

5. *People v. Lessie (Tony)* (S163453)

In its landmark decision in *Miranda v. Arizona* (1966) 384 U.S. 436, the United States Supreme Court adopted a set of rules to help ensure that confessions made by suspects in police custody are voluntary. Among other things, the police must advise the accused that he or she has the right to remain silent and to have the assistance of counsel. If the accused invokes these rights interrogation must cease, and any statement the accused thereafter makes must be excluded from evidence in the prosecution's case-in-chief.

The case now before the court raises a question about how *Miranda* applies to minors. In 1971, the California Supreme Court held that a minor who asks, during a custodial interrogation, to speak with a parent must be assumed to have invoked his or her *Miranda* rights. This was the holding of *People v. Burton* (1971) 6 Cal.3d 375. Since 1971, however, the United States Supreme Court has cast doubt on the *Burton* decision (see *Fare v. Michael C.* (1979) 442 U.S. 707), and the voters of California have amended the state Constitution to bar courts from excluding relevant evidence, such as confessions, except as required by federal law (see Cal. Const., art. I, § 28, subd. (f)(2), added by Prop. 8, approved by voters, Primary Elec. (June 8, 1982)). The question before the court is whether *Burton* remains valid despite these intervening changes in the law.

Defendant Tony Lessie has been convicted of second degree murder. Defendant, who at the time was 16 years old, shot a man during a street confrontation. Defendant admitted the shooting during an interrogation at the Oceanside police station. Defendant had asked to be allowed to call his father, but the police did not permit him to call until after he had confessed. Defendant's confession was admitted at trial. If *Burton* is still valid, the confession should have been excluded; if not, it was properly admitted.