	—	U.S.	Feb. 24, 1966	Brief
<input type="checkbox"/>	3. Brief of the State of New York, Joined by the States of Arizona, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Kansas, Kentucky, Louisiana, M... Miranda v. Arizona 1966 WL 100542	—	U.S.	Feb. 23, 1966	Brief
<input type="checkbox"/>	4. Brief of the State of New York, Joined by the States of Arizona, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Kansas, Kentucky, Louisiana, M... No. 759. Ernesto A. MIRANDA, v. ARIZONA. No. 760. Michael Vignera, v. New York. No. 761. Carl Calvin Westover, v. United States. No. 762. Sylvester Johnson and Stanley Cassidy, v. New Jersey. No. 584. California, v. Roy Allen Stewart. 1966 WL 87730	—	U.S.	Feb. 23, 1966	Brief
<input type="checkbox"/>	5. Brief of the American Civil Liberties Union, Amicus Curiae. People of the State of California v. Stewart 1966 WL 100516	—	U.S.	Feb. 19, 1966	Brief
<input type="checkbox"/>	6. Brief for Respondent Miranda v. Arizona 1966 WL 100544	—	U.S.	Feb. 09, 1966	Brief
<input type="checkbox"/>	7. Brief for Respondent Ernesto A. MIRANDA, Petitioner, v. THE STATE OF ARIZONA, Respondent. 1966 WL 87731	—	U.S.	Feb. 09, 1966	Brief
<input type="checkbox"/>	8. Brief for Respondent Michael VIGNERA. Petitioner, v. NEW YORK. Respondent.	—	U.S.	Feb. 09, 1966	Brief



Miranda v. Arizona

Supreme Court of the United States | June 13, 1966 | 384 U.S. 436 | 10 Ohio Misc. 9 | 86 S.Ct. 1602 | [See Additional Citations](#) (Approx. 80 pages)

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<input type="checkbox"/>	Superseded by Statute as Stated in	2. People v. Banks 2000 WL 33519258, Mich.App. Defendant appeals by right from his conviction by a jury of uttering and publishing a state warrant, M.C.L. § 750.253; MSA 28.450. The trial court, applying a fourth-offense...	Apr. 21, 2000	Case		1 S.Ct.
<input type="checkbox"/>	Disagreement Recognized by	3. Ashford v. State 807 A.2d 732, Md.App. CRIMINAL JUSTICE - Searches and Seizures. Probable cause existed for search warrant despite absence of eyewitness' name in application.	Sep. 12, 2002	Case		62 76 82 S.Ct.
<input type="checkbox"/>	Called into Doubt by	4. U.S. v. Mora 98 F.Supp.2d 466	May 30, 2000	Other	—	—
<input type="checkbox"/>	Declined to Extend by	5. In re Castro 52 Cal.Rptr. 469, Cal.App. 5 Dist.	July 11, 1966	Case		76 S.Ct.



U.S. v. Dickerson

United States Court of Appeals, Fourth Circuit. | February 8, 1999 | 166 F.3d 667 (Approx. 51 pages)

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Fourth Circuit.

UNITED STATES of America, Plaintiff–Appellant,

v.

Charles Thomas DICKERSON, Defendant–Appellee.

Washington Legal Foundation; [Safe Streets Coalition](#), Amici Curiae.

No. 97–4750. | Argued Jan. 30, 1998. | Decided Feb. 8, 1999.

Defendant was charged with conspiracy to commit bank robbery and other offenses. Following grant of defendant's motion to suppress confession on ground that it was obtained in violation of [Miranda v. Arizona](#), government moved for reconsideration. The United States District Court for the Eastern District of Virginia, [James C. Cacheris](#), Senior District Judge, 971 F.Supp. 1023, denied motion.

Government appealed. The Court of Appeals, [Williams](#), Circuit Judge, held that: (1) admissibility of confessions in federal court is governed by statute providing that confession is admissible if voluntarily given, not by rule of [Miranda](#); (2) government could appeal order denying reconsideration of suppression ruling; (3) as matter of first impression, District Court's re-hearing would be reviewed for abuse of discretion; (4) government's proffered reasons were insufficient to justify denial of reconsideration; (5) government's failure to introduce evidence which was to become basis for its motion for reconsideration should be excused; (6) the question whether admissibility of confessions was governed by statute did not prevent Court of Appeals from deciding the question; (6) warrant authorizing search of defendant's apartment was sufficiently particular in describing items to be searched; even if warrant was not sufficiently particular, evidence obtained in search was admissible pursuant to exclusionary rule.

