No. _____

In The
Supreme Court of the United States

JAY HOON CHOI,
***Petitioner*,**
v.

COMMONWEALTH OF VIRGINIA,
***Respondent*.**

Petition for Writ of Certiorari
to the Supreme Court of Virginia

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Questions Presented

Issue 1. Following the police reading of the rights enumerated in *Miranda v. Arizona*, 384 U.S. 436 (1966), how long after a person in custody asserts his/her 6th Amendment right to counsel is contact with an attorney required.

Issue 2. Are state magistrates required to tell a recent arrestee, who is brought before them that what the arrestee says may be used against him/her; that the arrestee has a right to remain silent; and that the arrestee has a right to have an attorney, before further proceedings occur

Parties

The parties to this case are petitioner Jay Hoon Choi. and the Commonwealth of Virginia.

Corporate Disclosure

There are no corporations involved in this case.

List of Proceedings

1. In the Fairfax Circuit Court: *Commonwealth v. Jay H. Choi*, No. FE-2018-0001067, FE-2019-0000152, FE-2019-0000153:

    a. Trial – August 26-29, 2019;

    b. Sentencing – December 20, 2019,

amended sentencing order –

February 11, 2020;

c. Notice of Appeal to the Virginia Court of

Appeals filed – February 16, 2020.

2. In the Virginia Court of Appeals: *Jay H. Choi a/k/a Jay Hoon Choi v. Commonwealth*, Record No. 0264-20-4:

Petition for Appeal filed – 1 Judge review date – November 12, 2020 – denied;

b. 3 judge demand filed – November 17, 2020;

c. 3 judge writ panel date - January 13, 2021; denied;

a. Notice of Appeal to the Virginia Supreme

Court filed – February 16, 2021.

3. In the Supreme Court of Virginia: *Jay Hoon Choi v. Commonwealth*, SCV Record # 210180:

a. Petition filed – February 16, 2021;

Petition denied – November 4, 2021.

TABLE OF CONTENTS

QUESTIONS PRESENTED i

PARTIES i

CORPORATE DISCLOSURE i

LIST OF PROCEEDINGS i

TABLE OF AUTHORITIES iv

I. INTRODUCTION 1

II. OPINIONS BELOW 3

III. STATUTORY JURISDICTION 3

IV. CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED 4

V. STATEMENT 5

VI. REASONS FOR GRANTING THE WRIT 10

VII. CONCLUSION 20

APPENDIX:

OPINION OF THE SUPREME COURT OF VIRGINIA, DATED 11/4/21 ..... A1

OPINION OF THE COURT OF APPEALS OF VIRGINIA, DATED 11/12/20 ..... A2

TABLE OF AUTHORITIES

CASES

Arizona v. Roberson, 486 U.S. 675, 108 S. Ct. 2093, 100 L. Ed. 2d 704 (1988)..... 16

Brewer v. Williams, 430 U.S. 387, 97 S. Ct. 1232 51 L. Ed. 2d 424 (1977) 18, 19

Edwards v. Arizona, 451 U.S. 477, 101 S. Ct. 1880, 68 L. Ed. 2d 378 (1981)..... 12, 14

Fare v. Michael C., 442 U.S. 707, 99 S. Ct. 2560, 61 L. Ed. 2d 197 (1979)..... 12

Gilbert v. California, 388 U.S. 263, 87 S. Ct. 1951, 18 L. Ed. 2d 1178 (1967)..... 14

Michigan v. Mosley, 423 U.S. 96, 96 S. Ct. 321, 46 L. Ed. 2d 313 (1975)..... 16

Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966)..... *passim*

Murphy v. Holland, 776 F.2d 470 (4th Cir. 1985)..... 17, 18, 19

Pennsylvania v. Muniz, 496 U.S. 582, 110 S. Ct. 2638, 110 L. Ed. 2d 528 (1990)..... 2, 15

Rhode Island v. Innis, 446 U.S. 291, 100 S. Ct. 1682 64 L. Ed. 2d 297 (1980) 12, 20

