

U.S. v. DICKERSON

On December 6, 1999 the United States Supreme Court agreed to review the case of U.S. v. Dickerson , in which the 4th Circuit ruled that Miranda waivers are no longer *required* when officers are interrogating suspects who are in custody. The court's ruling was based on a provision in the Omnibus Crime Control Act of 1968 which provided that a defendant's statement is admissible in federal court if the statement was given voluntarily, regardless of whether the defendant waived his Miranda rights. Although this provision has been on the books for over 30 years, it has not been litigated until now.

It remains to be seen whether upholding Dickerson would be good or bad for law enforcement. If upheld, Dickerson would probably result in fewer situations in which incriminating statements were suppressed as the result of technical violations of Miranda.

On the other hand, it would create more uncertainty for officers and prosecutors. As things stand now, if officers comply with Miranda, a suspect's incriminating statement will almost always be admissible in court. Under Dickerson, there would be no set procedure that would assure the admissibility of a statement. Instead, courts would be required to examine the totality of circumstances surrounding the questioning. Consequently, some circumstances that were not very significant in the past might become pivotal. For example, the fact that a suspect was under the influence of drugs or alcohol at the time he was questioned is now relatively unimportant so long as the suspect's answers to the officer's questions were responsive. This may change under Dickerson. The fact that officers did not honor the suspect request to speak with a parent, friend, or any other person who is not an attorney is now virtually insignificant. This, too, could change.

In any event, law enforcement agencies in California should make no changes in their Miranda procedure pending a decision by the United States Supreme Court.