



Office of the Attorney General
Washington, D. C. 20530

September 10, 1997

The Honorable Newt Gingrich
Speaker of the House
United States House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

I am writing to notify you that the Department of Justice has taken the position that the federal courts of appeals and district courts may not apply 18 U.S.C. § 3501 to admit a voluntary confession in a case in which Miranda v. Arizona, 384 U.S. 436 (1966), would require its exclusion, and that the Department of Justice cannot argue that they do so.

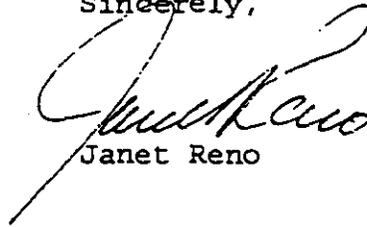
In United States v. Tony Leong, No. 96-4876, the government appealed the suppression of an unwarned statement elicited by the police during a traffic stop. The government argued that the defendant was not in custody when he made the statement, and therefore he was not entitled to Miranda warnings. The Fourth Circuit affirmed the suppression order, finding, contrary to the government's argument, that the defendant was in custody when he made the incriminating statement and therefore that suppression of his unwarned statement was required by the Supreme Court's decision in Miranda. Shortly thereafter, the court directed the parties to address the applicability of Section 3501 to the government's appeal. In response to that order, the Department filed a brief advising the Fourth Circuit that it could not apply Section 3501 to admit a confession taken in violation of the Supreme Court's decision in Miranda unless and until the Supreme Court overrules or modifies that decision. A copy of the Department's brief in Leong is attached.

Because the Department has not determined that it will decline to defend the constitutionality of Section 3501 in the Supreme Court, should the issue arise there, it is unclear whether the reporting requirements of Pub. L. No. 96-132, § 21(a)(2), 93 Stat. 1049-50 (1979), are triggered by our filing in Leong. Nevertheless, should the Department's determination that it will "refrain from defending" Section 3501 in the lower courts

The Honorable Newt Gingrich
Page 2

trigger the statute's reporting requirements, this letter will
serve as that report.

Sincerely,

A handwritten signature in cursive script, appearing to read "Janet Reno", is written over the typed name. The signature is fluid and somewhat stylized, with a long, sweeping underline that extends to the left.

Janet Reno

Enclosure

cc: The Honorable Geraldine R. Gennet
General Counsel
United States House of Representatives
Washington, DC 20515