SUPREME COURT OF THE UNITED STATES

No. 09–11121

J. D. B., PETITIONER *v.* NORTH CAROLINA

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF NORTH CAROLINA

[June 16, 2011]

JUSTICE ALITO, with whom THE CHIEF JUSTICE, JUSTICE SCALIA, and JUSTICE THOMAS join, dissenting.

The Court's decision in this case may seem on first consideration to be modest and sensible, but in truth it is neither. It is fundamentally inconsistent with one of the main justifications for the *Miranda*[1] rule: the perceived need for a clear rule that can be easily applied in all cases. And today's holding is not needed to protect the constitutional rights of minors who are questioned by the police.

Miranda's prophylactic regime places a high value on clarity and certainty. Dissatisfied with the highly fact-specific constitutional rule against the admission of involuntary confessions, the *Miranda* Court set down rigid standards that often require courts to ignore personal characteristics that may be highly relevant to a particular suspect's actual susceptibility to police pressure. This rigidity, however, has brought with it one of *Miranda*'s principal strengths—"the ease and clarity of its application" by law enforcement officials and courts. See *Moran* v. *Burbine*, 475 U. S. 412, 425–426 (1986). A key contributor to this clarity, at least up until now, has been *Miranda*'s objective reasonable-person test for determining custody.

Miranda's custody requirement is based on the proposi-

[1] See *Miranda* v. *Arizona*, 384 U. S. 436 (1966).

tion that the risk of unconstitutional coercion is heightened when a suspect is placed under formal arrest or is subjected to some functionally equivalent limitation on freedom of movement. When this custodial threshold is reached, *Miranda* warnings must precede police questioning. But in the interest of simplicity, the custody analysis considers only whether, under the circumstances, a hypothetical reasonable person would consider himself to be confined.

Many suspects, of course, will differ from this hypothetical reasonable person. Some, including those who have been hardened by past interrogations, may have no need for *Miranda* warnings at all. And for other suspects—those who are unusually sensitive to the pressures of police questioning—*Miranda* warnings may come too late to be of any use. That is a necessary consequence of *Miranda*'s rigid standards, but it does not mean that the constitutional rights of these especially sensitive suspects are left unprotected. A vulnerable defendant can still turn to the constitutional rule against *actual* coercion and contend that that his confession was extracted against his will.

Today's decision shifts the *Miranda* custody determination from a one-size-fits-all reasonable-person test into an inquiry that must account for at least one individualized characteristic—age—that is thought to correlate with susceptibility to coercive pressures. Age, however, is in no way the only personal characteristic that may correlate with pliability, and in future cases the Court will be forced to choose between two unpalatable alternatives. It may choose to limit today's decision by arbitrarily distinguishing a suspect's age from other personal characteristics—such as intelligence, education, occupation, or prior experience with law enforcement—that may also correlate with susceptibility to coercive pressures. Or, if the Court is unwilling to draw these arbitrary lines, it will be forced

to effect a fundamental transformation of the *Miranda* custody test—from a clear, easily applied prophylactic rule into a highly fact-intensive standard resembling the voluntariness test that the *Miranda* Court found to be unsatisfactory.

For at least three reasons, there is no need to go down this road. First, many minors subjected to police interrogation are near the age of majority, and for these suspects the one-size-fits-all *Miranda* custody rule may not be a bad fit. Second, many of the difficulties in applying the *Miranda* custody rule to minors arise because of the unique circumstances present when the police conduct interrogations at school. The *Miranda* custody rule has always taken into account the setting in which questioning occurs, and accounting for the school setting in such cases will address many of these problems. Third, in cases like the one now before us, where the suspect is especially young, courts applying the constitutional voluntariness standard can take special care to ensure that incriminating statements were not obtained through coercion.

Safeguarding the constitutional rights of minors does not require the extreme makeover of *Miranda* that today's decision may portend.

