

LEGAL BULLETIN

PROVIDING HIGHWAY SAFETY AND SECURITY THROUGH EXCELLENCE IN SERVICE, EDUCATION, AND ENFORCEMENT

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United States Supreme Court

Maryland v. Shatzer, 02/24/10.



New “break in custody” rule; establishes when police may resume questioning suspect who previously invoked right to attorney.

The Court held that the *Edwards v. Arizona*, 451 U.S. 477 (1981), prohibition against interrogating a suspect who has invoked his Fifth Amendment right to counsel terminates when the suspect has been released from custody and 14 days have elapsed since the release. The Court also concluded that releasing a suspect back into the general prison population, where he is serving a sentence on an unrelated crime, constitutes a break in custody for purposes of this new “break in custody for 14 days” rule. Accordingly, the Court held that *Edwards* did not mandate suppression of a statement taken from respondent, who had invoked his right to counsel during an interrogation more than two years earlier and had then been released back into the general prison population.

***Miranda* warning sufficiently conveyed right to have attorney present before questioning and right to invoke this right “at any time . . . during the interview.”**

By a 7-2 vote, the Court held that the *Miranda* warnings officers gave to respondent were adequate, even though they did not explicitly state that he had the right to consult with a lawyer “during” questioning. The warnings from the Tampa Police stated: “You have the right to talk to a lawyer before answering any of our questions” and “[y]ou have the right to use any of these rights at any time you want during this interview.” Powell then admitted he owned a handgun found in a police search. The Florida Supreme Court held that the trial court should have suppressed his admission. The United States Supreme Court disagreed and held that *Miranda* does not dictate the exact words to be used by law enforcement officers but requires that a suspect be advised that he has the right to the presence of an attorney prior to questioning and that he also be advised

that he could consult with an attorney while an interrogation is taking place, i.e., not only at the outset of interrogation but at all times. Accordingly the Court held, “The warnings Powell received satisfy this standard.”

Florida v. Powell, 02/23/10.



Excessive force claims are to be “based on the nature of the force rather than the extent of the injury.”

In a second summary ruling, the Court reiterated that claims that police used excessive force on a suspect are to be evaluated on the basis of the nature of the force used, not on whether the individual suffered any injury during the incident. The ruling in *Wilkins v. Gaddy* (08-10914) overturned a lower federal court ruling that dismissed an excessive force claim because the suspect’s injuries were minimal. The new ruling was based on the Court’s 1992 decision in *Hudson v. McMillian*. On Monday, Justice Clarence Thomas, joined by Justice Antonin Scalia, supported the result in *Wilkins*, but repeated his earlier argument that the *Hudson* decision was decided wrongly.

Wilkins v. Gaddy 02/22/10.



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