123 S.Ct. 1994
Supreme Court of the United States

Ben CHAVEZ, Petitioner,
v.
Oliverio MARTINEZ.

No. 01–1444.
|
Argued Dec. 4, 2002.
|
Decided May 27, 2003.

Synopsis
Suspect brought § 1983 action against police sergeant, alleging that sergeant violated his constitutional rights by subjecting him to coercive interrogation after he had been shot by another police officer. The United States District Court for the Central District of California, Florence Marie Cooper, J., denied sergeant's defense of qualified immunity and entered summary judgment in favor of suspect. Sergeant appealed. The Court of Appeals for the Ninth Circuit, 270 F.3d 852, affirmed. Certiorari was granted. The Supreme Court, per Justice Thomas, held that: (1) sergeant's alleged coercive questioning of suspect did not violate the Self-Incrimination Clause of the Fifth Amendment, absent the use of the suspect's compelled statements in criminal case against him; (2) sergeant's failure to read *Miranda* warnings to suspect before questioning him did not violate suspect's constitutional rights, and thus could not be grounds for § 1983 action against sergeant; and per Justice Souter, held that: (3) whether suspect could pursue claim of liability against sergeant for substantive due process violation was issue to be addressed on remand, along with scope and merits of any such action that could be found open to suspect.

Reversed, and remanded.

Justice Souter filed opinion concurring in judgment, which was joined by Justice Breyer, and joined in part by Justices Stevens, Kennedy, and Ginsburg, and Breyer.

Justice Scalia filed opinion concurring in part in the judgment.

Justice Stevens filed opinion concurring in part, and dissenting in part.

Justice Kennedy filed opinion concurring in part, and dissenting in part, which was joined by Justice Stevens in full, and by Justice Ginsburg in part.

Justice Ginsburg filed opinion concurring in part, and dissenting in part.

Procedural Posture(s): On Appeal; Motion for Summary Judgment.

****1997** *Syllabus* [*]

While respondent Martinez was being treated for gunshot wounds received during an altercation with police, he was interrogated by petitioner Chavez, a patrol supervisor. Martinez admitted that he used heroin and had taken an officer's gun during the incident. At no point was Martinez given *Miranda* warnings. Although he was never charged with a crime, and his answers were never used against him in any criminal proceeding, Martinez filed a 42 U.S.C. § 1983 suit, maintaining, among other things, that Chavez's actions violated his Fifth Amendment right not to be "compelled in any criminal case to be a witness against himself," and his Fourteenth Amendment substantive due process right to be free from coercive questioning. The District Court ruled that Chavez was not entitled to qualified immunity, and the Ninth Circuit affirmed, finding that Chavez's coercive questioning violated Martinez's Fifth Amendment rights even though his statements were not used against him in a criminal proceeding, and that a police officer violates due process when he obtains a confession by coercive conduct, regardless of whether the confession is subsequently used at trial.

Held: The judgment is reversed, and the case is remanded.

270 F.3d 852, reversed and remanded.

Justice THOMAS, joined by THE CHIEF JUSTICE, Justice O'CONNOR, and Justice SCALIA, concluded in Part II–A that Chavez did not deprive Martinez of his Fifth Amendment rights. Pp. 2000–2004.

The text of the Fifth Amendment's Self–Incrimination Clause cannot support the Ninth Circuit's view that mere compulsive questioning violates the Constitution. A "criminal case" at the very least requires the initiation of legal proceedings, and police questioning does not constitute such a case. Statements compelled by police interrogation may not be used against a defendant in a criminal case, but it is not until such use that the Self–Incrimination Clause is violated, see *United States v. Verdugo–Urquidez,* 494 U.S. 259, 264, 110 S.Ct. 1056, 108 L.Ed.2d 222. Martinez was never made to be a "witness" against himself because his statements were never admitted as testimony against him in a criminal case. Nor was ***761** he ever placed under oath and exposed to " 'the cruel trilemma of self-accusation, perjury or contempt.' " *Michigan v. Tucker,* 417 U.S. 433, 445, 94 S.Ct. 2357, 41 L.Ed.2d 182. Pp. 2000–2001.