Reversed and remanded

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1. **People v. Vignera**

21 A.D.2d 752, N.Y.A.D. 2 Dept., May 04, 1964

Motion Granted by

2. **People v. Vignera**

14 N.Y.2d 951, N.Y., July 10, 1964

AND Motion Granted by

3. **People v. Vignera**

14 N.Y.2d 981, N.Y., Oct. 01, 1964

AND Judgment Affirmed by

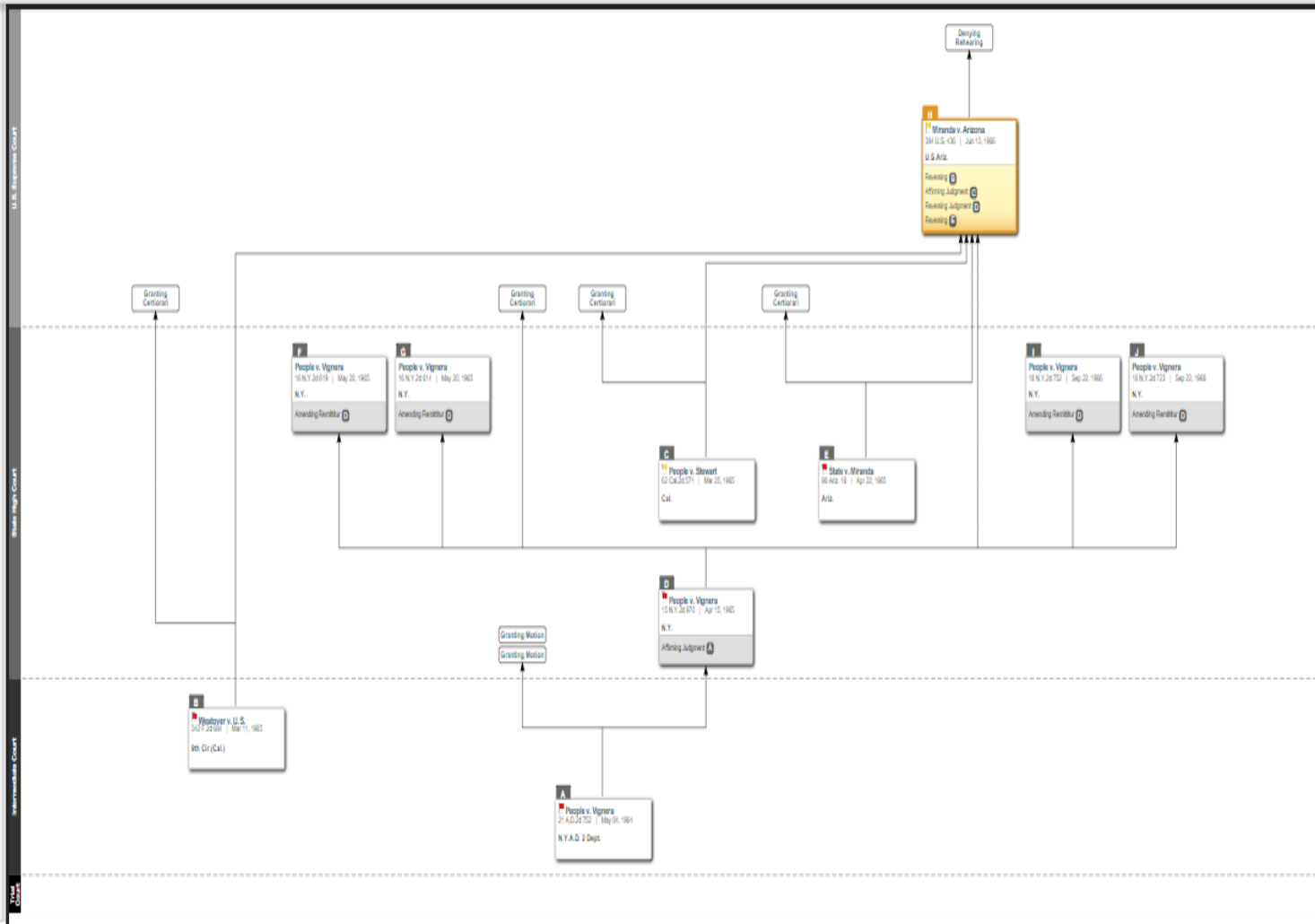
4. **People v. Vignera**

15 N.Y.2d 970, N.Y., Apr. 15, 1965

Remittitur Amended by

5. **People v. Vignera**

16 N.Y.2d 614, N.Y., May 20, 1965





Miranda v. Arizona

Supreme Court of the United States June 13, 1966 384 U.S. 436 10 Ohio Misc. 9 86 S.Ct. 1602 [See Additional Citations](#) (Approx. 80 pages)

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<input type="checkbox"/>	Declined to Extend by	4. State v. Perea 322 P.3d 624, 631+, Utah CRIMINAL JUSTICE - Experts. Defense expert's testimony regarding the phenomenon of false confessions was admissible in murder prosecution.	Nov. 15, 2013	Case	■■■■■	3 4 7 S.Ct.
<input type="checkbox"/>	Declined to	5. Salinas v. Texas	June 17, 2013	Case	■■■■■	27 28