I

In the days before *Miranda*, this Court's sole metric for evaluating the admissibility of confessions was a voluntariness standard rooted in both the Fifth Amendment's Self-Incrimination Clause and the Due Process Clause of the Fourteenth Amendment. See *Bram* v. *United States*, 168 U. S. 532, 542 (1897) (Self-Incrimination Clause); *Brown* v. *Mississippi*, 297 U. S. 278 (1936) (due process). The question in these voluntariness cases was whether the particular "defendant's will" had been "overborne." *Lynumn* v. *Illinois*, 372 U. S. 528, 534 (1963). Courts took into account both "the details of the interrogation" *and*

"the characteristics of the accused," *Schneckloth* v. *Bustamonte*, 412 U. S. 218, 226 (1973), and then "weigh[ed] . . . the circumstances of pressure against the power of resistance of the person confessing." *Stein* v. *New York*, 346 U. S. 156, 185 (1953).

All manner of individualized, personal characteristics were relevant in this voluntariness inquiry. Among the most frequently mentioned factors were the defendant's education, physical condition, intelligence, and mental health. *Withrow* v. *Williams*, 507 U. S. 680, 693 (1993); see *Clewis* v. *Texas*, 386 U. S. 707, 712 (1967) ("only a fifth-grade education"); *Greenwald* v. *Wisconsin*, 390 U. S. 519, 520–521 (1968) *(per curiam)* (had not taken blood-pressure medication); *Payne* v. *Arkansas*, 356 U. S. 560, 562, n. 4, 567 (1958) ("mentally dull" and "'slow to learn'"); *Fikes* v. *Alabama*, 352 U. S. 191, 193, 196, 198 (1957) ("low mentality, if not mentally ill"). The suspect's age also received prominent attention in several cases, *e.g.*, *Gallegos* v. *Colorado*, 370 U. S. 49, 54 (1962), especially when the suspect was a "mere child." *Haley* v. *Ohio*, 332 U. S. 596, 599 (1948) (plurality opinion). The weight assigned to any one consideration varied from case to case. But all of these factors, along with anything else that might have affected the "individual's . . . capacity for effective choice," were relevant in determining whether the confession was coerced or compelled. See *Miranda* v. *Arizona,* 384 U. S. 436, 506–507 (1966) (Harlan, J., dissenting).

The all-encompassing nature of the voluntariness inquiry had its benefits. It allowed courts to accommodate a "complex of values," *Schneckloth*, *supra*, at 223, 224, and to make a careful, highly individualized determination as to whether the police had wrung "a confession out of [the] accused against his will." *Blackburn* v. *Alabama*, 361 U. S. 199, 206–207 (1960). But with this flexibility came a decrease in both certainty and predictability, and the

voluntariness standard proved difficult "for law enforcement officers to conform to, and for courts to apply in a consistent manner." *Dickerson* v. *United States*, 530 U. S. 428, 444 (2000).

In *Miranda*, the Court supplemented the voluntariness inquiry with a "set of prophylactic measures" designed to ward off the "'inherently compelling pressures' of custodial interrogation." See *Maryland* v. *Shatzer*, 559 U. S. __, __ (2010) (slip op., at 4) (quoting *Miranda*, 384 U. S., at 467). *Miranda* greatly simplified matters by requiring police to give suspects standard warnings before commencing any custodial interrogation. See *id.,* at 479. Its requirements are no doubt "rigid," see *Fare* v. *Michael C.*, 439 U. S. 1310, 1314 (1978) (Rehnquist, J., in chambers), and they often require courts to suppress "trustworthy and highly probative" statements that may be perfectly "voluntary under [a] traditional Fifth Amendment analysis." *Fare* v. *Michael C.*, 442 U. S. 707, 718 (1979). But with this rigidity comes increased clarity. *Miranda* provides "a workable rule to guide police officers," *New York* v. *Quarles*, 467 U. S. 649, 658 (1984) (internal quotation marks omitted), and an administrable standard for the courts. As has often been recognized, this gain in clarity and administrability is one of *Miranda*'s "principal advantages." *Berkemer* v. *McCarty*, 468 U. S. 420, 430 (1984); see also *Missouri* v. *Seibert*, 542 U. S. 600, 622 (2004) (KENNEDY, J., concurring in judgment).