(b) The Ninth Circuit's approach is also irreconcilable with this Court's case law. The government may compel witnesses to testify at trial or before a grand jury, on pain of contempt, so long as the witness is not the target of the criminal case in which he testifies, see, *e.g., Kastigar v. United States,* 406 U.S. 441, 443, 92 S.Ct. 1653, 32 L.Ed.2d 212; and this Court has long permitted the compulsion of incriminating testimony so long as the statements (or evidence derived from them) cannot be used against the speaker in a criminal case, *id.,* at 458, 92 S.Ct. 1653. ****1998** Martinez was no more compelled in a criminal case to be a witness against himself than an immunized witness forced to testify on pain of contempt. That an immunized witness knows that his statements may not be used against him, while Martinez likely did not, does not make the immunized witness' statements any less compelled and lends no support to the Ninth Circuit's conclusion that coercive police interrogations alone violate the Fifth Amendment. Moreover, those subjected to coercive interrogations have an automatic protection from the use of their involuntary statements in any subsequent criminal trial, *e.g., Oregon v. Elstad,* 470 U.S. 298, 307–308, 105 S.Ct. 1285, 84 L.Ed.2d 222, which is coextensive with the use and derivative use immunity mandated by *Kastigar.* Pp. 2001–2002.

(c) The fact that the Court has permitted the Fifth Amendment privilege to be asserted in noncriminal cases does not alter the conclusion in this case. Judicially created prophylactic rules —such as the rule allowing a witness to insist on an immunity agreement before being compelled to give testimony in noncriminal cases, and the exclusionary rule—are designed to safeguard the core constitutional right protected by the Self–Incrimination Clause. They do not extend the scope of that right itself, just as violations of such rules do not violate a person's constitutional rights. Accordingly, Chavez's failure to read *Miranda* warnings to Martinez did not violate Martinez's constitutional rights and cannot be grounds for a § 1983 action. And the absence of a "criminal case" in which Martinez was compelled to be a "witness" against himself defeats his core Fifth Amendment claim. Pp. 2002–2004.

Justice SOUTER delivered the opinion of the Court with respect to Part II, concluding that the issue whether Martinez may pursue a claim of liability for a substantive due process violation should be addressed on remand. P. 2008.

Justice SOUTER, joined by Justice BREYER, concluded in Part I that Martinez's claim that his questioning alone was a violation of the Fifth and Fourteenth Amendments subject to redress by a 42 U.S.C. § 1983 damages action, though outside the core of Fifth Amendment ***762** protection, could be recognized if a core guarantee, or the judicial capacity to protect it, would be placed at risk absent complementary protection, see, *e.g., McCarthy v. Arndstein,* 266 U.S. 34, 40, 45 S.Ct. 16, 69 L.Ed. 158. However, Martinez cannot make the "powerful showing" necessary to expand protection of the privilege against self-incrimination to the point of the civil liability he requests. Inherent in his purely Fifth Amendment claim is the risk of global application in every instance of interrogation producing a statement inadmissible under the Fifth and Fourteenth Amendments, or violating one of the complementary rules this Court has accepted in aid of the core privilege. And Martinez has offered no reason to believe that this new rule is necessary in aid of the basic guarantee. Pp. 2006–2008.

THOMAS, J., announced the judgment of the Court and delivered an opinion, which was joined by REHNQUIST, C.J., in full, by O'CONNOR, J., as to Parts I and II–A, and by SCALIA, J., as to Parts I and II. SOUTER, J., delivered an opinion, Part II of which was for the Court and was joined by STEVENS, KENNEDY, GINSBURG, and BREYER, JJ., and Part I of which concurred in the judgment and was joined by BREYER, J, *post,* p. 2006. SCALIA, J., filed an opinion concurring in part in the judgment, *post,* p. 2008. STEVENS, J., filed an opinion concurring in part and dissenting in part, *post,* p. 2010. KENNEDY, J., filed an opinion concurring in

part and dissenting in part, which was joined by STEVENS, J., in full and by GINSBURG, J., as to Parts II and III, *post,* p. 2013. GINSBURG, J., filed **1999 an opinion concurring in part and dissenting in part, *post* at 2018.

