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## Constitutional Law—Effect of Coerced Confession Held to Carry Over to Later Confession

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## RECENT DECISIONS

### CONSTITUTIONAL LAW — EFFECT OF COERCED CONFESSION HELD TO CARRY OVER TO LATER CONFESSION

After days of intensive police questioning, a state-employed psychiatrist induced the petitioner to confess to murder by means of mental coercion and promises. This confession was followed by others to a police captain, a business associate, and two prosecutors. The first conviction was reversed by the New York Court of Appeals because the coerced confession was used in evidence. At the second trial only the subsequent confessions were used, the question of their voluntariness being submitted to the jury. The Court of Appeals affirmed the conviction and the petitioner then sought habeas corpus in the federal courts. *Held* (5-3) reversing: The effect of the coercion used in obtaining the first confession carried over and controlled the character of the subsequent confessions. *Leyra v. Denno*, 347 U. S. 556 (1954).

When a defendant has made a timely assertion of his right under the Federal Constitution to have his guilt or innocence of a capital crime determined without reliance upon confessions obtained by means proscribed by the due process clause of the Fourteenth Amendment, the Supreme Court must determine independently whether the confessions were so obtained, by review of the facts upon which that issue necessarily turns. *Chambers v. Florida*, 309 U. S. 227 (1940). The performance of this duty cannot be foreclosed by the finding of a trial judge or the verdict of a jury or both. *Lisbenda v. California*, 314 U. S. 219 (1941).

If this review discloses that the accused was not mentally free to confess or deny the suspected participation in the crime at the time of his confession, the Supreme Court will reverse the conviction. *Brown v. Mississippi*, 297 U. S. 278 (1936) (physical torture); *Ashcraft v. Tennessee*, 322 U. S. 143 (1944) (prolonged questioning without sleep); *Haley v. Ohio*, 332 U. S. 596 (1948) (fifteen year old boy questioned in dead of night without counsel); *Malinski v. New York*, 324 U. S. 401 (1945) (prisoner held for three days in hotel stripped of clothing).

When the issue has been fairly tried and reviewed, however, and there is no indication that constitutional standards of judgment have been disregarded, the Supreme Court will accord to the state's own decision great, and in the absence of impeachment by conceded facts, decisive respect. *Stein v. New York*, 346 U. S. 156, 182 (1953).

The standard which the Supreme Court will use in cases of multiple confessions was established in *Lyons v. Oklahoma*, 322

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U. S. 596 (1944). If the relation between the earlier and later confession is so close that there can be no other inference than that the facts of one control the character of the other, the Court will reverse. Otherwise the question is for the triers of fact and their conclusion, in such an uncertain situation, that the confession is voluntary, cannot be a denial of due process. It must be pointed out that in the instant case the confessions took place in the same building during a short period of time while in the *Lyons* case the second confession took place in a different city more than twelve hours after the first. The majority in the present case found all of the confessions to be part of one continuous process, and therefore, involuntary as a matter of law. The dissent, relying heavily on the *Lyons* case, argued that the finding of the jury that the subsequent confessions were not coerced should have been upheld.

In Illinois it has been held that confessions following an original coerced confession are presumed to be involuntary. *People v. Sweetin*, 325 Ill. 245, 156 N. E. 354 (1927). This presumption can be overcome only by showing that from lapse of time, or otherwise, the party confessing was no longer dominated by the influence which had induced the original confession. Recent decisions in other jurisdictions have held the coercive effect of the first confession broken by a two week passage of time, *Cooper v. State*, \_\_\_ Md. \_\_\_, 106 A. 2d 129 (1954), and a warning to the accused of his rights before his subsequent confession a day later. *State v. Hamer*, 240 N. C. 85, 81 S. E. 2d 193 (1954).

The decision of this case seems sound where the confessions are so close that they can reasonably be found to be part of one continuous process. In borderline situations, however, the jury is in a better position to hear testimony and decide the mental state of the accused than an appellate court. Nevertheless, the Supreme Court, as the final protector of individual rights, has given notice here, as in the past, that it will not tolerate "third degree" methods of police investigation.

*Richard C. Wagner*

### CRIMINAL LAW — LOSS OF JURISDICTION BY DELAY IN PRONOUNCEMENT OF SENTENCE

Judgment was entered in burglary prosecution continuing the matter under advisement so long as defendant remained in the State Epileptic Village and complied with its rules and regulations. After defendant's escape from the Village and recapture, judgment of guilty of burglary was entered and sentence was imposed.