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<input type="checkbox"/>	Disagreement Recognized by NEGATIVE	2. Ashford v. State 807 A.2d 732, 746+, Md.App. CRIMINAL JUSTICE - Searches and Seizures. Probable cause existed for search warrant despite absence of eyewitness' name in application.	Sep. 12, 2002	Case	62	76
<input type="checkbox"/>	Declined to Extend by NEGATIVE	3. People v. Tom 176 Cal.Rptr.3d 148, 151+, Cal. CRIMINAL JUSTICE - Privileges. Defendant was required to invoke right to remain silent in order to bar postarrest, pre-Miranda silence from trial.	Aug. 14, 2014	Case	15	28
<input type="checkbox"/>	Declined to Extend by NEGATIVE	4. State v. Perea 322 P.3d 624, 631+, Utah CRIMINAL JUSTICE - Experts. Defense expert's testimony regarding the phenomenon of false confessions was admissible in murder prosecution.	Nov. 15, 2013	Case	3	4
<input type="checkbox"/>	Declined to Extend by NEGATIVE	5. Salinas v. Texas 133 S.Ct. 2174, 2175+, U.S.Tex. CRIMINAL JUSTICE - Confessions. Prosecution's use of defendant's noncustodial silence did not violate Fifth Amendment.	June 17, 2013	Case	27	28
<input type="checkbox"/>	Declined to Extend by NEGATIVE	6. U.S. v. Russell 916 F.Supp.2d 305, 308+, E.D.N.Y. CRIMINAL JUSTICE - Grand Jury. The prosecutor did not have to advise the defendant of his right to speak with counsel before his grand jury testimony.	Jan. 07, 2013	Case	5	

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Treatment	Title	Headnote(s)
<input type="checkbox"/> Superseded by Statute as Stated in NEGATIVE	1. U.S. v. Dickerson 166 F.3d 667, 671+, 4th Cir.(Va.) Defendant was charged with conspiracy to commit bank robbery and other... Following grant of defendant's motion to suppress confession on ground that... obtained in...	76 77 78 Headnote S.Ct.
<input type="checkbox"/> Disagreement Recognized by NEGATIVE	2. Ashford v. State 807 A.2d 732, 746+, Md.App. CRIMINAL JUSTICE - Searches and Seizures. Probable cause existed for... warrant despite absence of eyewitness' name in application.	62 76 82 S.Ct.
<input type="checkbox"/> Declined to Extend by NEGATIVE	3. People v. Tom 176 Cal.Rptr.3d 148, 151+, Cal. CRIMINAL JUSTICE - Privileges. Defendant was required to invoke right to remain silent in order to bar postarrest, pre-Miranda silence from trial.	Aug. 14, 2014 Case 15 28 39 S.Ct.
<input type="checkbox"/> Declined to Extend by NEGATIVE	4. State v. Perea 322 P.3d 624, 631+, Utah CRIMINAL JUSTICE - Experts. Defense expert's testimony regarding the phenomenon of false confessions was admissible in murder prosecution.	Nov. 15, 2013 Case 3 4 7 S.Ct.
<input type="checkbox"/> Declined to Extend by NEGATIVE	5. Salinas v. Texas 133 S.Ct. 2174, 2175+, U.S.Tex. CRIMINAL JUSTICE - Confessions. Prosecution's use of defendant's noncustodial silence did not violate Fifth Amendment.	June 17, 2013 Case 27 28 S.Ct.
<input type="checkbox"/> Declined to Extend by NEGATIVE	6. U.S. v. Russell 916 F.Supp.2d 305, 308+, E.D.N.Y. CRIMINAL JUSTICE - Grand Jury. The prosecutor did not have to advise the defendant of his right to speak with counsel before his grand jury testimony.	Jan. 07, 2013 Case 5 S.Ct.
<input type="checkbox"/> Declined to Extend by	7. People v. Gonzalez	Oct. 29, 2012 Case 67

CONSTITUTIONAL LAW 🗝️ Particular cases.

CRIMINAL LAW 🔑 Right to remain silent.

CRIMINAL LAW 🔑 Right to counsel.

State defendant's oral confession obtained during incommunicado interrogation was inadmissible where he had not been warned of any of his rights before questioning, and thus was not effectively apprised of Fifth Amendment privilege or right to have counsel present. U.S.C.A.Const. Amends. 5, 6.

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<input type="checkbox"/> Eighth Circuit Ct. App.	526
<input checked="" type="checkbox"/> Ninth Circuit Ct. App.	987
<input type="checkbox"/> Tenth Circuit Ct. App.	444