No less than other facets of *Miranda*, the threshold requirement that the suspect be in "custody" is "designed to give clear guidance to the police." *Yarborough* v. *Alvarado*, 541 U. S. 652, 668, 669 (2004). Custody under *Miranda* attaches where there is a "formal arrest" or a "restraint on freedom of movement" akin to formal arrest. *California* v. *Beheler*, 463 U. S. 1121, 1125 (1983) *(per curiam)* (internal quotation marks omitted). This standard is "objective" and turns on how a hypothetical "rea-

sonable person in the position of the individual being questioned would gauge the breadth of his or her freedom of action." *Stansbury* v. *California*, 511 U. S. 318, 322–323, 325 (1994) *(per curiam)* (internal quotation marks omitted).

Until today, the Court's cases applying this test have focused solely on the "objective circumstances of the interrogation," *id.*, at 323, not the personal characteristics of the interrogated. *E.g.*, *Berkemer*, *supra*, at 442, and n. 35; but cf. *Schneckloth*, 412 U. S., at 226 (voluntariness inquiry requires consideration of "the details of the interrogation" *and* "the characteristics of the accused"). Relevant factors have included such things as where the questioning occurred,[2] how long it lasted,[3] what was said,[4] any physical restraints placed on the suspect's movement,[5] and whether the suspect was allowed to leave when the questioning was through.[6] The totality of *these* circumstances—the external circumstances, that is, of the interrogation itself—is what has mattered in this Court's cases. Personal characteristics of suspects have consistently been rejected or ignored as irrelevant under a one-size-fits-all reasonable-person standard. *Stansbury, supra,* at 323 ("[C]ustody depends on the objective circumstances of the interrogation, not on the subjective views harbored by either the interrogating officers or the person being questioned").

For example, in *Berkemer* v. *McCarty, supra*, police officers conducting a traffic stop questioned a man who had been drinking and smoking marijuana before he was pulled over. *Id.,* at 423. Although the suspect's inebria-

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[2] *Maryland* v. *Shatzer,* 559 U. S. ___, ___ (2010) (slip op., at 13–16).

[3] *Berkemer* v. *McCarty,* 468 U. S. 420, 437–438 (1984).

[4] *Oregon* v. *Mathiason*, 429 U. S. 492, 495 (1977) *(per curiam).*

[5] *New York* v. *Quarles*, 467 U. S. 649, 655 (1984).

[6] *California* v. *Beheler*, 463 U. S. 1121, 1122–1123 (1983) *(per curiam).*

tion was readily apparent to the officers at the scene, *ibid.*, the Court's analysis did not advert to this or any other individualized consideration. Instead, the Court focused only on the external circumstances of the interrogation itself. The opinion concluded that a typical "traffic stop" is akin to a "*Terry* stop"[7] and does not qualify as the equivalent of "formal arrest." *Id.*, at 439.

California v. *Beheler*, *supra*, is another useful example. There, the circumstances of the interrogation were "remarkably similar" to the facts of the Court's earlier decision in *Oregon* v. *Mathiason*, 429 U. S. 492 (1977) *(per curiam)*—the suspect was "not placed under arrest," he "voluntarily [came] to the police station," and he was "allowed to leave unhindered by police after a brief interview." 463 U. S., at 1123, 1121. A California court in *Beheler* had nonetheless distinguished *Mathiason* because the police knew that Beheler "had been drinking earlier in the day" and was "emotionally distraught." 463 U. S., at 1124–1125. In a summary reversal, this Court explained that the fact "[t]hat the police knew more" personal information about Beheler than they did about Mathiason was "irrelevant." *Id.*, at 1125. Neither one of them was in custody under the objective reasonable-person standard. *Ibid.;* see also *Alvarado*, *supra,* at 668, 669 (experience with law enforcement irrelevant to *Miranda* custody analysis "as a *de novo* matter").[8]

The glaring absence of reliance on personal characteris-

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[7] See *Terry* v. *Ohio*, 392 U. S. 1 (1968).

