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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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GRAY v. MARYLAND

CERTIORARI TO THE COURT OF APPEALS OF MARYLAND

No. 96–8653. Argued December 8, 1997— Decided March 9, 1998

Anthony Bell confessed to the police that he, petitioner Gray, and another man participated in the beating that caused Stacy Williams' death. After the third man died, a Maryland grand jury indicted Bell and Gray for murder, and the State tried them jointly. When the trial judge permitted the State to introduce a redacted version of Bell's confession, the detective who read it to the jury said "deleted" or "deletion" whenever the name of Gray or the third participant appeared. Immediately after that reading, however, the detective answered affirmatively when the prosecutor asked, "after [Bell] gave you that information, you subsequently were able to arrest . . . Gray; is that correct?" The State also introduced a written copy of the confession with the two names omitted, leaving in their place blanks separated by commas. The judge instructed the jury that the confession could be used as evidence only against Bell, not Gray. The jury convicted both defendants. Maryland's intermediate appellate court held that *Bruton v. United States*, 391 U. S. 123, prohibited use of the confession and set aside Gray's conviction. Maryland's highest court disagreed and reinstated that conviction.

Held: The confession here at issue, which substituted blanks and the word "delete" for Gray's proper name, falls within the class of statements to which *Bruton's* protective rule applies. Pp. 3–11.

(a) *Bruton* also involved two defendants tried jointly for the same crime, with the confession of one them incriminating both himself and the other. This Court held that, despite a limiting instruction that the jury should consider the confession as evidence only against the confessing codefendant, the introduction of such a confession at a joint trial violates the nonconfessing defendant's Sixth Amendment right to cross-examine witnesses. The Court explained that this situation, in which the powerfully incriminating extrajudicial state-

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ments of a codefendant are deliberately spread before the jury in a joint trial, is one of the contexts in which the risk that the jury will not, or cannot, follow limiting instructions is so great, and the consequences of failure so devastating to the defendant, that the introduction of the evidence cannot be allowed. See 391 U. S., at 135–136. *Bruton*’s scope was limited by *Richardson v. Marsh*, 481 U. S. 200, 211, in which the Court held that the Confrontation Clause is not violated by the admission of a nontestifying codefendant’s confession with a proper limiting instruction when the confession is redacted to eliminate not only that defendant’s name, but any reference to his or her existence. Pp. 3–5.

(b) Unlike *Richardson*’s redacted confession, the confession here refers directly to Gray’s “existence.” Redactions that simply replace a name with an obvious blank space or a word such as “deleted” or a symbol or other similarly obvious indications of alteration leave statements that, considered as a class, so closely resemble *Bruton*’s unredacted statements as to warrant the same legal results. For one thing, a jury will often react similarly to an unredacted confession and a confession redacted as here, for it will realize that the confession refers specifically to the defendant, even when the State does not blatantly link the defendant to the deleted name, as it did below by asking the detective whether Gray was arrested on the basis of information in Bell’s confession. For another thing, the obvious deletion may well call the jurors’ attention specially to the removed name. By encouraging the jury to speculate about the reference, the redaction may overemphasize the importance of the confession’s accusation—once the jurors work out the reference. Finally, *Bruton*’s protected statements and statements redacted to leave a blank or some other similarly obvious alteration, function the same way grammatically: They point directly to, and accuse, the nonconfessing codefendant. Pp. 5–8.

(c) Although *Richardson* placed outside *Bruton*’s scope statements that incriminate inferentially, 481 U. S., at 208, and the jury must use inference to connect Bell’s statements with Gray, *Richardson* does not control the result here. Inference pure and simple cannot make the critical difference. If it did, then *Richardson* would also place outside *Bruton*’s scope confessions that use, *e.g.*, nicknames and unique descriptions, whereas this Court has assumed that such identifiers fall inside *Bruton*’s protection, see *Harrington v. California*, 395 U. S. 250, 253. Thus, *Richardson* must depend in significant part upon the *kind* of, not the simple *fact* of, inference. *Richardson*’s inferences involved statements that did not refer directly to the defendant himself, but became incriminating “only when linked with evidence introduced later at trial.” 481 U. S., at 208. In contrast, the

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inferences here involve statements that, despite redaction, obviously refer directly to someone, often obviously to Gray, and involve inferences that a jury ordinarily could make immediately, even were the confession the very first item introduced at trial. *Richardson*'s policy reasons for its conclusion— that application of *Bruton*'s rule would force prosecutors to abandon use either of the confession or of a joint trial in instances where adequate redaction would “not [be] possible,” *id.*, at 209, and would lead to those same results, or provoke mistrials, because of the difficulty of predicting, before introduction of all the evidence, whether *Bruton* barred use of a particular confession that incriminated “by connection,” see *ibid.*— are inapplicable in the circumstances here. Pp. 8–11.

344 Md. 417, 687 A. 2d 660, vacated and remanded.

BREYER, J., delivered the opinion of the Court, in which STEVENS, O'CONNOR, SOUTER, and GINSBURG, JJ., joined. SCALIA, J., filed a dissenting opinion, in which REHNQUIST, C. J., and KENNEDY and THOMAS, JJ., joined.