<input type="checkbox"/> Treatment	Title	Date	Type
<input type="checkbox"/> Distinguished by NEGATIVE	1. U.S. v. Bassignani 560 F.3d 989, 992+, 9th Cir.(Cal.) CRIMINAL JUSTICE - Confessions. Defendant was not "in custody" for Miranda purposes when he was interviewed at his workplace.	Mar. 25, 2009	Case
<input type="checkbox"/> Examined by	2. U.S. v. Preston 751 F.3d 1008, 1015+, 9th Cir.(Ariz.) CRIMINAL JUSTICE - Confessions. Intellectual impaired defendant's confession to aggravated sexual abuse of minor was involuntary.	May 12, 2014	Case
<input type="checkbox"/> Examined by	3. U.S. v. Ramirez-Estrada 749 F.3d 1129, 1131+, 9th Cir.(Cal.) CRIMINAL JUSTICE - Confessions. Use of defendant's post-Miranda silence to impeach his trial testimony violated his rights under Doyle v. Ohio.	Apr. 25, 2014	Case
<input type="checkbox"/> Examined by	4. Hernandez v. Holland 750 F.3d 843, 847+, 9th Cir.(Cal.) CRIMINAL JUSTICE - Habeas Corpus. State court decision that conversation was not interrogation was not unreasonable application of Miranda, barring habeas relief.	Apr. 24, 2014	Case
<input type="checkbox"/> Examined by	5. Jackson v. Barnes 749 F.3d 755, 758+, 9th Cir.(Cal.) CIVIL RIGHTS - Constitutional Torts. Heck bar did not apply in § 1983 action relating to original conviction before retrial.	Apr. 15, 2014	Case
<input type="checkbox"/> Examined by	6. U.S. v. IMM 747 F.3d 754, 757+, 9th Cir.(Ariz.) NATIVE AMERICANS - Jurisdiction. A juvenile delinquency certification did not have to include a statement of substantial Federal interest in the case.	Mar. 31, 2014	Case
<input type="checkbox"/> Examined by	7. Lujan v. Garcia 734 F.3d 917, 920+, 9th Cir.(Cal.) CRIMINAL JUSTICE - Habeas Corpus. Defendant's conviction was not a "final judgment" for purposes of the habeas corpus statute.	Oct. 29, 2013	Case

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Publication Name

<input type="checkbox"/>	Treatment	Title	Date
<input type="checkbox"/>	—	1. Denial of Accused's Request for Initial Contact with Attorney--Drunk Driving Cases 109 A.L.R.5th 611 This annotation collects and analyzes the state and federal cases involving drunk driving offenses in which the courts have discussed an alleged denial by law enforcement officers...	2003
<input type="checkbox"/>	—	2. Denial of Accused's Request for Initial Contact with Attorney in Cases Involving Offenses Other than Drunk Driving--Cases Focusing on Presence of Incu... 124 A.L.R.5th 1 This annotation collects and analyzes the state and federal cases involving offenses other than drunk driving in which the courts have discussed an alleged denial by law...	2004
<input type="checkbox"/>	—	3. Comment Note.--Necessity of informing suspect of rights under privilege against self-incrimination, prior to police interrogation 10 A.L.R.3d 1054 The present comment deals with the question whether, as a federal constitutional prerequisite to the admissibility at a criminal trial, of a statement made by a suspect during...	1966
<input type="checkbox"/>	—	4. Admissibility of confession as affected by its inducement through artifice, deception, trickery, or fraud 99 A.L.R.2d 772 This annotation deals with the question whether and under what circumstances the admission in criminal prosecutions of the confession of the accused of his commission of the crime...	1965
<input type="checkbox"/>	—	5. Crim. Proc. Checklists, 5th Amend. & 6th Amend. s 3:6, Custody defined: An individual is in custody when he has been arrested or when his freedom of a... (1) "Determining whether an individual's freedom of movement was curtailed, however, is simply the first step in the analysis, not the last. Not all restraints on freedom of	2013



Miranda v. Arizona

Supreme Court of the United States

June 13, 1966

384 U.S. 436

10 Ohio Misc. 9

86 S.Ct. 1602

See Additional Citations (Approx. 80 pages)

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☐ 8,764

☐ 7,268

☐ 10,689

☐ 126

Headnote Topics

<input type="checkbox"/>	Treatment	Title	Date
<input type="checkbox"/>	Examined by	1. Petition for Writ of Certiorari Kirk v. State of Ohio 2014 WL 262258, *1+, U.S. (Appellate Petition, Motion and Filing)	Jan. 21, 2014
<input type="checkbox"/>	Examined by	2. Reply Brief for Petitioner State of Kansas v. Swindler 2013 WL 6236866, *1+, U.S. (Appellate Petition, Motion and Filing)	Nov. 27, 2013
<input type="checkbox"/>	Examined by	3. Amici Curiae Brief of Kentucky School Boards Association and National School Boards Association et al. In Support of Petition for Writ of Certiorari Commonwealth of Kentucky v. N.C., A Child Under Eighteen 2013 WL 4761423, *1+, U.S. (Appellate Petition, Motion and Filing)	Aug. 28, 2013
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<input type="checkbox"/>	Examined by	10. Brief of Amicus Curiae California District Attorneys Association in Support of	Feb. 08, 2013

Petition for Writ of Certiorari

Kirk v. State of Ohio | Supreme Court of the United States. (Approx. 20 pages)

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2014 WL 262258 (U.S.) (Appellate Petition, Motion and Filing)
Supreme Court of the United States.