Riley v. California, 134 S. Ct. 2473, 189 L. Ed. 2d 430 (2014) 13

United States v. Wade, 388 U.S. 218, 87 S. Ct. 1926, 18 L. Ed. 2d 1149 (1967)..... 14

In The
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Jay Hoon Choi,
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I. INTRODUCTION

On or about March 15, 2017, Detective M. Pritz (Pritz) of the Fairfax County Police Department obtained a search warrant to search the premises at 3007 James Street, Fairfax, Virginia ("the premises"). After obtaining the search warrant, Pritz followed Petitioner Jay Hoon Choi (Choi), who was driving his car. Pritz and had Choi pulled over and arrested and then searched Choi and his vehicle. Thereafter, Pritz took Choi to the premises to be searched on the claim that the search warrant authorized it. The police searched the premises and kept Choi there in handcuffs for hours.

At the premises the police attempted to interrogate Choi, but after being advised of his rights pursuant to *Miranda v. Arizona*, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966), Choi requested an attorney and asserted his right to remain silent. No lawyer was provided and Choi was not allowed to contact an attorney.

Hours later, Choi was taken to a magistrate. Unlike Rule 5 of the Federal Rules of Criminal Procedure that requires a magistrate to advise an accused, *inter alia*, of his right to remain silent and his right to counsel, Virginia has no such requirement. The Magistrate proceeded to question Choi, in the context of release from detention in the presence of Pritz and other police officers, without advising him of his right to remain silent, his right to an attorney, and the warning that what he said may be used against him. Statements obtained by the Magistrate were used as evidence against him at trial and were also used to obtain a subsequent search warrant resulting in other evidence that was also used against Choi at trial.

Relying on this Court's decision in *Pennsylvania v. Muniz*, 496 U.S. 582, 601, 110 S.Ct. 2638, 110 L.Ed.2d 528 (1990), wherein this Court held that under certain circumstances, the police may ask certain "routine booking questions", described as "name, address, height, weight, eye color, date of birth, and current age" without advising the suspect of his constitutional rights, the Virginia Court of Appeals ruled that questioning by the Magistrate without providing Choi of the rights described, *supra*, was proper. Unlike *Muniz*, the Magistrate was not a police officer engaged in booking Choi and asking those routine questions. The Magistrate was

conducting a hearing on detention or release. {More importantly, Choi, unlike Muniz, had asserted his right to remain silent and had requested an attorney when the police advised him of his rights pursuant to *Miranda*.}

The issues in this case are important and recurring because: 1) the law is unclear as to how soon after someone asserts their right to counsel, must they be given access to an attorney; and, 2) various states are split from other states and the Federal government on whether to advise an accused of his/her constitutional right to remain silent and to access to an attorney on their initial presentation to a magistrate after arrest. The various states would benefit from this Court's guidance on these important issues.

II. OPINIONS BELOW

The *per curium* opinion of a single judge of the Virginia Court of Appeals denying the petition for writ of error is attached hereto as Exhibit A. The denial of a panel of the Virginia Court of Appeals on the petition for writ of error is attached hereto as Exhibit B. The denial of the petition for writ of error by the Supreme Court of Virginia is attached hereto as Exhibit C.

III. STATUTORY JURISDICTION

This Court has jurisdiction to review this matter on a writ of certiorari pursuant to 28 U.S.C. § 1257, which provides in pertinent part:

> (a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari … where any title, right, privilege or immunity is specifically set up or claimed under the Constitution or the treaties or the statutes of, or any commission held or authority exercised under, the United States.

IV. CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

Constitutional Provisions
United States Constitution –

5th Amendment

… nor shall any person … be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; …

6th Amendment

In all criminal prosecutions, the accused shall enjoy the right … to have the Assistance of Counsel for his defence

14th Amendment

nor shall any State deprive any person of life, liberty, or property, without due process of law …

IV. STATEMENT

A. Facts

On or about March 15, 2017, Detective M. Pritz, of the Fairfax County Police Department, obtained a search warrant to search the premises at 3007 James Street, Fairfax, Virginia (hereinafter, "the premises"). Although the search warrant authorizes no arrest, search and seizure of Choi and no search or seizure of any vehicle, prior to executing the search warrant, Pritz had Choi stopped and arrested (Record from the trial court, pages (R),) 867-868). Pritz searched Choi and seized and search the car he was driving (R-868). Pritz then had Choi taken to the premises and held him for hours, while the search was conducted (R-869-880).

