The Dight to Coursel

The Right to Counsel

Escobedo v. Illinois, 1964

****** Background of the Case **********

Danny Escobedo was arrested in Chicago for the murder of his brother-in-law. The arrest took place at 2:30 A.M. on the morning of January 19, 1960, after the fatal shooting. Escobedo made no statement and was released. On January 30, 1960, Escobedo was taken into custody after an informant implicated him in the shooting. He declined to make any statement and asked to see his lawyer. Even though his lawyer was present in the police station, the police denied Escobedo the right to talk with him, and in fact, told Escobedo that his lawyer did not want to see him. Despite repeated attempts, Escobedo's lawyer was not permitted to see his client until the police had completed their interrogation.

Supreme Court Case Study 46

Police testimony later revealed that Escobedo had been handcuffed in a standing position during the interrogation and that he was agitated and upset. During the police interrogation, Escobedo made incriminating statements that led to his indictment for the murder of his brother-in-law. He spoke in Spanish to an officer who spoke his language, and during that conversation Escobedo revealed that he was aware of the shooting. Motions made before and during the trial to have these statements suppressed (not used) as evidence were denied. After Escobedo's murder conviction, the United States Supreme Court took the case for review.

By 1964 the Court had generally settled the question that the defendant in a state criminal trial has the Fifth Amendment right not to speak and the Sixth Amendment right to counsel. But it remained unclear exactly when a defendant needed a lawyer to protect his or her right not to speak. For example, it was not uncommon for police officers to deny a suspect the right to counsel in the early stages of an investigation, when the suspect might yield to police pressure and provide incriminating information or even confess to a crime. If the suspect had not had his or her counsel present at that time, did this violate the right-to-counsel principle? The Court had to consider whether the Sixth Amendment's provision of the right to counsel also applied to the interrogation of a suspect of a crime.

***** The Supreme Court's Decision *******

The Court voted 5 to 4 to reverse Escobedo's conviction. Justice Arthur Goldberg wrote the Court's opinion.

Goldberg determined that although the questioning of Escobedo had preceded formal indictment, this fact "should make no difference" as to a person's right to counsel. At the point of interrogation, he stated, the investigation was no longer a "general investigation" of an unsolved crime. Escobedo "had become the accused, and the purpose of the investigation was to 'get him' to confess his guilt despite his constitutional right not to do so." It was at this point, Goldberg noted, that many confessions are obtained and this fact "points up its critical

(continued)

Supreme Court Case Study 46 (continued)



nature as a stage when legal aid and advice are surely needed.... Our Constitution, unlike some others, strikes a balance in favor of the right of the accused to be advised by his lawyers of his privilege against self-incrimination.... A system of criminal law enforcement which comes to depend on the 'confession,' will, in the long run, be less reliable and more subject to abuses than a system which depends on extrinsic evidence independently secured through skillful investigation.... If the exercise of constitutional rights will thwart the effectiveness of a system of law enforcement, then there is something very wrong with that system."

Goldberg replied to objections that the police would henceforth get fewer confessions because lawyers would automatically advise their clients to say nothing. Goldberg countered that this argument "cuts two ways" since it points out the critical importance to the accused of having an attorney at this stage in the investigation. Goldberg continued, "There is necessarily a direct relationship between the importance of a stage to the police in their quest for a confession and the criticalness of that stage to the accused in his need for legal advice."

In summarizing the Court's opinion, Goldberg noted that "when the process shifts from investigatory to accusatory—when its focus is on the accused and its purpose is to elicit a confession—our adversary system begins to operate, and . . . the accused must be permitted to consult with his lawyer."

************ Dissenting Opinion **********

Four justices dissented. One, Justice John Marshall Harlan, stated, "I think the rule announced today is most ill-conceived and that it seriously and unjustifiably fetters [restricts] perfectly legitimate methods of criminal law enforcement."

Justice Potter Stewart also dissented, agreeing with Justice Harlan that the ruling gave advantages to the criminal and took away too much authority from law enforcers. He stated that this decision ". . . perverts those precious constitutional guarantees, and frustrates the vital interests of society in preserving the legitimate and proper function of honest and purposeful police investigation."



DIRECTIONS: Answer the following questions on a separate sheet of paper.

- **1.** At which point, according to the Court's decision, must a lawyer be provided to a suspect of a crime?
- **2.** Which right of the accused does Justice Goldberg refer to as coming under the protection of the Constitution?
- **3.** How do you think a police officer would react to the Court's decision? Give reasons for your answer.
- **4.** What criticism do both Justice Harlan and Justice Stewart make of the Court's decision?
- **5.** Do you agree with the Court's ruling in this case or with those justices who dissented? Explain.