[8] The Court claims that "[n]ot once" have any of our cases "excluded from the custody analysis a circumstance that we determined was relevant and objective, simply to make the fault line between custodial and noncustodial 'brighter.'" *Ante*, at 17. Surely this is incorrect. The very act of adopting a reasonable-person test necessarily excludes all sorts of "relevant and objective" circumstances—for example, all the objective circumstances of a suspect's life history—that might otherwise bear on a custody determination.

tics in these and other custody cases should come as no surprise. To account for such individualized considerations would be to contradict *Miranda*'s central premise. The *Miranda* Court's decision to adopt its inflexible prophylactic requirements was expressly based on the notion that "[a]ssessments of the knowledge the defendant possessed, based on information as to his age, education, intelligence, or prior contact with authorities, can never be more than speculation." 384 U. S., at 468–469.

II

In light of this established practice, there is no denying that, by incorporating age into its analysis, the Court is embarking on a new expansion of the established custody standard. And since *Miranda* is this Court's rule, "not a constitutional command," it is up to the Court "to justify its expansion." Cf. *Arizona* v. *Roberson*, 486 U. S. 675, 688 (1988) (KENNEDY, J., dissenting). This the Court fails to do.

In its present form, *Miranda*'s prophylactic regime already imposes "high cost[s]" by requiring suppression of confessions that are often "highly probative" and "voluntary" by any traditional standard. *Oregon* v. *Elstad*, 470 U. S. 298, 312 (1985); see *Dickerson,* 530 U. S., at 444 (under *Miranda* "statements which may be by no means involuntary, made by a defendant who is aware of his 'rights,' may nonetheless be excluded and a guilty defendant go free as a result"). Nonetheless, a "core virtue" of *Miranda* has been the clarity and precision of its guidance to "police and courts." *Withrow* v. *Williams*, 507 U. S. 680, 694 (1993) (internal quotation marks omitted); see *Moran,* 475 U. S., at 425 ("[O]ne of the principal advantages of *Miranda* is the ease and clarity of its application" (internal quotation marks omitted)). This increased clarity "has been thought to outweigh the burdens" that *Miranda* imposes. *Fare*, 442 U. S., at 718. The Court has, however,

repeatedly cautioned against upsetting the careful "balance" that *Miranda* struck, *Moran, supra,* at 424, and it has "refused to sanction attempts to expand [the] *Miranda* holding" in ways that would reduce its "clarity." See *Quarles*, 467 U. S., at 658 (citing cases). Given this practice, there should be a "strong presumption" against the Court's new departure from the established custody test. See *United States* v. *Patane*, 542 U. S. 630, 640 (2004) (plurality opinion). In my judgment, that presumption cannot be overcome here.

A

The Court's rationale for importing age into the custody standard is that minors tend to lack adults' "capacity to exercise mature judgment" and that failing to account for that "reality" will leave some minors unprotected under *Miranda* in situations where they perceive themselves to be confined. See *ante*, at 10, 8. I do not dispute that many suspects who are under 18 will be more susceptible to police pressure than the average adult. As the Court notes, our pre-*Miranda* cases were particularly attuned to this "reality" in applying the constitutional requirement of voluntariness in fact. *Ante,* at 9 (relying on *Haley,* 332 U. S., at 599 (plurality opinion), and *Gallegos*, 370 U. S., at 54). It is no less a "reality," however, that many persons *over* the age of 18 are also more susceptible to police pressure than the hypothetical reasonable person. See *Payne,* 356 U. S., at 567 (fact that defendant was a "mentally dull 19-year-old youth" relevant in voluntariness inquiry). Yet the *Miranda* custody standard has never accounted for the personal characteristics of these or any other individual defendants.

Indeed, it has always been the case under *Miranda* that the unusually meek or compliant are subject to the same fixed rules, including the same custody requirement, as those who are unusually resistant to police pressure.