At the premises, Pritz had Choi read and sign a Miranda rights form. Choi exercised his right to remain silent and asked for an attorney (R-900-905).

Thereafter, Choi was taken to a Magistrate, who asked Choi various questions without ever advising Choi of his *Miranda* rights or obtaining a waiver. The Magistrate had Choi admit that he had not had a job for quite some time (R-883-884). This statement became an essential part of the case presented by the Commonwealth. In their closing argument, it was a point of emphasis. (R-1501). Had Choi been advised of his rights and had he been told that what he said may be used against him, Choi would have asserted his rights as he had done with the police.

On April 5, 2018, Detective M. J. Burns (Burns) obtained a search warrant to seize monies belonging to Petitioner from a TD Ameritrade account number

757660975. As a result, Burns seized $32,967.82. Burns filed an affidavit in which he stated, "on May 1st, 2017, a withdrawal was made from the [Bank of America] account to TD Ameritrade in the amount of $7,000.00." In the affidavit, Burns specifically, said that Choi told "the magistrate that he had not had a job for many years." (R-216). Burns claimed that because Choi was unemployed and because alleged drugs were found "in the residence where Jayhoon Choi resides", the $7,000.00 transfer had to be drug money (R-216-217). In fact, on April 26, 2017, Choi deposited a cashier's check from Richard Castillo in the amount of $15,000.00 for the purchase of Choi's 2013 Subaru BRZ (R-216-217).

After preliminary hearing, a five-count indictment was obtained on December 17, 2018, which charged: possession with intent to distribute a schedule I/II substance, cocaine, in violation of Code of Virginia, 1950, as amended § 18.2-248; possession with intent to distribute a schedule I/II substance, hashish oil, in violation of Code of Virginia, 1950, as amended § 18.2-248; possession of a schedule I/II substance, hashish oil, in violation of Code of Virginia, 1950, as amended § 18.2-250; possession of a schedule I/II substance, amphetamine, in violation of Code of Virginia, 1950, as amended § 18.2-250;and, possession with intent to marijuana, in violation of Code of Virginia, 1950, as amended § 18.2-248.1; Two additional indictments were obtained on February 19, 2019. One had three counts: distribution of a schedule I/II substance, hashish oil, in violation of Code of Virginia, 1950, as amended § 18.2-248; distribution of a schedule IV substance, Xanax, in violation of Code of Virginia, 1950, as amended § 18.2-248; and, distribution of marijuana in violation of Code of

Virginia, 1950, as amended § 18.2-248.1 (less than ½ ounce charged as a misdemeanor); The other charged distribution of marijuana in violation of Code of Virginia, 1950, as amended § 18.2-248.1 Substantive motions in these cases were heard and decided on April 26, 2019. After a three-day bench trial, August 26-28, 2019, Choi on Indictment FE-2018-1067 was acquitted of Counts 1, 3, and 4 and convicted of Count 2, possession with intent to distribute hashish oil and Count 5. possession with intent to distribute marijuana. On Indictment FE-2019-152, Choi was convicted of Count 1, distribution of hashish oil; Count 2, distribution of a schedule IV substance (later reduced to accommodation, a misdemeanor); and, Count 3, misdemeanor distribution of marijuana. On Indictment FE-2019-153 Choi was convicted of distribution of marijuana.