Sample petition

Sean M. KIRK, Petitioner,
v.
STATE OF OHIO, Respondent.

No. 13-876.
January 21, 2014.

On Petition for Writ of Certiorari to the Supreme Court of Ohio

Petition for Writ of Certiorari

[Brent L. English](#), Counsel of Record, Law Offices of [Brent L. English](#), The 820 Building, 820 Superior Avenue West, 9th Floor, Cleveland, Ohio 44113-1818, (216) 781-9917, (216) 781-8113 (Fax), benglish@englishlaw.com, Counsel for Petitioner.

*i QUESTIONS PRESENTED

The questions presented are:

1. Whether a knowing and intelligent waiver of Fifth Amendment rights occurred when the warnings required by [Miranda v. Arizona](#) were given in a manner and under circumstances that a cognitively impaired 18-year-old man did not, and could not understand them.
2. Whether the “totality of the circumstances” test for assessing whether a claimed waiver of Fifth Amendment rights required the court to consider expert testimony regarding the nature and extent of the accused’s cognitive disabilities and whether a failure to consider all of the pertinent evidence constitutes a violation of the Fifth Amendment?

*// PARTIES TO THE PROCEEDING

Petitioner, who was the appellee before the Court of Appeals for Crawford County, Ohio and the Appellant before the Supreme Court of



Final Comments

- Differences Between Keycite and Shepards
 - Westlaw: depth of treatment stars
 - organization of results
 - differing editorial analysis



Classroom exercise: Update case

- **United States v. Parmelee, 42 F.3d 387 (1994)**
 - Use Lexis and Westlaw to make sure this case is still good law
 - How many cases and secondary sources cited to this case
 - Use Table of Authorities to find the cases cited by United States v. Parmelee

Document: United States v. Parmelee, 42 F.3d 387

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▲ United States v. Parmelee, 42 F.3d 387

Copy Citation

United States Court of Appeals for the Seventh Circuit

April 14, 1994, Argued ; December 9, 1994, Decided

Nos. 92-3479, 92-3487, 92-3500, 92-3559, 93-1265

Reporter**42 F.3d 387** | [1994 U.S. App. LEXIS 34579](#) | 133 A.L.R. Fed. 599

UNITED STATES OF AMERICA, Plaintiff-Appellee, v. ALLAN PARMELEE, EWA BROZEK-LUKASZUK, ALOJZY SANDRZYK, TADEUSZ SOBIECKI, and LESTER LUKASZUK, Defendants-Appellants.

Subsequent History: Rehearing and Suggestion for Rehearing En Banc Denied (92-3479, 92-3500, 92-3559, 93-1265) January 27, 1995, Reported at: [1995 U.S. App. LEXIS 1693](#).

Prior History: Appeal from the United States District Court for the Northern District of Illinois, Eastern Division. No. 91 CR 296. [James B. Zagel](#) ▼, District Judge.

Disposition: AFFIRMED IN PART AND REMANDED IN PART.

Core Terms

alien, transportation, smuggling, illegal alien, sentencing, pilot, indictment, plane, harmless, violation of law, flight, district court, harmless-error, conspiracy, instructions, enhancement,

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7th Circuit - Court of Appeals

distinguished

☐ 1. [Yu Tian Li v. United States](#)

648 F.3d 524, 2011 U.S. App. LEXIS 16088

Distinguished by:

648 F.3d 524 p.529

... done better research, he would have uncovered cases which supported a specific intent instruction. The cases he cites, however, both involve a specific intent instruction in cases involving the transportation or importing of illegal aliens. **United States v. Parmelee**, 42 F.3d 387, 391 (7th Cir. 1994), United States v. Nguyen, 73 F.3d 887 (9th Cir. 1995). In those cases the courts expressed concern about various hypothetical situations in which someone like a taxi driver or ...

Depth of Discussion
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2011

D.C. Circuit - Court of Appeals

☐ 2. [United States v. Hsin-Yung Yeh](#)

278 F.3d 9, 349 U.S. App. D.C. 335, 2002 U.S. App. LEXIS 1222

Distinguished by:

278 F.3d 9 p.15 349 U.S. App. D.C. 335 p.341

... operation. For example, he observes that his knowledge of the ship's documentation might merely "substantiate his role as an engineer who had knowledge of ... the ship's engines." 3 Yeh suggests that the facts of the Seventh Circuit's decision in **United States v. Parmelee**, 42 F.3d 387 (7th Cir. 1994), cert. denied, 516 U.S. 813 (1995), are "strikingly similar to those in the instant case." Br. of Appellants at 10. We disagree. In

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HN1 | HN3Court
D.C. Cir.Date
2002