Berkemer, 468 U. S., at 442, and n. 35 ("[O]nly relevant inquiry is how a reasonable man in the suspect's position would have understood his situation"). *Miranda*'s rigid standards are both overinclusive and underinclusive. They are overinclusive to the extent that they provide a windfall to the most hardened and savvy of suspects, who often have no need for *Miranda*'s protections. Compare *Miranda*, *supra*, at 471–472 ("[N]o amount of circumstantial evidence that the person may have been aware of" his rights can overcome *Miranda*'s requirements), with *Orozco* v. *Texas*, 394 U. S. 324, 329 (1969) (White, J., dissenting) ("Where the defendant himself [w]as a lawyer, policeman, professional criminal, or otherwise has become aware of what his right to silence is, it is sheer fancy to assert that his answer to every question asked him is compelled unless he is advised of those rights with which he is already intimately familiar"). And *Miranda*'s requirements are underinclusive to the extent that they fail to account for "frailties," "idiosyncrasies," and other individualized considerations that might cause a person to bend more easily during a confrontation with the police. See *Alvarado*, 541 U. S., at 662 (internal quotation marks omitted). Members of this Court have seen this rigidity as a major weakness in *Miranda*'s "code of rules for confessions." See 384 U. S., at 504 (Harlan, J., dissenting); *Fare,* 439 U. S., at 1314 (Rehnquist, J., in chambers) ("[T]he rigidity of [*Miranda*'s] prophylactic rules was a principal weakness in the view of dissenters and critics outside the Court"). But if it is, then the weakness is an inescapable consequence of the *Miranda* Court's decision to supplement the more holistic voluntariness requirement with a one-size-fits-all prophylactic rule.

That is undoubtedly why this Court's *Miranda* cases have never before mentioned "the suspect's age" or any other individualized consideration in applying the custody standard. See *Alvarado*, *supra,* at 666. And unless the

Miranda custody rule is now to be radically transformed into one that takes into account the wide range of individual characteristics that are relevant in determining whether a confession is voluntary, the Court must shoulder the burden of explaining why age is different from these other personal characteristics.

Why, for example, is age different from intelligence? Suppose that an officer, upon going to a school to question a student, is told by the principal that the student has an I. Q. of 75 and is in a special-education class. Cf. *In re J. D. B.*, 363 N. C. 664, 666, 686 S. E. 2d 135, 136–137 (2009). Are those facts more or less important than the student's age in determining whether he or she "felt . . . at liberty to terminate the interrogation and leave"? See *Thompson* v. *Keohane*, 516 U. S. 99, 112 (1995). An I. Q. score, like age, is more than just a number. *Ante*, at 8 ("[A]ge is far 'more than a chronological fact'"). And an individual's intelligence can also yield "conclusions" similar to those "we have drawn ourselves" in cases far afield of *Miranda*. *Ante,* at 12. Compare *ibid.* (relying on *Eddings* v. *Oklahoma*, 455 U. S. 104 (1982), and *Roper* v. *Simmons*, 543 U. S. 551 (2005)), with *Smith* v. *Texas*, 543 U. S. 37, 44–45 (2004) *(per curiam)*.

How about the suspect's cultural background? Suppose the police learn (or should have learned, see *ante*, at 11) that a suspect they wish to question is a recent immigrant from a country in which dire consequences often befall any person who dares to attempt to cut short any meeting with the police.[9] Is this really less relevant than the fact that a suspect is a month or so away from his 18th birthday?

The defendant's education is another personal charac-

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[9] Cf. *United States* v. *Chalan*, 812 F. 2d 1302, 1307 (CA10 1987) (rejecting claim that Native American suspect was "in custody" for *Miranda* purposes because, by custom, obedience to tribal authorities was "expected of all tribal members").

teristic that may generate "conclusions about behavior and perception." *Ante*, at 9 (internal quotation marks omitted). Under today's decision, why should police officers and courts "blind themselves," *ante*, at 1, to the fact that a suspect has "only a fifth-grade education"? See *Clewis*, 386 U. S., at 712 (voluntariness case). Alternatively, what if the police know or should know that the suspect is "a college-educated man with law school training"? See *Crooker* v. *California*, 357 U. S. 433, 440 (1958), overruled by *Miranda*, *supra,* at 479, and n. 48. How are these individual considerations meaningfully different from age in their "relationship to a reasonable person's understanding of his freedom of action"? *Ante*, at 11. The Court proclaims that "[a] child's age . . . is different," *ante*, at 12, but the basis for this *ipse dixit* is dubious.