On February 11, 2020, the Fairfax Circuit Court entered an amended sentencing order, wherein Choi was sentenced as follows: FE-2019-152: Count 1: 5 years, 4 years. six months suspended for 5 years, 3 years-probation; Count 2: 12 months suspended, 1-year probation; Count 3: 12 months suspended, 1-year probation; FE-2019-153: 5 years, 4 years. six months suspended for 5 years, 3 years-probation; FE-2018-1068: Count 2: 5 years, 4 years. six months suspended for 5 years, 3 years-probation; Count 5: 5 years, 4 years. six months suspended for 5 years, 3 years-probation. All sentences are to run concurrently and Choi's driver'license will be suspended for six (6) months. The sentences have been suspended pending appeal. Notice of appeal was filed timely on February 16, 2020.

Choi's "Petition for Appeal" was denied by a single judge of the Virginia Court of Appeals in a "*per*

curium" opinion dated November 17, 2020. A three-judge panel of that court denied further relief on January 13, 2021. Notice of appeal was timely filed to the Supreme Court of Virginia. On November 4, 2021, the Supreme Court of Virginia denied Choi's "Petition for Appeal".

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B. Issues Raised in State Courts

The issues which are the subject of this Petition were raised in the Fairfax Circuit Court in a motion and memorandum to suppress statements filed on February 6, 2019 (R-193-196). A supplemental motion to suppress statements and supporting memorandum was filed on April 5, 2019 (R-264-274). An evidentiary hearing was held on the suppression motions in the Circuit Court of Fairfax County on April 26, 2019. The circuit court found that "it was clear that [Choi] had invoked his right to remain silent", after being advised of his rights by the police. However, the court found that: "[t]he Magistrate was just asking basic routine questions for booking and for bond purposes." The court further found that the Magistrate was not trying "to trick him". (R-985). The circuit court did not address the failure of the Magistrate to advise Choi that what he said may be used against him, his right to remain silent and his right to counsel. The circuit court did not address contacting a lawyer as Choi had requested of the police. Both issues were raised in both the papers and at the motions hearing.

These issues were raised by Choi in the "Petition for Appeal" filed in the Virginia Court of Appeals as the first assignment of error. The *per*

curium opinion of that court addressed these issues on pages 2-3 of the opinion, wherein the court stated:

> While at appellant's house, Detective Pritz advised appellant of his rights under Miranda v. Arizona, 384 U.S. 436 (1966). Appellant signed a form indicating that he understood his rights. Appellant invoked his rights to an attorney and to remain silent."

The opinion then claims that the question by the Magistrate regarding employment was a booking question and "was not designed to elicit an incriminating response from appellant." (Opinion, p. 3)

Similarly, the issues before this Court were the first issue in the demand for panel filed with the Virginia Court of Appeals and the first assignment of error in the "Petition for Appeal" filed in the Virginia Supreme Court.

V. REASONS FOR GRANTING THE WRIT

A. THERE ARE IMPORTANT, RECURRING ISSUES REGARDING 1) DELAY IN PROVIDING AN ATTORNEY AFTER A PERSON HAS ASSERTED HIS/HER RIGHT TO COUNSEL WHICH REQUIRE INSTRUCTION BY THIS COURT; AND, 2) QUESTIONING BY A MAGISTRATE AFTER ARREST ON WHICH FEDERAL COURTS RULES AND PROCEDURES AND SOME STATE RULES AND PROCEDURES PROTECT WHILE OTHERS DO NOT, AND, AS TO WHICH, THE GUIDANCE OF THIS COURT WOULD ENSURE THAT THE PROTECTION OF THESE RIGHTS WOULD NOT BE DEPENDANT ON WHERE ONE LIVES.

The questions presented in this case are: How much delay is acceptable in meeting an accused's right to counsel when, after being provided his *Miranda* rights, the person detained has asserted that right and demanded counsel? Are state magistrates required to tell a recent arrestee, who is brought before them that what the arrestee says may be used against him/her; that the arrestee has a right to remain silent; and that the arrestee has a right to have an attorney, before further proceedings occur?

Neither of these questions have been previously decided by this Court. Delay in providing counsel is an important question in both state and federal

courts. Because of Federal Rule of Criminal Procedure 5, federal defendants are protected. However, in some states defendants do not have the same constitutional protections. This issue is important in providing protections to those accused and appearing before a state magistrate and in providing guidance to the states and their magistrates.