Attorneys and Law Firms

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Opinion

*763 Justice THOMAS announced the judgment of the Court and delivered an opinion. *

This case involves a 42 U.S.C. § 1983 suit arising out of petitioner Ben Chavez's allegedly coercive interrogation of respondent Oliverio Martinez. The United States Court of Appeals for the Ninth Circuit held that Chavez was not entitled to a defense of qualified immunity because he violated Martinez's clearly established constitutional rights. We conclude that Chavez did not deprive Martinez of a constitutional right.

I

On November 28, 1997, police officers Maria Peã and Andrew Salinas were near a vacant lot in a residential area of Oxnard, California, investigating suspected narcotics activity. While Peã and Salinas were questioning an individual, they heard a bicycle approaching on a darkened path that crossed the lot. They ordered the rider, respondent Martinez, to dismount, spread his legs, and place his hands behind his head. Martinez complied. Salinas then conducted a *764 patdown frisk and discovered a knife in Martinez's waistband. An altercation ensued. [1]

There is some dispute about what occurred during the altercation. The officers claim that Martinez drew Salinas' gun from its holster and pointed it at them; Martinez denies this. Both sides agree, however, that Salinas yelled, " 'He's got my gun!' " App. to Pet. for Cert. 3a. Peã then drew her gun and shot Martinez several times, causing severe injuries that left Martinez permanently blinded and paralyzed from the waist down. The officers then placed Martinez under arrest.

Petitioner Chavez, a patrol supervisor, arrived on the scene minutes later with paramedics. Chavez accompanied Martinez to the hospital and then questioned Martinez there while he was receiving treatment from medical personnel. The interview lasted a total of about 10 minutes, over a 45–minute period, with Chavez leaving the emergency room for periods of time to permit medical personnel to attend to Martinez.

At first, most of Martinez's answers consisted of "I don't know," "I am dying," and "I am choking." App. 14, 17, 18. Later in the interview, Martinez admitted that he took the gun from the officer's holster and pointed it at the police. *Id.,* at 16. He also admitted that he used heroin regularly. *Id.,* at 18. At one point, Martinez said "I am not telling you anything until they treat me," yet Chavez continued the interview. *Id.,* at 14. At no point during the interview was Martinez given warnings under **2000 *Miranda v. Arizona,* 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966). App. to Pet. for Cert. 4a.

Martinez was never charged with a crime, and his answers were never used against him in any criminal prosecution. Nevertheless, Martinez filed suit under Rev. Stat. § 1979, *765 42 U.S.C. § 1983, maintaining that Chavez's actions violated his Fifth Amendment right not to be "compelled in any criminal case to be a witness against himself," as well as his Fourteenth Amendment substantive due process right to be free from coercive questioning. The District Court granted summary judgment to Martinez as to Chavez's qualified immunity defense on both the Fifth and Fourteenth Amendment claims. Chavez took an interlocutory appeal to the Ninth Circuit, which affirmed the District Court's denial of qualified immunity. *Martinez v. Oxnard,* 270 F.3d 852 (2001). Applying *Saucier v. Katz,* 533 U.S.

194, 121 S.Ct. 2151, 150 L.Ed.2d 272 (2001), the Ninth Circuit first concluded that Chavez's actions, as alleged by Martinez, deprived Martinez of his rights under the Fifth and Fourteenth Amendments. The Ninth Circuit did not attempt to explain how Martinez had been "compelled in any criminal case to be a witness against himself." Instead, the Ninth Circuit reiterated the holding of an earlier Ninth Circuit case, *Cooper v. Dupnik,* 963 F.2d 1220, 1229 (C.A.9 1992) (en banc), that "the Fifth Amendment's purpose is to prevent coercive interrogation practices that are destructive of human dignity," 270 F.3d, at 857 (internal quotation marks omitted), and found that Chavez's "coercive questioning" of Martinez violated his Fifth Amendment rights, "[e]ven though Martinez's statements were not used against him in a criminal proceeding," *ibid.* As to Martinez's due process claim, the Ninth Circuit held that "a police officer violates the Fourteenth Amendment when he obtains a confession by coercive conduct, regardless of whether the confession is subsequently used at trial." *Ibid.*

The Ninth Circuit then concluded that the Fifth and Fourteenth Amendment rights asserted by Martinez were clearly established by federal law, explaining that a reasonable officer "would have known that persistent interrogation of the suspect despite repeated requests to stop violated the suspect'sFifth ***766** and Fourteenth Amendment right to be free from coercive interrogation." *Id.,* at 858.