I have little doubt that today's decision will soon be cited by defendants—and perhaps by prosecutors as well—for the proposition that all manner of other individual characteristics should be treated like age and taken into account in the *Miranda* custody calculus. Indeed, there are already lower court decisions that take this approach. See *United States* v. *Beraun-Panez*, 812 F. 2d 578, 581, modified 830 F. 2d 127 (CA9 1987) ("reasonable person who was an alien"); *In re Jorge D.*, 202 Ariz. 277, 280, 43 P. 3d 605, 608 (App. 2002) (age, maturity, and experience); *State* v. *Doe,* 130 Idaho 811, 818, 948 P. 2d 166, 173 (1997) (same); *In re Joshua David C.,* 116 Md. App. 580, 594, 698 A. 2d 1155, 1162 (1997) ("education, age, and intelligence").

In time, the Court will have to confront these issues, and it will be faced with a difficult choice. It may choose to distinguish today's decision and adhere to the arbitrary proclamation that "age . . . is different." *Ante*, at 12. Or it may choose to extend today's holding and, in doing so, further undermine the very rationale for the *Miranda* regime.

B

If the Court chooses the latter course, then a core virtue of *Miranda*—the "ease and clarity of its application"—will be lost. *Moran*, 475 U. S., at 425; see *Fare*, 442 U. S., at 718 (noting that the clarity of *Miranda*'s requirements "has been thought to outweigh the burdens that the decision . . . imposes"). However, even today's more limited departure from *Miranda*'s one-size-fits-all reasonable-person test will produce the very consequences that prompted the *Miranda* Court to abandon exclusive reliance on the voluntariness test in the first place: The Court's test will be hard for the police to follow, and it will be hard for judges to apply. See *Dickerson* v. *United States*, 530 U. S. 428, 444 (2000).

The Court holds that age must be taken into account when it "was known to the officer at the time of the interview," or when it "would have been objectively apparent" to a reasonable officer. *Ante*, at 11. The first half of this test overturns the rule that the "initial determination of custody" does not depend on the "subjective views harbored by . . . interrogating officers." *Stansbury,* 511 U. S., at 323. The second half will generate time-consuming satellite litigation over a reasonable officer's perceptions. When, as here, the interrogation takes place in school, the inquiry may be relatively simple. But not all police questioning of minors takes place in schools. In many cases, courts will presumably have to make findings as to whether a particular suspect had a sufficiently youthful look to alert a reasonable officer to the possibility that the suspect was under 18, or whether a reasonable officer would have recognized that a suspect's I. D. was a fake. The inquiry will be both "time-consuming and disruptive" for the police and the courts. See *Berkemer*, 468 U. S., at 432 (refusing to modify the custody test based on similar considerations). It will also be made all the more complicated by the fact that a suspect's dress and manner will

often be different when the issue is litigated in court than it was at the time of the interrogation.

Even after courts clear this initial hurdle, further problems will likely emerge as judges attempt to put themselves in the shoes of the average 16-year-old, or 15-year-old, or 13-year-old, as the case may be. Consider, for example, a 60-year-old judge attempting to make a custody determination through the eyes of a hypothetical, average 15-year-old. Forty-five years of personal experience and societal change separate this judge from the days when he or she was 15 years old. And this judge may or may not have been an average 15-year-old. The Court's answer to these difficulties is to state that "no imaginative powers, knowledge of developmental psychology, [or] training in cognitive science" will be necessary. *Ante*, at 17. Judges "simply need the common sense," the Court assures, "to know that a 7-year-old is not a 13-year-old and neither is an adult." *Ante,* at 17. It is obvious, however, that application of the Court's new rule demands much more than this.