1. Following the police reading of the rights enumerated in *Miranda v. Arizona*, 384 U.S. 436 (1966), how long after a person in custody asserts his/her 6th Amendment right to counsel is contact with an attorney required.

In this case, the Virginia court of appeals agreed that Choi had asserted his right to remain silent and his right to counsel:

> While at appellant's house, Pritz advised appellant of his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966). Appellant signed a form indicating that he understood his rights. **Appellant invoked his rights to an attorney and to remain silent.**

(Court of Appeals *per curium* opinion, p. 2, emphasis added)

Both the trial court and the Commonwealth agreed that Choi, after asserting his rights he was held at his home for two hours without being allowed to contact an attorney, was then taken before a magistrate, who proceeded to question him without

advising him that what he said may be used against him, that he had a right remain silent, and he had a right to an attorney. (R-902-905). There is no question that despite Choi's request for counsel and his assertion of his right to remain silent, no contact with an attorney was provided or permitted. Instead, Choi was questioned by the Magistrate and provided information, which the Commonwealth used both to obtain the second warrant, and against Choi at trial.

That questioning without any advisement of the rights at issue in this case was inconsistent with the *Miranda* decision. In *Miranda*, this Court stated:

> If the individual states that he wants an attorney, the interrogation **must cease** until an attorney is present. At that time, the individual must have an opportunity to confer with the attorney and to have him present during any subsequent questioning.

384 U.S. at 473-474 (Emphasis added)

Here the police did cease their interrogation but, when it came to the Magistrate there was no protection.

In *Edwards v. Arizona*, 451 U.S. 477, 484-485, 101 S.Ct. 1880, 68 L.Ed.2d 378 (1981), this Court explained that "when an accused has invoked his right to have counsel …. is not subject to further interrogation by the authorities until counsel has been made available to him …". See also, *Fare v. Michael C.*, 442 U.S. 707, 719, 99 S.Ct. 2560, 2569, 61 L.Ed.2d 197 (1979); *Rhode Island v. Innis*, 446 U.S. 291, 298, 100 S.Ct. 1682 1688, 64 L.Ed.2d 297 (1980);

In this case, Choi was told by the police, at his house, that he could have a lawyer. Choi immediately asked for an attorney. No attempt was made to comply with the police promise of counsel and with Choi's request for counsel during the two hours that Choi remained in custody and had nothing to do. Choi was not permitted to call an attorney prior to being taken to and questioned by the magistrate. Obviously, *Miranda* warnings are important and protect significant constitutional rights.

The delay in allowing contact with an attorney is no longer explainable and is no longer required given modern communications. Even though *Miranda* was decided in 1966, courts and lawyers act as if it was decided in the horse and buggy age. When a person is arrested today and wants to speak with a lawyer, there is absolutely no reason not to allow that contact right then. Most people arrested have cell phones, a fact that this Court recognized in *Riley v. California*, 134 S.Ct. 2473, 2484, 189 L.Ed.2d 430 (2014) by stating that cell phones are:

> such a pervasive and insistent part of daily life that the proverbial visitor from Mars might conclude they were an important feature of human anatomy."

An essential part of that human appendage is the section entitled "contacts". If an arrestee has an attorney, that attorney's number is in the contacts section of the arrestee's cell phone. Once the lawyer is called, representation can begin. That representation can include, advise over the phone; meeting the client at the magistrate's office, the jail or the scene; contacting the magistrate regarding the client,

appearing in front of the magistrate, and/or explaining to the client what to expect regarding booking, bond, etc. Obviously, situations like those in this case and those in cases like *Edwards* can be avoided.

While some might claim it would be difficult to allow such contact, it is not. Shortly after this Court decided *United States v. Wade*, 388 U.S. 218, 87 S.Ct. 1926, 18 L.Ed.2d 1149 (1967) and *Gilbert v. California*, 388 U.S. 263, 87 S.Ct. 1951, 18 L.Ed.2d 1178 (1967), various jurisdictions throughout the country began conducting lineups quickly with attorneys present. That change occurred without serious problems. In today's world, there are myriad of ways of contacting an attorney that did not exist when this Court decided *Miranda*. As noted previously, there are cell phones. There is also texting and emails. Possibly due to the recent pandemic, most people are familiar with audio-video platforms such as zoom and facetime.

