

**Texas v. Cobb**  
(April 2, 2001) \_\_ US \_\_

**ISSUE**

Is it a violation of the Sixth Amendment right to counsel for officers to question a suspect about a crime that is “closely related” to a crime with which he has been charged and is represented by counsel?

**FACTS**

Margaret Owings was at home with her 16-month old baby, Kori Rae, when she discovered Cobb had somehow gotten inside the house and was in the process of stealing her stereo. When Ms. Owings “confronted” Cobb, he stabbed her with a knife, killing her. After dragging the body into a wooded area a few hundred yards from the house, Cobb returned to the house, removed Kori Rae from her bed, took her out with her mother and killed her. He then buried both bodies.

Later that day, Ms. Owings’ husband arrived home and discovered the burglary and that his wife and daughter were missing. Mr. Owings immediately notified the Walker County sheriff’s department.

During the course of their investigation, deputies received a tip that Cobb was responsible for the burglary. He was questioned but denied involvement.

About six months later, Cobb was arrested for an unrelated crime. Deputies questioned him again about the burglary and the disappearance of Ms. Owings and Kori Rae (their bodies had not yet been found). This time he confessed to the burglary but continued to deny knowing anything about the missing women. Apparently based on Cobb’s statement, he was indicted for the burglary of the Owings’ house and an attorney was appointed to represent him.

Several months later, Cobb’s father notified authorities that Cobb had admitted to him that he had killed Margaret Owings. Based on this development, deputies arrested Cobb who, after waiving his Miranda rights, confessed to both murders.

Cobb was subsequently convicted of the murders and sentenced to death.

**DISCUSSION**

Cobb contended his confession was inadmissible because it was obtained in violation of his Sixth Amendment right to counsel. This contention was based on the settled rule that officers may not initiate questioning of a suspect about a crime for which he, (1) has been formally charged, and (2) is represented by counsel.<sup>1</sup>T

On the face of it, Cobb’s contention seems groundless. After all, when he confessed to the murders, he had only been charged with burglary—not murder. Consequently, it would seem he had no Sixth Amendment right to counsel when he was questioned about the murder.

Unfortunately, things have not been that simple. Over the years, the courts have expanded Sixth Amendment rights to include uncharged crimes that are “inextricably intertwined” with a charged crime or sometimes even “closely related” to a charged crime. For example, in *People v. Boyd* <sup>2</sup> the court ruled that Boyd, who set fire to a warehouse to cover up a burglary, had a Sixth Amendment right to counsel as to the uncharged arson because the arson was closely related to the charged burglary.

In fact, it was this type of reasoning that was behind the Texas Court of Criminal Appeals’ decision to reverse Cobb’s murder conviction—the court said he had a Sixth Amendment right to counsel because the uncharged murders were “very closely related factually” to the charged burglary.

In Cobb, however, the United States Supreme Court put an end to this confusion. It ruled that suspects do not acquire Sixth Amendment rights as to uncharged crimes merely because the crimes are “closely related” or “inextricably intertwined” with a charged crime. Instead, Sixth Amendment rights as to uncharged crimes attach only if the charged and uncharged crimes are the same crime, or if one of the crimes is necessarily included in the other.

Applying this new test to the facts of the case, the Court ruled that Cobb had no Sixth Amendment right to counsel when he was questioned about the uncharged murders because the burglary and murders were clearly separate crimes. Said the Court, “As defined by Texas law, burglary and capital murder are not the same offense . . . Accordingly, the Sixth Amendment right to counsel did not bar police from interrogating respondent regarding the murders, and respondent’s confession was therefore admissible.”

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<sup>1</sup> NOTE: As a practical matter, a suspect is “charged” with a crime when, (1) the DA files a criminal complaint against him, or (2) he had been indicted by a grand jury. See *Maine v. Moulton* (1985) 474 US 159 170; *McNeil v. Wisconsin* (1991) 501 US 171, 175; *People v. Clair* (1992) 2 Cal.4th 629, 657-8; *People v. Sully* (1991) 53 Cal.3d 1195, 1233-4; *People v. Case* (1980) 105 Cal.App.3d 826, 833.

<sup>2</sup> (1978) 86 Cal.App.3d 54.