We granted certiorari. 535 U.S. 1111, 122 S.Ct. 2326, 153 L.Ed.2d 158 (2002).

II

[redacted] We conclude that Martinez's allegations fail to state a violation of his constitutional rights.

A

1

The Fifth Amendment, made applicable to the States by the Fourteenth Amendment, *Malloy v. Hogan,* 378 U.S. 1, 84 S.Ct. 1489, 12 L.Ed.2d 653 (1964), requires that "[n]o person ... shall be compelled *in any criminal case* to be a *witness* against himself." U.S. Const., Amdt. 5 (emphases added). We fail to see how, based on the text of the Fifth Amendment, Martinez can allege a violation of this right, since Martinez was never prosecuted for a crime, let alone compelled to be a witness against himself in a criminal case.

Although Martinez contends that the meaning of "criminal case" should encompass the entire criminal investigatory process, including police interrogations, Brief for Respondent 23, we disagree. In our view, a "criminal case" at the very least requires the initiation of legal proceedings. ****2001** See *Blyew v. United States,* 13 Wall. 581, 595, 20 L.Ed. 638 (1872) ("The words 'case' and 'cause' are constantly used as synonyms in statutes and judicial decisions, each meaning *a proceeding in court, a suit, or action*" (emphasis added)); Black's Law Dictionary 215 (6th ed.1990) (defining "[c]ase" as "[a] general term for an action, cause, suit, or controversy at law ...; a question *contested before a court of justice*" (emphasis added)). We ***767** need not decide today the precise moment when a "criminal case" commences; it is enough to say that police questioning does not constitute a "case" any more than a private investigator's precomplaint activities constitute a "civil case." Statements compelled by police interrogations of course may not be used against a defendant at trial, see *Brown v. Mississippi,* 297 U.S. 278, 286, 56 S.Ct. 461, 80 L.Ed. 682 (1936), but it is not until their use in a criminal case that a violation of the Self–Incrimination Clause occurs, see *United States v. Verdugo–Urquidez,* 494 U.S. 259, 264, 110 S.Ct. 1056, 108 L.Ed.2d 222 (1990) ("The privilege against self-incrimination guaranteed by the Fifth Amendment is *a fundamental trial right* of criminal defendants. Although conduct by law enforcement officials prior to trial may ultimately impair that right, *a constitutional violation occurs only at trial*" (emphases added; citations omitted)); *Withrow v. Williams,* 507 U.S. 680, 692, 113 S.Ct. 1745, 123 L.Ed.2d 407 (1993) (describing the Fifth Amendment as a " 'trial right' "); *id.,* at 705, 113 S.Ct. 1745 (O'CONNOR, J., concurring in part and dissenting in part)

(describing "true Fifth Amendment claims" as "the extraction *and use* of compelled testimony" (emphasis altered)).

Here, Martinez was never made to be a "witness" against himself in violation of the Fifth Amendment's Self–Incrimination Clause because his statements were never admitted as testimony against him in a criminal case. Nor was he ever placed under oath and exposed to " 'the cruel trilemma of self-accusation, perjury or contempt.' " *Michigan v. Tucker,* 417 U.S. 433, 445, 94 S.Ct. 2357, 41 L.Ed.2d 182 (1974) (quoting *Murphy v. Waterfront Comm'n of N.Y. Harbor,* 378 U.S. 52, 55, 84 S.Ct. 1594, 12 L.Ed.2d 678 (1964)). The text of the Self–Incrimination Clause simply cannot support the Ninth Circuit's view that the mere use of compulsive questioning, without more, violates the Constitution.