Even the magistrate issue, which is addressed in the next section, can be aided by modern technology. Today, if a magistrate wants to conduct a hearing on bond with an attorney, that attorney can go to the magistrate's office, call, or appear virtually.

Delay in allowing contact with an attorney does nothing but create legal problems. It does not need to be delayed in this modern age of communications. This Court could eliminate many unnecessary problems by requiring that, when an accused asks for an attorney, s/he gets to contact one promptly, not hours or days later.

2. Are state magistrates required to tell a recent arrestee, who is brought before them that what the arrestee says may be used against him/her; that the arrestee has a right to remain silent; and that the arrestee has a right to have the assistance of an attorney, before further proceedings occur.

In the *per curium* opinion, the Virginia Court of Appeals stated that the questioning by the Magistrate was authorized by this Court's ruling *Pennsylvania v. Muniz*, 496 U.S. 582 (1990) (opinion, p. 3). The court further stated that even though the questioning produced incriminating information, it was permissible because "the question posed by the magistrate was not designed to elicit incriminating information." (*Id.*)

In *Muniz*, the question was whether the police are required to provide *Miranda* warnings prior to asking booking questions. In *Muniz*, this Court recognized seven booking questions, "name, address, height, weight, eye color, date of birth, and current age". 496 U.S. at 600. Employment was not one of those. As this Court explained, under certain circumstances, even some of the seven apparently innocuous questions could not be asked. For example, if the question is one "that the police should know is reasonably likely to elicit an incriminating response from the suspect." 496 U.S. at 601.

There are two other factors that distinguish this case from *Muniz*: *Muniz* did not involve questioning by a magistrate; and in *Muniz*, the

accused did not request counsel and had not asserted his right to remain silent.

This Court has long recognized that situations may arise that result in pressuring an accused to lower his guard and relinquish his constitutional protections. In *Arizona v. Roberson*, 486 U.S. 675, 681, 108 S.Ct. 2093, 100 L.Ed.2d 704 (1988), this Court explained how the courts should approach such situations.

> Thus, the prophylactic protections that the Miranda warnings provide to counteract the "inherently compelling pressures" of custodial interrogation and to "permit a full opportunity to exercise the privilege against self-incrimination," 384 U.S., at 467, 86 S.Ct., at 1624, are implemented by the application of the *Edwards* corollary that if a suspect believes that he is not capable of undergoing such questioning without advice of counsel, then it is presumed that any subsequent waiver that has come at the authorities' behest, and not at the suspect's own instigation, is itself the product of the "inherently compelling pressures" and not the purely voluntary choice of the suspect. As Justice WHITE has explained, "the accused having expressed his own view that he is not competent to deal with the authorities without legal advice, a later decision at the authorities' insistence to make a statement without counsel's presence may properly be viewed with skepticism." *Michigan v. Mosley*, 423 U.S. 96, 110, n. 2, 96 S.Ct. 321, 329, n. 2, 46 L.Ed.2d 313 (1975) (concurring in result).

Questioning by a magistrate is one of those

"inherently compelling pressures". Unlike the police, a magistrate is a judicial officer. As such, it may be, and often is assumed, that a judicial officer is a neutral referee, who will be fair and who will ensure that an accused's rights are not violated. An accused may, and often will, respond to a magistrate, despite requesting an attorney and asserting his right to remain silent with the police. Unfortunately, as occurred in this case, those responses to a magistrate can cause legal jeopardy which is why the cautions and advisements of *Miranda* should apply.