Li argues that had his trial counsel done better research, he would have uncovered cases which supported a specific intent instruction. The cases he cites, however, both involve a specific intent instruction in cases involving the transportation or importing of illegal aliens. [*United States v. Parmelee*, 42 F.3d 387, 391 \(7th Cir. 1994\)](#), [*United States v. Nguyen*, 73 F.3d 887 \(9th Cir. 1995\)](#). In those cases the courts expressed concern about various hypothetical situations in which someone like a taxi driver or boat operator might transport an alien without any intent to violate the law. For example, in *Nguyen*, the court expressed concern about exposure to punishment for a boat operator who departed from a coastal port with permanent-resident aliens on board, entered international waters and then returned to shore at a location other than a designated port of entry. [*Nguyen*, 73 F.3d at 893](#). The *Parmelee* court expressed concern about a cab driver who, in a routine commercial transaction, transported an individual who announced his illegal status during the course of the ride. [*Parmelee*, 42 F.3d at 391, 393](#). Without saying so, both courts were expressing concern about the unique nature of transportation—that it involves a transient situation in which the transporter could learn about the illegal status in *media res*, and have no way to complete the innocent transport without violating the law. It is more difficult to imagine a situation in which one could knowingly harbor a known illegal alien without an intent to violate the law. If there were such a situation, the evidence in this case does not reflect it. At trial, the jurors heard evidence that one of the illegal aliens who lived at Li's house for several months divulged his status as an illegal alien to Li. They also heard how he shuttled his tenant/employees back and forth between the garage and the restaurant, how the curtains of the house remained closed at all times, how the defendant refused to tell investigating agents the names of his employees, and that the illegal employees were not asked to complete any paperwork, nor were they listed on any wage or employment records submitted to the state.



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1st Circuit - U.S. District Courts

 1. [United States v. Cruz](#) 

59 F. Supp. 2d 340, 1999 U.S. Dist. LEXIS 10960

 Followed by:

59 F. Supp. 2d 340 p.348

 Cited by:

59 F. Supp. 2d 340 p.346

United States v. Parmelee , 42 F.3d 387 , 390-91 (7th Cir. 1994) . 36 The court notes that United States v. Parmelee , actually references 8 U.S.C. § 1324(a)(1)(B) (1988) , which reads precisely the same as the present charged offense 8 U.S.C.A. § 1324(a)(1) (A)(ii)(1999) due to the 1994 amendments to the statute. See also William G. Phelps, Annotation, Validity, Construction and Application of 274(a)(1)(A)(ii) of the Immigration and Naturalization Act (8 U.S.C.A. 1324 ...

Depth of Discussion

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3rd Circuit - Court of Appeals


 2. [United States v. Silveus](#) 

542 F.3d 993, 2008 U.S. App. LEXIS 19224, 50 V.I. 1101

 Followed by:


542 F.3d 993 p.1002 50 V.I. 1101 p.1113

... disregarded the fact that the alien was in the United States illegally, and (4) the defendant acted willfully in furtherance of the alien's violation of the law. See United States v. Williams , 132 F.3d 1055 , 1059 (5th Cir. 1998) ; **United States v. Parmelee , 42 F.3d 387 , 391 & n. 5 (7th Cir. 1994)** ; see also

Depth of Discussion

LexisNexis® Headnotes
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Court



 Declined to Extend by [U.S. v. Dominguez](#), 11th Cir.(Fla.), October 31, 2011

 [Original Image of 42 F.3d 387 \(PDF\)](#)

42 F.3d 387
United States Court of Appeals,
Seventh Circuit.

UNITED STATES of America, Plaintiff-Appellee,
v.
Allan PARMELEE, Ewa Brozek-Lukaszuk, Alojzy Sandrzyk, Tadeusz Sobiecki, and Lester Lukaszuk,
Defendants-Appellants.

Nos. 92-3479, 92-3487, 92-3500, 92-3559 and 93-1265. | Argued April 14, 1994. | Decided Dec. 9, 1994. | Rehearing and
Suggestion for Rehearing En Banc Denied Jan. 27, 1995 in Nos. 92-3479, 92-3500, 92-3559, 93-1265.

Defendants were convicted by the United States District Court for the Northern District of Illinois, [James B. Zagel](#), J., of conspiring to transport illegal aliens within United States, and knowingly bringing aliens into United States at place other than designated port of entry, and they appealed. The Court of Appeals, [Flaum](#), Circuit Judge, held that: (1) district court's failure to instruct jury that defendants knew they were furthering aliens' illegal entry by transporting them was harmless beyond reasonable doubt, and (2) evidence was insufficient to support finding that defendant pilot acted as manager or supervisor in smuggling ring to justify three-level increase in his sentencing level.

Affirmed in part and remanded in part.

[Coffey](#), Circuit Judge, filed opinion concurring in part and dissenting in part.

