

## Legal Updates

*Berghuis v. Thompkins*, 560 U.S. (2010)

In further defining the Miranda decision the United States Supreme Court addressed the right to remain silent in the case of *Berghuis v. Thompkins*, which was decided on June 1, 2010. This case addressed the invocation and waiver of the right to remain silent in the Miranda decision.

The United States Supreme Court in *Miranda* set out a specific set of warnings which must be given to individuals who are in custody and going to be interrogated. A suspect, who is in custody, must waive his rights before any of his incriminating statements can be used against him at trial. In the alternative, the suspect might also invoke his right to silence and make no statement at all.

Most cases involving *Miranda* revolve around several issues. Whether or not a suspect was in custody at the time he made his statement and should have been given his *Miranda* rights. Second, the interrogation and how it was conducted. Finally, the warnings themselves and the suspect's waiver of them.

In *Berghuis v. Thompkins* the issue revolves around the waiver of *Miranda's* right to silence. *Thompkins* was arrested for a shooting which occurred in Southfield, Michigan. After being taken into custody he was questioned by two detectives who advised *Thompkins* of his *Miranda* warnings. To make sure that *Thompkins* could understand English they asked him to read the *Miranda* warning form out loud. He subsequently refused to sign the form and officers preceded with the interrogation.

*Thompkins* at no point during the interrogation indicated he wanted to remain silent, not talk with the police or request an attorney. In fact, *Thompkins* remained silent for almost the entire three-hour interview. After approximately 2 hours and 45 minutes of interrogation *Thompkins* was asked by one of the detectives if

he believed in God. *Thompkins* replied affirmatively. He was then asked if he prayed, and again he said yes. The detective then asked, "Do you pray to God to forgive you for shooting that boy?" Again, *Thompkins* replied yes. He refused to make any form of written statement and the interrogation concluded.

Attorneys for *Thompkins* filed a motion to suppress the statements he made during the final moments of the interrogation asserting that his right to remain silent have been violated. The circuit court denied the motion and allowed his statements to be used at trial. *Thompkins* was convicted of first-degree murder.

The Michigan Court of Appeals rejected the claim as well and the Michigan Supreme Court refused to address the issue. After working its way to the United States Court of Appeals *Thompkins'* case was reversed. On June 1, 2010 United States Supreme Court reversed the 6th United States Circuit Court of Appeals and determined there was no *Miranda* violation.

*Thompkins* had argued that his failure to speak during the first two hours and 45 minutes of his interrogation invoked his right to remain silent. The United States Supreme Court disagreed. The Court said remaining silent in the face of questioning was not a clear and unambiguous invocation of his right to remain silent. The Court reasoned that just like asking for an attorney the suspect's response should be clear and unambiguous to be effective.

While there were other components to the defendants appeal the courts clarification that the suspect's response in desiring to remain silent should be clear and unambiguous to be effective