2

Nor can the Ninth Circuit's approach be reconciled with our case law. It is well established that the government may compel witnesses to testify at trial or before a grand ***768** jury, on pain of contempt, so long as the witness is not the target of the criminal case in which he testifies. See *Minnesota v. Murphy,* 465 U.S. 420, 427, 104 S.Ct. 1136, 79 L.Ed.2d 409 (1984); *Kastigar v. United States,* 406 U.S. 441, 443, 92 S.Ct. 1653, 32 L.Ed.2d 212 (1972). Even for persons who have a legitimate fear that their statements may subject them to criminal prosecution, we have long permitted the compulsion of incriminating testimony so long as those statements (or evidence derived from those statements) cannot be used against the speaker in any criminal case. See *Brown v. Walker,* 161 U.S. 591, 602–604, 16 S.Ct. 644, 40 L.Ed. 819 (1896); *Kastigar, supra,* at 458, 92 S.Ct. 1653; *United States v. Balsys,* 524 U.S. 666, 671–672, 118 S.Ct. 2218, 141 L.Ed.2d 575 (1998). We have also recognized that governments may penalize public employees and government contractors (with the loss of their jobs or government contracts) to induce them to respond to inquiries, so long as the answers elicited (and their fruits) are immunized from use in any criminal case against the speaker. See *Lefkowitz v. Turley,* 414 U.S. 70, 84–85, 94 S.Ct. 316, 38 L.Ed.2d 274 (1973) ("[T]he State may insist that [contractors] ... either respond to relevant inquiries about the performance of their contracts or suffer cancellation"); ****2002** *Lefkowitz v. Cunningham,* 431 U.S. 801, 806, 97 S.Ct. 2132, 53 L.Ed.2d 1 (1977) ("Public employees may constitutionally be discharged for refusing to answer potentially incriminating questions concerning their official duties if they have not been required to surrender their constitutional immunity" against later use of statements in criminal proceedings).[2] By contrast, no "penalty" may ever be imposed on ***769** someone who exercises his core Fifth Amendment right not to be a "witness" against himself in a "criminal case." See *Griffin v. California,* 380 U.S. 609, 614, 85 S.Ct. 1229, 14 L.Ed.2d 106 (1965) (the trial court's and the prosecutor's comments on the defendant's failure to testify violates the Self–Incrimination Clause of the Fifth Amendment). Our holdings in these cases demonstrate that, contrary to the Ninth Circuit's view, mere coercion does not violate the text of the Self–Incrimination Clause absent use of the compelled statements in a criminal case against the witness.

We fail to see how Martinez was any more "compelled in any criminal case to be a witness against himself" than an immunized witness forced to testify on pain of contempt. One difference, perhaps, is that the immunized witness *knows* that his statements will not, and may not, be used against him, whereas Martinez likely did not. But this does not make the statements of the immunized witness any less "compelled" and lends no support to the Ninth Circuit's conclusion that coercive police interrogations, absent the use of the involuntary statements in a criminal case, violate the Fifth Amendment's Self–Incrimination Clause. Moreover, our cases provide that those subjected to coercive police interrogations have an *automatic* protection from the use of their involuntary statements (or evidence derived from their statements) in any subsequent criminal trial. *Oregon v. Elstad,* 470 U.S. 298, 307–308, 105 S.Ct. 1285, 84 L.Ed.2d 222 (1985); *United States v. Blue,* 384 U.S. 251, 255, 86 S.Ct. 1416, 16 L.Ed.2d 510 (1966); *Leyra v. Denno,* 347 U.S. 556, 558, 74 S.Ct. 716, 98 L.Ed. 948 (1954); *Ashcraft v. Tennessee,* 322 U.S. 143, 155, 64 S.Ct. 921, 88 L.Ed. 1192 (1944). See also *Pillsbury Co. v. Conboy,* 459 U.S. 248, 278, 103 S.Ct. 608, 74 L.Ed.2d 430 (1983) (Blackmun, J., concurring in judgment); *Williams v. United States,* 401 U.S. 646, 662, 91 S.Ct. 1148, 28 L.Ed.2d 388 (1971) (Brennan, J., concurring in result). This protection is, in fact, coextensive with the use and derivative ***770** use immunity mandated by *Kastigar* when the government compels testimony from a reluctant witness. See 406 U.S., at 453, 92 S.Ct. 1653. Accordingly, the fact that Martinez did not *know* his statements could not be used

against him does not change our view that no violation of the Fifth Amendment's Self–Incrimination Clause occurred here.

