

# New Jersey Supreme Court Rules That Law Enforcement Must Inform Defendant Of Pending Charges Prior To Obtaining Waiver Of Right Against Self-Incrimination.

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On March 11, 2019, in *State v. Vincenty*, No. A-40-17(079978)(2019), the New Jersey Supreme Court ruled that law enforcement violated the defendant's right against self-incrimination when they failed to inform him of the charges filed against him prior to asking him to waive his right against self-incrimination. The Court determined that this failure by law enforcement deprived the Defendant of the ability to knowingly and intelligently waive his right against self-incrimination. As such, the Court held that the Defendant's motion to suppress should have been granted by the trial court.

In this case, Adrian Vincenty was questioned by detectives while incarcerated at the Garden State Correctional Facility. The detectives questioned Vincenty about an attempted robbery and attempted murder, which was unrelated to the reason for his present incarceration. Prior to questioning, Vincenty had already been charged for his involvement in the attempted robbery and attempted murder.

The detectives recorded the interview, which was conducted in Spanish. One of the detectives read Vincenty his Miranda rights. Vincenty was provided a Miranda form and acknowledged that he had been advised of his rights and signed the form.

After Vincenty signed the Miranda form waiving his rights, and at various other times thereafter and throughout the interview, the detectives told him that he had already been criminally charged. They also showed him a list of the charges against him. During the interview, the detectives questioned Vincenty about surveillance footage relevant to the crimes at issue. Vincenty indicated that he knew who a second person in the surveillance was, although he claimed not to know his name. He also acknowledged that he looked like one of the assailants, and stated that he lived close to the scene of the crime and had been to the store where the crime occurred.

Shortly after being shown the charges, Vincenty indicated that he wanted to speak to a lawyer. The detectives continued to question him, and he again repeated his request for a lawyer, at which point the interview stopped.

Vincenty was subsequently indicted and moved to suppress his statements to the detectives, both before and after his request for an attorney. He argued that the detectives failed to inform him of the criminal charges filed against him prior to his waiver of his right against self-incrimination. The trial court denied the Defendant's motion regarding the statements made prior to his request for an attorney. Thereafter, Vincenty pleaded guilty to first-degree attempted murder and reserved his right to appeal the denial of his suppression motion. He was later sentenced to ten years' imprisonment with an eighty-five percent parole disqualifier. The Appellate Division affirmed the trial court's decision.

The New Jersey Supreme Court reversed. The Court determined that the detectives violated the requirements set forth in *State v. A.G.D.*, a 2003 New Jersey Supreme Court decision. In *A.G.D.*, the Court ruled that a confession should be suppressed if the government fails to inform a suspect that a criminal complaint or arrest warrant has been filed, as the failure to provide that information deprives that person of information indispensable to a knowing and intelligent waiver of rights. As such, the Court held that if suspects are not informed that a criminal complaint or arrest warrant has been filed against them, they necessarily lack "critically important information" and thus "the State cannot sustain its burden" of proving a suspect has knowingly and intelligently waived the right against self-incrimination.

As a result of the Court's decision in *A.G.D.*, law enforcement is required to inform a defendant of the essence of the charges filed against him at the outset of an interrogation. This information should not be woven into accusatory questions posed during the interview. Law enforcement may choose to notify defendants immediately before or after administering [Miranda](#) warnings, so long as defendants are aware of the charges pending against them before they are asked to waive the right to self-incrimination.

In this case, the Court determined that Vincenty's interrogation is "precisely what [A.G.D.](#) prohibits." At the point when the detectives asked Vincenty to waive his right against self-incrimination, they had not

informed him of the specific criminal charges filed against him. During this period of time when he was not aware that charges had been filed against him, he appeared willing to waive his right against self-incrimination, and ultimately agreed to do so by signing the form acknowledging that he understood his rights. He then spoke with the detectives without requesting to speak with a lawyer. However, at the point that he was informed of the criminal charges filed against him, his demeanor changed, and he “appeared shocked and surprised . . . [and] seemed to understand for the first time the heightened magnitude of the interrogation.” It was then that he requested a lawyer.

In sum, by not informing the Defendant of the charges against him prior to securing his waiver, the detectives withheld “critically important information” that deprived Vincenty of the ability to knowingly and voluntarily waive the right against self-incrimination. As such, the State failed to carry its burden of proving beyond a reasonable doubt that Vincenty knowingly and intelligently waived his right against self-incrimination.