Take a fairly typical case in which today's holding may make a difference. A 16½-year-old moves to suppress incriminating statements made prior to the administration of *Miranda* warnings. The circumstances are such that, if the defendant were at least 18, the court would not find that he or she was in custody, but the defendant argues that a reasonable 16½-year-old would view the situation differently. The judge will not have the luxury of merely saying: "It is common sense that a 16½-year-old is not an 18-year-old. Motion granted." Rather, the judge will be required to determine whether the differences between a typical 16½-year-old and a typical 18-year-old with respect to susceptibility to the pressures of interrogation are sufficient to change the outcome of the custody determination. Today's opinion contains not a word of actual guidance as to how judges are supposed to go about

making that determination.

C

Petitioner and the Court attempt to show that this task is not unmanageable by pointing out that age is taken into account in other legal contexts. In particular, the Court relies on the fact that the age of a defendant is a relevant factor under the reasonable-person standard applicable in negligence suits. *Ante*, at 11 (citing Restatement (Third) of Torts §10, Comment *b*, p. 117 (2005)). But negligence is generally a question for the jury, the members of which can draw on their varied experiences with persons of different ages. It also involves a *post hoc* determination, in the reflective atmosphere of a deliberation room, about whether the defendant conformed to a standard of care. The *Miranda* custody determination, by contrast, must be made in the first instance by police officers in the course of an investigation that may require quick decisionmaking. See *Quarles*, 467 U. S., at 658 (noting "the importance" under *Miranda* of providing "a workable rule 'to guide police officers, who have only limited time and expertise to reflect on and balance the social and individual interests involved in the specific circumstances they confront'"); *Alvarado*, 541 U. S., at 668, 669 ("[T]he custody inquiry states an objective rule designed to give clear guidance to the police").

Equally inapposite are the Eighth Amendment cases the Court cites in support of its new rule. *Ante*, at 9, 11, 12 (citing *Eddings,* 455 U. S. 104, *Roper,* 543 U. S. 551, and *Graham* v. *Florida*, 560 U. S. ___ (2010)). Those decisions involve the "judicial exercise of independent judgment" about the constitutionality of certain punishments. *E.g.*, *id.*, at ___ (slip op., at 16). Like the negligence standard, they do not require on-the-spot judgments by the police.

Nor do state laws affording extra protection for juveniles during custodial interrogation provide any support for

petitioner's arguments. See Brief for Petitioner 16–17. States are free to enact additional restrictions on the police over and above those demanded by the Constitution or *Miranda*. In addition, these state statutes generally create clear, workable rules to guide police conduct. See Brief for Petitioner 16–17 (citing statutes that require or permit parents to be present during custodial interrogation of a minor, that require minors to be advised of a statutory right to communicate with a parent or guardian, and that require parental consent to custodial interrogation). Today's decision, by contrast, injects a new, complicating factor into what had been a clear, easily applied prophylactic rule. See *Alvarado*, *supra,* at 668–669.[10]

III

The Court's decision greatly diminishes the clarity and administrability that have long been recognized as "principal advantages" of *Miranda*'s prophylactic requirements. See, *e.g.*, *Moran,* 475 U. S., at 425. But what is worse, the Court takes this step unnecessarily, as there are other, less disruptive tools available to ensure that minors are not coerced into confessing.

As an initial matter, the difficulties that the Court's standard introduces will likely yield little added protection

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[10]The Court also relies on North Carolina's concession at oral argument that a court could take into account a suspect's blindness as a factor relevant to the *Miranda* custody determination. *Ante*, at 15, and n. 9. This is a far-fetched hypothetical, and neither the parties nor their *amici* cite any case in which such a problem has actually arisen. Presumably such a case would involve a situation in which a blind defendant was given "a typed document advising him that he [was] free to leave." See Brief for Juvenile Law Center as *Amicus Curiae* 23. In such a case, furnishing this advice in a form calculated to be unintelligible to the suspect would be tantamount to failing to provide the advice at all. And advice by the police that a suspect is or is not free to leave at will has always been regarded as a circumstance regarding the conditions of the interrogation that must be taken into account in making the *Miranda* custody determination.

for most juvenile defendants. Most juveniles who are subjected to police interrogation are teenagers nearing the age of majority.[11] These defendants' reactions to police pressure are unlikely to be much different from the reaction of a typical 18-year-old in similar circumstances. A one-size-fits-all *Miranda* custody rule thus provides a roughly reasonable fit for these defendants.

