**Supreme Court: Children are different when it comes to Miranda warning against self-incrimination**

By [Robert Barnes](http://www.washingtonpost.com/people/robert-barnes) June 16, 2011

Police must be sensitive to the age of child suspects when deciding whether to inform them of their Miranda right against self-incrimination, an ideologically split Supreme Court ruled Thursday.

Justice Sonia Sotomayor, writing for the majority, said [the 5 to 4 ruling](http://www.supremecourt.gov/opinions/10pdf/09-11121.pdf)was merely a “commonsense” application of the court’s previous findings that children are not “miniature adults” and should be treated differently.

The court ruled in favor of a 13-year-old who confessed to a burglary during a schoolhouse interrogation before being given a Miranda warning.

But dissenting conservative justices said that the majority was “embarking on a new expansion” of suspects’ rights.

“Safeguarding the constitutional rights of minors does not require the extreme makeover of Miranda that today’s decision may portend,” wrote Justice Samuel A. Alito Jr.

The dueling opinions from Sotomayor and Alito, the court’s two former prosecutors, came in one of several criminal cases the justices decided Thursday as the court entered the homestretch of its term. The court now has 14 cases remaining to be decided before its scheduled adjournment June 27.

The 1966 decision in [*Miranda v. Arizona*](http://www.law.cornell.edu/supct/html/historics/USSC_CR_0384_0436_ZS.html)might be one of the court’s most well known: Its requirement that police inform suspects that they have the right to remain silent and to legal counsel and that anything they say can be used against them is ubiquitous in television crime shows.

But the warning is required only when a suspect is considered to be in the custody of police. The court has said that custody question depends on how a “reasonable person” — rather than the particular person being interviewed — would “perceive his or her freedom to leave.”

The case before the court involved a Chapel Hill, N.C., middle-schooler identified in court papers as J.D.B. He was called out of class and questioned for more than 30 minutes by two law enforcement officers and two school administrators. His legal guardian, his grandmother, was not called.

Encouraged to “help yourself by making it right” and threatened with juvenile detention, he confessed to his role in two home break-ins. He then was told he could refuse to answer more questions and was free to leave, but he continued to provide details.

His attorney argued later that his confession should not be admissible. But the North Carolina Supreme Court held that the boy was not in custody at the time of his statements and that it would not “extend the test for custody to include consideration of the age” of the questioned individual.

Sotomayor said that was wrong.

“It is beyond dispute that children will often feel bound to submit to police questioning when an adult in the same circumstances would feel free to leave,” Sotomayor said, adding that there was no reason “for police officers or courts to blind themselves to that commonsense reality.”

She was joined by the court’s consistent liberals — Justices Ruth Bader Ginsburg, Stephen G. Breyer and Elena Kagan — and by Justice Anthony M. Kennedy. Kennedy has been the author of the court’s most notable rulings that “children are different” — holding that minors may not be executed or sentenced to life inprisonment without the possibility of parole for crimes other than murder.

Alito, joined by Chief Justice John G. Roberts Jr. and Justices Antonin Scalia and Clarence Thomas, said the majority opinion provided “not a word of actual guidance” about how judges should decide whether police had appropriately considered the suspect’s age.

Suspects already are protected against coercion, Alito said, and the court’s ruling will encourage other challenges. Why allow only for age differences, Alito speculated, when intelligence, education and prior experience with law enforcement all could inform whether a suspect would feel he could refuse to be questioned by police?

The Juvenile Law Center praised the ruling as being consistent with “settled research and basic common sense.”

But John Charles Thomas, a former Virginia Supreme Court justice who wrote an amicus brief in the case for the National District Attorneys Association, said it creates a murky landscape for law enforcement.

Police have to make “real-time decisions” about the best way to conduct interviews, he said, and whether the suspect is a juvenile. “The pressure of the decision for police will be that if someone is looking young to you, give the Miranda warning,” Thomas said. “We don’t know what effect that will have.”

The case is *J.D.B. v. North Carolina*.

10th Amendment case

In another case, the court ruled Thursday that a [woman who was convicted](http://www.washingtonpost.com/wp-dyn/content/article/2011/02/21/AR2011022104351.html)of trying to poison
her best-friend-turned-romantic-rival can challenge the constitutionality of the federal law under which she was convicted.

Carole Ann Bond acknowledged that she used a combination of toxic chemicals to try to poison Myrlinda Haynes after learning that Haynes was pregnant by Bond’s husband, Clifford.

But instead of being charged with violating Pennsylvania law, Bond was charged under federal statutes that were enacted to implement a chemical weapons treaty. Bond sought to challenge the law as a violation of the 10th Amendment, the tea party favorite that says any powers not delegated by the Constitution to the federal government “are reserved to the States . . . or to the people.”

The U.S. Court of Appeals for the 3rd Circuit, citing a 1939 Supreme Court precedent, said Bond could not question the law because 10th Amendment challenges cannot proceed without the involvement of a state.

But Kennedy, [writing for a unanimous court](http://www.supremecourt.gov/opinions/10pdf/09-1227.pdf), said “There is no basis in precedent or principle to deny petitioner’s standing to raise her claims.”

The court [did not consider](http://www.washingtonpost.com/wp-dyn/content/article/2011/02/22/AR2011022207546.html) the merits of Bond’s 10th Amendment claim and said the circuit court should conduct that inquiry.

The case is *Bond v. U.S*.