3

Although our cases have permitted the Fifth Amendment's self-incrimination privilege to be asserted in noncriminal cases, see *id.,* at 444–445, 92 S.Ct. 1653 (recognizing that the "Fifth Amendment privilege against compulsory self-incrimination ... *can be asserted in any proceeding,* civil or criminal, administrative or judicial, ****2003** investigatory or adjudicatory ..."); *Lefkowitz v. Turley, supra,* at 77, 94 S.Ct. 316 (stating that the Fifth Amendment privilege allows one "not to answer official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in future criminal proceedings"), that does not alter our conclusion that a violation of the constitutional *right* against self-incrimination occurs only if one has been compelled to be a witness against himself in a criminal case.

In the Fifth Amendment context, we have created prophylactic rules designed to safeguard the core constitutional right protected by the Self–Incrimination Clause. See, *e.g., Tucker,* 417 U.S., at 444, 94 S.Ct. 2357 (describing the "procedural safeguards" required by *Miranda* as "not themselves rights protected by the Constitution but ... measures to insure that the right against compulsory self-incrimination was protected" to "provide practical reinforcement for the right"); *Elstad, supra,* at 306, 105 S.Ct. 1285 (stating that "[t]he *Miranda* exclusionary rule ... serves the Fifth Amendment and sweeps more broadly than the Fifth Amendment itself"). Among these rules is an evidentiary privilege that protects witnesses from being forced to give incriminating testimony, even in noncriminal cases, unless that testimony has been immunized ***771** from use and derivative use in a future criminal proceeding before it is compelled. See *Kastigar, supra,* at 453, 92 S.Ct. 1653; *Maness v. Meyers,* 419 U.S. 449, 461–462, 95 S.Ct. 584, 42 L.Ed.2d 574 (1975) (noting that the Fifth Amendment privilege may be asserted if one is "compelled to produce evidence which later *may* be used against him as an accused in a criminal action" (emphasis added)).

By allowing a witness to insist on an immunity agreement *before* being compelled to give incriminating testimony in a noncriminal case, the privilege preserves the core Fifth Amendment right from invasion by the use of that compelled testimony in a subsequent criminal case. See *Tucker, supra,* at 440–441, 94 S.Ct. 2357 ("Testimony obtained in civil suits, or before administrative or legislative committees, could [absent a grant of immunity] prove so incriminating that a person compelled to give such testimony might readily be convicted on the basis of those disclosures in a subsequent criminal proceeding"). Because the failure to assert the privilege will often forfeit the right to exclude the evidence in a subsequent "criminal case," see *Murphy,* 465 U.S., at 440, 104 S.Ct. 1136; *Garner v. United States,* 424 U.S. 648, 650, 96 S.Ct. 1178, 47 L.Ed.2d 370 (1976) (failure to claim privilege against self-incrimination before disclosing incriminating information on tax returns forfeited the right to exclude that information in a criminal prosecution); *United States v. Kordel,* 397 U.S. 1, 7, 90 S.Ct. 763, 25 L.Ed.2d 1 (1970) (criminal defendant forfeited his right to assert Fifth Amendment privilege with regard to answers he gave to interrogatories in a prior civil proceeding), it is necessary to allow assertion of the privilege prior to the commencement of a "criminal case" to safeguard the core Fifth Amendment trial right. If the privilege could not be asserted in such situations, testimony given in those judicial proceedings would be deemed "voluntary," see *Rogers v. United States,* 340 U.S. 367, 371, 71 S.Ct. 438, 95 L.Ed. 344 (1951); *United States v. Monia,* 317 U.S. 424, 427, 63 S.Ct. 409, 87 L.Ed. 376 (1943); hence, insistence on a prior grant of immunity is essential to memorialize the fact that the testimony had indeed been compelled and therefore ***772** protected from use against the speaker in any "criminal case."