In addition, many of the concerns that petitioner raises regarding the application of the *Miranda* custody rule to minors can be accommodated by considering the unique circumstances present when minors are questioned in school. See Brief for Petitioner 10–11 (reciting at length the factors petitioner believes to be relevant to the custody determination here, including the fact that petitioner was removed from class by a police officer, that the interview took place in a school conference room, and that a uniformed officer and a vice principal were present). The *Miranda* custody rule has always taken into account the setting in which questioning occurs, restrictions on a suspect's freedom of movement, and the presence of police officers or other authority figures. See *Alvarado*, *supra,* at 665; *Maryland* v. *Shatzer*, 559 U. S. ___, ___ (2010) (slip op., at 14). It can do so here as well.[12]

Finally, in cases like the one now before us, where the suspect is much younger than the typical juvenile defendant, courts should be instructed to take particular care to

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[11] See Dept of Justice, Federal Bureau of Investigation, 2008 Crime in the United States (Sept. 2009), online at http://www2.fbi.gov/ucr/cius2008/data/table_38.html (all Internet materials as visited June 8, 2011, and available in Clerk of Court's case file) (indicating that less than 30% of juvenile arrests in the United States are of suspects who are under 15).

[12] The Court thinks it would be "absur[d]" to consider the school setting without accounting for age, *ante*, at 12, but the real absurdity is for the Court to require police officers to get inside the head of a reasonable minor while making the quick, on-the-spot determinations that *Miranda* demands.

ensure that incriminating statements were not obtained involuntarily. The voluntariness inquiry is flexible and accommodating by nature, see *Schneckloth,* 412 U. S., at 224, and the Court's precedents already make clear that "special care" must be exercised in applying the voluntariness test where the confession of a "mere child" is at issue. *Haley,* 332 U. S., at 599 (plurality opinion). If *Miranda*'s rigid, one-size-fits-all standards fail to account for the unique needs of juveniles, the response should be to rigorously apply the constitutional rule against coercion to ensure that the rights of minors are protected. There is no need to run *Miranda* off the rails.

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The Court rests its decision to inject personal characteristics into the *Miranda* custody inquiry on the principle that judges applying *Miranda* cannot "blind themselves to . . . commonsense reality." *Ante*, at 1, 8, 10–11, 14. But the Court's shift is fundamentally at odds with the clear prophylactic rules that *Miranda* has long enforced. *Miranda* frequently requires judges to blind themselves to the reality that many un-Mirandized custodial confessions are "by no means involuntary" or coerced. *Dickerson,* 530 U. S., at 444. It also requires police to provide a rote recitation of *Miranda* warnings that many suspects already know and could likely recite from memory.[13] Under today's new, "reality"-based approach to the doctrine, perhaps these and other principles of our *Miranda* jurisprudence will, like the custody standard, now be ripe for

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[13] Surveys have shown that "[l]arge majorities" of the public are aware that "individuals arrested for a crime" have a right to "remai[n] silent (81%)," a right to "a lawyer (95%)," and a right to have a lawyer "appointed" if the arrestee "cannot afford one (88%)." See Belden, Russonello & Stewart, Developing a National Message for Indigent Defense: Analysis of National Survey 4 (Oct. 2001), online at http://www.nlada.org/DMS/Documents/1211996548.53/Polling%20results%20report.pdf.

modification. Then, bit by bit, *Miranda* will lose the clarity and ease of application that has long been viewed as one of its chief justifications.

I respectfully dissent.