West Headnotes (5)

1 **Criminal Law**  **Elements and Incidents of Offense**

District court's erroneous failure to instruct jury that defendants knew they were furthering aliens' illegal entry into United States by transporting them was harmless beyond reasonable doubt; rational jury, which found that defendants knew aliens

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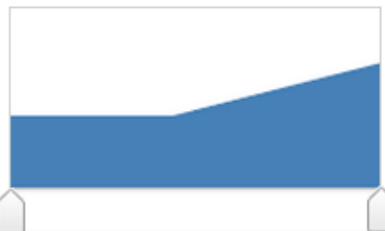
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Briefs

- ☐ 1. **GUSTAVO DOMINGUEZ, AKA GUS, PETITIONER v. UNITED STATES OF AMERICA**

2011 U.S. Briefs 950, 2012 U.S. S. Ct. Briefs LEXIS 1838
United States v. Parmelee, 42 F.3d 387 (7th Cir. 1994), cert. denied, 516 U.S. 812 , and 516 U.S. 813 (1995)

Date
May 3, 2012

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- ☐ 2. **GUSTAVO DOMINGUEZ, Petitioner, versus UNITED STATES OF AMERICA, Respondent.**

2011 U.S. Briefs 950, 2012 U.S. S. Ct. Briefs LEXIS 388
... of statutory language and structure to include "willfully" to modify the verb in § 1324 offenses, rather than applying, as the court does here, the "knowing" mens rea that is applicable only to the first element of the offense. For example, in **United States v. Parmelee, 42 F.3d 387 (7th Cir. 1994)**, the Seventh Circuit concluded that the predecessor to § 1324(a)(1)(A)(ii) required that an element of criminal intent -- that the defendant act willfully -- be read into the statute. 49 ...

Date
Jan. 30, 2012

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- ☐ 3. **UNITED STATES v. EVANS**

2000 U.S. 8th Cir. Briefs 2576, 2001 U.S. 8th Cir. Briefs LEXIS 122

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May 14, 2001

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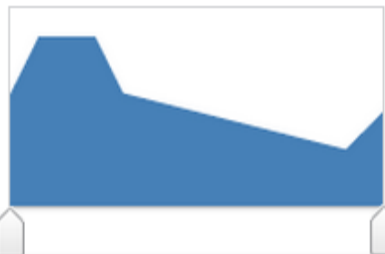
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Law Reviews and Periodicals

1. **COMMENT: Silencing the Voices Of Battered Women: How Arizona's New Anti-Immigration Law "SB1070" Prevents Undocumented Women from Seeking Relief Under the Violence Against Women Act**

47 Cal. W. L. Rev. 173

... law enforcement in Arizona would be unable to prosecute violent abusers in the community, making it more likely that the abuse would continue. On the other hand, federal courts have interpreted analogous federal law more narrowly. 179 See **United States v. Parmelee, 42 F.3d 387, 391 (7th Cir. 1994)** ("[The statute] could conceivably criminalize the actions of a cab driver who transports in a routine commercial transaction an individual who announces his illegal alien status during ...

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Law Reviews

2. **ARTICLE: A LEGAL LABYRINTH: ISSUES RAISED BY ARIZONA SENATE BILL 1070**

25 Geo. Immigr. L.J. 47

... test); **United States v. 1982 Ford Pick-Up, 873 F.2d 947, 951 (6th Cir. 1989)** (applying "intent-based approach"); **United States v. Merkt, 764 F.2d 266, 271-72 (5th Cir. 1985)** (considering intent, and direct or substantial relationship); **United States v.**

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<input type="checkbox"/>	Distinguished by	2. U.S. v. Yeh  278 F.3d 9, D.C.Cir. CRIMINAL JUSTICE - Sentencing. Evidence supported imposition of four-level enhancement for being leader or organizer.	Jan. 29, 2002	Case	
<input type="checkbox"/>	Distinguished by	 3. U.S. v. Hatfield 591 F.3d 945, 7th Cir.(Ill.) CRIMINAL JUSTICE - Drugs. Confusing instruction on meaning of "results from" was not harmless in trial for distributing drugs that resulted in death.	Jan. 14, 2010	Case	
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<input type="checkbox"/>	Distinguished by	5. Yu Tian Li v. U.S. 648 F.3d 524, 7th Cir.(Wis.) CRIMINAL JUSTICE - Counsel. Counsel did not provide ineffective assistance by not proposing specific intent instruction.	Aug. 04, 2011	Case	

Does not take us to U.S. v. Parmelee

661 F.3d 1051
United States Court of Appeals,
Eleventh Circuit.

UNITED STATES of America, Plaintiff–Appellee,
v.
Gustavo DOMINGUEZ, a.k.a. Gus, Defendant–Appellant.

No. 07–13405. | Oct. 31, 2011.

Synopsis

Background: Defendant was convicted in the United States District Court for the Southern District of Florida, No. 05-10009-CR-KMM, [K. Michael Moore, J., 2007 WL 788899](#), of smuggling five Cuban baseball players into the United States, transporting the players from Miami to Los Angeles, and harboring them there until they applied for asylum, and sentenced to five years imprisonment. Defendant appealed.

Holdings: The Court of Appeals, [Cox](#), Circuit Judge, held that:

- 1 evidence was insufficient to convict defendant of transporting aliens;
- 2 evidence was insufficient to convict defendant of concealing, harboring, and shielding aliens from detection;
- 3 evidence was sufficient to convict defendant of conspiring to bring aliens to the United States;
- 4 enhancement of defendant's sentence for alien smuggling conviction was warranted; and
- 5 evidence of defendant's involvement in prior smuggle was admissible at trial for smuggling.

