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Mallory v. United States

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Mallory v. United States,

354 U.S. 449 (1957), argued 1 Apr. 1957, decided 24 June 1957 by vote of 9 to 0; Frankfurter for the Court. Although the power of the Supreme Court to overturn state convictions is limited to the enforcement of Fourteenth Amendment due process rights, the Court may formulate rules of evidence in the exercise of its “supervisory power” over the administration of federal criminal justice that go well beyond due process requirements. The best-known example is the McNabb-Mallory rule.

In *McNabb v. United States* (1943) the Court held, in the exercise of its supervisory power, that incriminating statements obtained from a suspect during his illegal detention (i.e., while held in violation of federal requirements that an arrestee be promptly brought before a committing magistrate) must be excluded in a federal trial whether or not the statements were made voluntarily. Although heavily criticized by law enforcement officials and members of Congress, the rule was reaffirmed in *Mallory v. United States* (1957). There, speaking for a unanimous Court, Justice Felix Frankfurter (author of the original *McNabb* opinion) emphasized that the police should have probable cause before they make an arrest and that it is not their function to arrest people “at large” and to question them later to determine whom they should charge. The decision provoked extreme outrage, particularly in Congress.

The *Mallory* rule offered an alternative to the “voluntariness” test for admitting confessions, but only in the federal courts. Nevertheless, many feared (and others hoped) that some day the Warren Court would impose the rule on the states as a matter of Fourteenth Amendment due process. The Supreme Court never did so. Instead it tackled the problem of confessions in a different way, increasingly resorting to the right to counsel and the privilege against self-incrimination. These efforts culminated in the famous case of *Miranda v. Arizona* (1966).

Because the McNabb-Mallory rule was not a constitutional doctrine but only an exercise of the Court's supervisory power, it was always subject to congressional revision or repeal. In 1968, after numerous attempts to do so, Congress finally passed legislation that crippled the rule.