The Federal criminal justice system has long recognized this issue. As a result, Rule 5 (d) (1) of the Federal Rules of Criminal Procedure requires in pertinent part, the following:

> PROCEDURE IN A FELONY CASE.
>
> (1) *Advice.* If the defendant is charged with a felony, the judge must inform the defendant of the following:
>
> (A) the complaint against the defendant, and any affidavit filed with it;
>
> (B) the defendant's right to retain counsel or to request that counsel be appointed if the defendant cannot obtain counsel;
>
> (E) the defendant's right not to make a statement, and that any statement made may be used against the defendant;

How such an appearance should be handled is explained by the Court of Appeals for the 4th Circuit in *Murphy v. Holland*, 776 F.2d 470, 480 (4th Cir. 1985):

> The Supreme Court has long recognized that "once adversary proceedings have commenced against an individual, he has a right to legal representation when the government interrogates him."
>
> Quoting: *Brewer v. Williams*, 430 U.S. 387, 401, 97 S.Ct. 1232 1240, 51 L.Ed.2d 424 (1977) (footnote omitted).

Even though a magistrate is a judicial official, they are, nonetheless, a government official and their questioning often occurs in the presence of law enforcement who can take advantage of any unwarned statements made.

In *Murphy*, the accused was taken before a magistrate after his arrest. However, unlike the case *sub judice*, the following occurred:

> Magistrate Moody, a neutral judicial officer, thoroughly explained to Murphy the charges against him, the possible penalties upon conviction, the gravity of his situation, and the nature of his right to counsel. Magistrate Moody related in detail what occurred at Murphy's appearance by testifying as follows:
>
> I read the charges against Mr. Murphy and asked him if he understood them. … I indicated to him what the penalties would be …
>
> [I then] said now I'm going to go over [your Miranda] rights and it's very important that you understand and if

> there is anything you don't understand please stop me and we'll go over it until you do…
>
> Magistrate Moody then read to Murphy the Miranda warnings.

Choi was not given the considerations required by *Murphy* and *Brewer*. In the case *sub judice*, the Magistrate had no controlling rule or caselaw requiring him to give an advisement of rights to Choi probably inadvertently, became an arm of the police by asking questions that the police recognized were forbidden because Choi had asserted his rights. Had the warnings provided in *Miranda* and required by Rule 5, been required of the state magistrate in this case, problems such as these would not arise, and, constitutionally, state and federal defendants would have equal protections on their initial appearance before a judicial officer.

While Maryland has Rule 4-213, which is similar to Rule 5 of the Federal Rules of Criminal Procedure and the District of Columbia has a "Rule 5" that is exactly the same as the Federal rule, there are states, such as Virginia and North Carolina, for example, which have no such rules or requirements.

The position of the Virginia appellate courts that if the magistrate did not intend by the questioning to elicit incriminating information, then it is alright to have done so, is inconsistent with this Court's ruling in *Muniz*. In that case, this Court stated that eliciting an incriminating response "focuses primarily upon the perceptions of the suspect, rather than the intent of the police." 496 U.S. at 601

quoting *Rhode Island v. Innis*, 446 U.S. 291, 301, 100 S.Ct. 1682, 1689-1690, 64 L.Ed.2d 297 (1980),

Although as noted *supra*, once a person has asserted his right to remain silent and has requested an attorney, all questioning must stop and he must be provided an attorney. The Virginia courts seek an exception for magistrate questioning, if the magistrate does not intend to elicit incriminating information. The red line established by and followed since *Miranda* is easier to follow and easier to enforce than trying to determine the motive of a judicial officer, who is generally barred from testifying.

That state magistrates should advise suspects of their constitutional rights before questioning is consistent with *Miranda* and important for protecting those same rights before state magistrates.

VI. CONCLUSION

For the foregoing reasons, this Court should grant review in this case to establish: 1) that if an accused asks for an attorney after being Mirandized, he should be provided an attorney without delay, including utilizing modern communication methods; 2) that state court magistrates, prior to questioning someone who is appearing before them right after arrest must advise the arrestee of their right to remain silent, and right to counsel, as well as inform them that any statements they make may be used against them at trial.

There is a lack of uniformity regarding the issues setout above and this Court's instruction and guidance would create uniform protection of these important constitutional rights.

Petitioner further asks that this Court order such other and further relief as it may deem just.

Respectfully Submitted,

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