Rules designed to safeguard a constitutional right, however, do not extend the scope of the constitutional right itself, just as violations of judicially crafted prophylactic rules do not violate the constitutional rights of any person. As we explained, we have allowed the Fifth Amendment ****2004** privilege to be asserted by witnesses in noncriminal cases in order to safeguard the core constitutional right defined by the Self–Incrimination Clause—the right not to be compelled in any criminal case to be a witness against oneself.[3] We have likewise established the *Miranda* exclusionary rule as a prophylactic measure to prevent violations of the right protected by the text of the Self–Incrimination Clause—the admission into evidence in a criminal case of confessions

obtained through coercive custodial questioning. See *Warren v. Lincoln,* 864 F.2d 1436, 1442 (C.A.8 1989) (alleged *Miranda* violation not actionable under § 1983); *Giuffre v. Bissell,* 31 F.3d 1241, 1256 (C.A.3 1994) (same); *Bennett v. Passic,* 545 F.2d 1260, 1263 (C.A.10 1976) (same); see also *New York v. Quarles,* 467 U.S. 649, 686, 104 S.Ct. 2626, 81 L.Ed.2d 550 (1984) (Marshall, J., dissenting) ("All the Fifth Amendment forbids is the introduction of coerced statements at trial"). Accordingly, Chavez's failure to read *Miranda* warnings to Martinez did not violate Martinez's constitutional rights and cannot be grounds for a § 1983 action. See *Connecticut v. Barrett,* 479 U.S. 523, 528, 107 S.Ct. 828, 93 L.Ed.2d 920 (1987) (*Miranda* 's warning requirement is "not itself required by the Fifth Amendmen[t] ... but is instead justified only by reference to its prophylactic purpose"); *Tucker, supra,* at 444, 94 S.Ct. 2357 (*Miranda's* safeguards "were not themselves rights protected by the Constitution but were instead measures to insure that the right against compulsory self-incrimination was protected"). And the absence of a "criminal case" in which ***773** Martinez was compelled to be a "witness" against himself defeats his core Fifth Amendment claim. The Ninth Circuit's view that mere compulsion violates the Self–Incrimination Clause, see 270 F.3d, at 857; *California Attorneys for Criminal Justice v. Butts,* 195 F.3d 1039, 1045–1046 (1999); *Cooper,* 963 F.2d, at 1243–1244, finds no support in the text of the Fifth Amendment and is irreconcilable with our case law.[4] Because we find that Chavez's alleged conduct did not violate the Self–Incrimination Clause, we reverse the Ninth Circuit's denial of qualified immunity as to Martinez's Fifth Amendment claim.

Our views on the proper scope of the Fifth Amendment's Self–Incrimination Clause do not mean that police torture or other abuse that results in a confession is constitutionally permissible so long as the statements are not used at trial; it simply means that the Fourteenth Amendment's Due Process Clause, rather than the Fifth Amendment's Self–Incrimination Clause, would govern the inquiry in those cases and provide relief in appropriate circumstances.[5]

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The Fourteenth Amendment provides that no person shall be deprived "of life, liberty, or property, without due process of law." Convictions based on evidence obtained by methods that are "so brutal and so offensive to human dignity" that they "shoc[k] the conscience" violate the Due Process Clause. *Rochin v. California,* 342 U.S. 165, 172, 174, 72 S.Ct. 205, 96 L.Ed. 183 (1952) (overturning conviction based on evidence obtained by involuntary stomach pumping). See also *Breithaupt v. Abram,* 352 U.S. 432, 435, 77 S.Ct. 408, 1 L.Ed.2d 448 (1957) (reiterating that evidence obtained through conduct that " 'shock[s] the conscience' " may not be used to support a criminal conviction). Although *Rochin* did not establish a civil remedy for abusive police behavior, we recognized in *County of Sacramento v. Lewis,* 523 U.S. 833, 846, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998), that deprivations of liberty caused by "the most egregious official conduct," *id.,* at 846, 847–848, n. 8, 118 S.Ct. 1708, may violate the Due Process Clause. While we rejected, in *Lewis,* a § 1983 plaintiff's contention that a police officer's deliberate indifference during a high-speed chase that caused the death of a motorcyclist violated due process, *id.,* at 854, 118 S.Ct. 1708, we left open the possibility that unauthorized police behavior in other contexts might "shock the conscience" and give rise to § 1983 liability. *Id.,* at 850, 118 S.Ct. 1708.