Affirmed in part, vacated in part, and remanded.

[Tjoflat](#), Circuit Judge, filed an opinion, concurring in part, and dissenting in part.

West Headnotes (28)

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Id. at 433–34

parmelee

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Moreover, several of our sister circuits have read this type of statutory language and structure to include “willfully” to modify the verb in § 1324 offenses, rather than applying, as the court does here, the “knowing” *mens rea* that is applicable only to the first element of the offense. For example, in *United States v. Parmelee*, 42 F.3d 387 (7th Cir.1994), the Seventh Circuit concluded that the predecessor to § 1324(a)(1)(A)(ii) required that an element of criminal intent—that the defendant act willfully—be read into the statute.⁴⁹ See *id.* at 390. The *Parmelee* court reached this conclusion because to hold otherwise would lead to “sweeping liability.” *Id.* at 39. Numerous other circuits follow the same approach to read in “willfully” as an element, rather than requiring only that the defendant act “knowingly.” See *United States v. Chavez–Palacios*, 30 F.3d 1290, 1294 (10th Cir.1994) (holding that there is a “willful” *mens rea* element required under statute with identical language to current § 1324(a)(1)(A)(ii)); *United States v. Diaz*, 936 F.2d 786, 788 (5th Cir.1991) (reading in “willful” *mens rea* for the transporting provision that is now in § 1324(a)(1)(A)(ii)); *United States v. Medina–Garcia*, 918 F.2d 4, 7 (1st Cir.1990) (addressing *mens rea* for transporting provision now in § 1324(a)(1)(A)(ii), which requires that the defendant acted “willfully”); *United States v. Hernandez*, 913 F.2d 568, 569 (8th Cir.1990) (per curiam) (interpreting § 1324(a)(1)(A)(ii) to find that the defendant acted “willfully in furtherance” of alien’s violation of the law was a required element); *United States v. 1982 Ford Pick–Up*, 873 F.2d 947, 951 (6th Cir.1989) (concluding that the Government *1094 must prove “the defendant willfully transported an illegal alien” under § 1324(a)(1)(A)(ii)); *United States v. Morales–Rosales*, 838 F.2d 1359, 1360 (5th Cir.1988) (holding that Government must prove that defendant acted “willfully” to prove a violation of the transporting provision), *overruled on other grounds by United States v. Longoria*, 298 F.3d 367 (5th Cir.2002); *United States v. Merkt*, 764 F.2d 266, 272 (5th Cir.1985) (affirming a jury instruction that included a “willful” element for the transporting violation). *But see United States v. De Jesus–Batres*, 410 F.3d 154, 162 (5th Cir.2005) (rejecting *Nguyen* while interpreting the harboring provision in § 1324(a)(1)(A)(iii), but offering no explanation other than “[t]his circuit follows a different rule and has held, as to similar offenses, that proof of specific intent to violate immigration laws is not required.”). That other circuits have interpreted provisions with the same language and structure to include a “willful” element is instructive to the approach we should take in interpreting this provision. Namely, it is highly persuasive that other courts have consistently rejected the interpretation suggested by the court today—that we should read “knowingly” to apply to each element—and instead concluded that criminal intent is the proper *mens rea*.

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		This annotation collects and analyzes cases in which federal courts discussed the validity, construction, and application of § 274(a)(1)(A)(ii) of the Immigration and Nationality...	
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		This annotation collects and analyzes those cases in which the federal courts discussed the validity of, or construed and applied, §§ 274(a)(1)(A)(i) of the Immigration and...	
<input type="checkbox"/>	—	3. Validity, construction, and application of 274(a)(1)(A)(iii) of Immigration and Nationality Act (8 U.S.C.A. sec. 1324(a)(1)(A)(iii)), making it unlawf... 137 A.L.R. Fed. 255	1
		This annotation collects and analyzes cases in which federal courts discussed the validity, construction, and application of § 274(a)(1)(A)(iii) of the Immigration and Nationality...	
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		A felony is defined in the various statutes as any offense "punishable," "which may be punished," or "which is liable to be punished," by death or confinement in the state prison...	
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<input type="checkbox"/>	Cited by	7. Brief of the Appellant Craig Stanley Toll UNITED STATES OF AMERICA, Plaintiff/Appellee, v. Craig Stanley TOLL, Defendant/Appellant. 2014 WL 4255053, *1+, 11th Cir. (Appellate Brief)	Aug. 20, 2014
<input type="checkbox"/>	Cited by	8. Brief for the United States UNITED STATES OF AMERICA, Appellee, v. Jean LOUIS, Appellant. 2014 WL 3887248, *1+, 11th Cir. (Appellate Brief)	July 30, 2014
<input type="checkbox"/>	Cited by	9. Brief of the Appellant	Aug. 15, 2014