We are satisfied that Chavez's questioning did not violate Martinez's due process rights. Even assuming, *arguendo,* that the persistent questioning of Martinez somehow deprived him of a liberty interest, we cannot agree with Martinez's ***775** characterization of Chavez's behavior as "egregious" or "conscience shocking." As we noted in *Lewis,* the official conduct "most likely to rise to the conscience-shocking level" is the "conduct intended to injure in some way unjustifiable by any government interest." *Id.,* at 849, 118 S.Ct. 1708. Here, there is no evidence that Chavez acted with a purpose to harm Martinez by intentionally interfering with his medical treatment. Medical personnel were able to treat Martinez throughout the interview, App. to Pet. for Cert. 4a, 18a, and Chavez ceased his questioning to allow tests and other procedures to be performed. *Id.,* at 4a. Nor is there evidence that Chavez's conduct exacerbated Martinez's injuries or prolonged his stay in the hospital. Moreover, the need to investigate whether there had been police misconduct constituted a justifiable government interest given the risk that key evidence would have been lost if Martinez had died without the authorities ever hearing his side of the story.

The Court has held that the Due Process Clause also protects certain "fundamental liberty interest[s]" from deprivation by

the government, regardless of the procedures provided, unless the infringement is narrowly tailored to serve a compelling state interest. *Washington v. Glucksberg,* 521 U.S. 702, 721, 117 S.Ct. 2258, 138 L.Ed.2d 772 (1997). Only fundamental rights and liberties which are " 'deeply rooted in this Nation's history and tradition' " and " 'implicit in the concept of ordered liberty' " qualify for such protection. *Ibid.* Many times, however, we have expressed our reluctance to expand the doctrine of substantive due process, see *Lewis, supra,* at 842, 118 S.Ct. 1708; *Glucksberg, supra,* at 720, 117 S.Ct. 2258; *Albright v. Oliver,* 510 U.S. 266, 271, 114 S.Ct. 807, 127 L.Ed.2d 114 (1994); *Reno v. Flores,* 507 U.S. 292, 302, 113 S.Ct. 1439, 123 L.Ed.2d 1 (1993); in large part "because **2006 guideposts for responsible decisionmaking in this unchartered area are scarce and open-ended," *Collins v. Harker Heights,* 503 U.S. 115, 125, 112 S.Ct. 1061, 117 L.Ed.2d 261 (1992). See also *Regents of Univ. of Mich. v. Ewing,* 474 U.S. 214, 225–226, 106 S.Ct. 507, 88 L.Ed.2d 523 (1985).

Glucksberg requires a " 'careful description' " of the asserted fundamental liberty interest for the purposes of substantive *776 due process analysis; vague generalities, such as "the right not to be talked to," will not suffice. 521 U.S., at 721, 117 S.Ct. 2258. We therefore must take into account the fact that Martinez was hospitalized and in severe pain during the interview, but also that Martinez was a critical nonpolice witness to an altercation resulting in a shooting by a police officer, and that the situation was urgent given the perceived risk that Martinez might die and crucial evidence might be lost. In these circumstances, we can find no basis in our prior jurisprudence, see, *e.g., Miranda,* 384 U.S., at 477–478, 86 S.Ct. 1602 ("It is an act of responsible citizenship for individuals to give whatever information they may have to aid in law enforcement"), or in our Nation's history and traditions to suppose that freedom from unwanted police questioning is a right so fundamental that it cannot be abridged absent a "compelling state interest." *Flores, supra,* at 302, 113 S.Ct. 1439. We have never required such a justification for a police interrogation, and we decline to do so here. The lack of any "guideposts for responsible decisionmaking" in this area, and our oft-stated reluctance to expand the doctrine of substantive due process, further counsel against recognizing a new "fundamental liberty interest" in this case.

We conclude that Martinez has failed to allege a violation of the Fourteenth Amendment, and it is therefore unnecessary to inquire whether the right asserted by Martinez was clearly established.

III

[redacted] Chavez did not violate Martinez's Fifth and Fourteenth Amendment rights, [redacted] The judgment of the Court of Appeals for the Ninth Circuit is therefore reversed, and the case is remanded for further proceedings.

It is so ordered.

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[redacted]

[redacted]

Chavez v. Martinez, 538 U.S. 760 (2003)

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Chavez v. Martinez, 538 U.S. 760 (2003)

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