

SAMIA V. UNITED STATES

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INTRODUCTION

The Sixth Amendment to the United States Constitution guarantees that “[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him.”¹ Known as the Confrontation Clause, this provision guarantees all criminal defendants the right to cross-examine adverse testimony. However, the Fifth Amendment to the United States Constitution provides through the Self-Incrimination Clause that “[n]o person shall be . . . compelled in any criminal case to be a witness against himself.”² In light of both the Confrontation Clause and the Self-Incrimination Clause, an issue emerges when prosecutors try codefendants jointly, particularly if one codefendant makes a confession that inculpates the other. In 1968, *Bruton v. United States* addressed this issue and held that the Confrontation Clause prohibits the admission at a joint trial of a non-testifying codefendant’s confession that names the

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1. U.S. CONST. amend. VI.
2. *Id.* at amend. V.

defendant.³ Further, *Bruton* requires the preclusion of such a confession even when the court instructs the jury to consider the confession only against the codefendant who made it.⁴

Decided in June of 2023, *Samia v. United States* falls within the ambit of *Bruton* and its progeny.⁵ While *Bruton* made a categorical prohibition on confessions that implicate the defendant by name, other cases have qualified that rule and allowed for exceptions. The Supreme Court specifically considered in *Samia* whether the substitution of the defendant's name in the confession with "other person" and other similar descriptors nevertheless violates the Confrontation Clause.⁶ For reasons outlined below, the Court held that the Confrontation Clause is not violated because of longstanding historical practices and the presumption that jurors follow instructions.⁷

I. ISSUE

The primary issue, in this case, is whether the Confrontation Clause of the Sixth Amendment prohibits admission of a non-testifying codefendant's confession (1) where the confession has been modified to avoid direct identification of the non-confessing codefendant and (2) where the jury has been instructed to consider the confession only against the confessor.⁸ More specifically, the Court considered the nature of an alteration to replace the non-confessing codefendant's name with "other person" or a similar descriptor.⁹

II. DEVELOPMENT OF THE ISSUE

A. *Bruton and its Progeny*

As noted above, *Bruton* first addressed whether the Confrontation Clause bars the admission of such a confession where that confession directly names the non-confessing codefendant.¹⁰ The Court held that the Confrontation Clause did, in fact, bar such admission.¹¹ Then, in *Richardson v. Marsh* in 1987, the Court refused to expand *Bruton*'s rule to exclude admission of a confession that inculcated the

3. *Bruton v. United States*, 391 U.S. 123, 126 (1968).

4. *Id.* at 135–36.

5. *Samia v. United States*, 143 S. Ct. 2004 (2023).

6. *Id.* at 2010.

7. *Id.*

8. *Id.*

9. *Id.*

10. *Bruton v. United States*, 391 U.S. 123, 126 (1968).

11. *Id.*

defendant only when viewed with other evidence.¹² Later, in 1998, the Court held in *Gray v. Maryland* that the substitution of a defendant's name in a confession with a mere blank space or the word "deleted" was also violative of the Confrontation Clause, which was a question left unanswered by *Richardson*.¹³ With *Bruton* and its progeny in mind, the principal issue in the instant case seemingly settles the "gray" area between *Gray* and *Richardson*. As a result, close attention to the facts of *Samia* becomes essential in understanding its contribution to the *Bruton* line of cases.

B. *Facts of Samia*

In 2012, Adam Samia traveled to the Philippines to work for crime lord Paul LeRoux. LeRoux tasked Samia, Joseph Hunter, and Carl Stillwell with killing Catherine Lee (a real estate broker that LeRoux believed stole money from him).¹⁴ Lee was found dead, shot twice in the face at close range.¹⁵ LeRoux was arrested later in 2012 by the U.S. Drug Enforcement Agency (DEA), and he cooperated.¹⁶ The DEA arrested Samia, Hunter, and Stillwell afterward.¹⁷ The DEA searched Samia's home and found (1) a camera with surveillance photos of Lee's home and (2) a key to the van in which Lee was murdered.¹⁸ During Stillwell's arrest, the DEA found thumbnail images of Lee's dead body.¹⁹ Stillwell waived Miranda rights and participated in a post-arrest interview, giving a confession.²⁰

In that confession, Stillwell admitted that he had been in the van with Lee when she was killed, but he asserted he was only the driver and that Samia had shot Lee; nevertheless, Samia maintained his innocence.²¹ The government's theory later at trial was (1) that Hunter hired Samia and Stillwell to pose as real-estate buyers and visit properties with Lee; (2) that Samia, Stillwell, and Lee were in a van; (3) that Stillwell drove that van; and (4) that Samia shot Lee in the van while Stillwell was driving.²²

At trial, the DEA agent testified as follows:

12. *Richardson v. Marsh*, 481 U.S. 200, 202 (1987).

13. *Gray v. Maryland*, 523 U.S. 185, 192 (1998).

14. *Samia*, 143 S. Ct. at 2010.

15. *Id.*

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.*

22. *Id.* at 2011.

Q. Did [Stillwell] say where [the victim] was when she was killed?

A. Yes. He described a time when *the other person* he was with pulled the trigger on that woman in a van that he and Mr. Stillwell was driving.²³

Other portions of the agent's testimony also used "other person" to refer to someone with whom Stillwell had traveled and lived and who carried a particular firearm.²⁴ Notwithstanding the nature of the confession, the district court allowed the preceding testimony and instructed the jury only to consider the confession against Stillwell and not against Samia.²⁵ On appeal, the Second Circuit upheld the trial court's ruling, holding that Samia's Confrontation Clause rights were not violated.²⁶

III. ANALYSIS

In delivering the opinion of the Court, Justice Thomas's framing of the principal issue serves as a prelude to the analysis that follows in the opinion, limited mainly to longstanding historical practice and the presumption that jurors follow instructions.²⁷ Justice Thomas notes, "[f]or most of our Nation's history, longstanding practice allowed a non-testifying codefendant's confession to be admitted in a joint trial so long as the jury was properly instructed."²⁸

A. *Longstanding Historical Practice*

Beginning with the Court's rationale based on longstanding historical practice, Justice Thomas cites four cases and two treatises to exemplify the admissibility of an altered non-testifying codefendant's confession coupled with a limiting instruction.²⁹ However, as Justice Barrett notes in her concurrence, none of the cases cited under Part II-A of the majority opinion are dated outside

23. *Id.* (citing Joint App. 76).

24. *Id.* at 2011.

25. *Id.*

26. *Id.* at 2012.

27. *Id.* at 2010.

28. *Id.* at 2012.

29. *Id.* at 2013.

the 1878–1896 date range.³⁰ Notwithstanding the limited date of those citations, the Court seems to implicitly assert the great weight that should be accorded to those cases and treatises.³¹

Justice Barrett also questions the authority cited under Part II-A because “the two federal cases do not discuss the effectiveness of limiting instructions, much less any need for redaction.”³² The majority thereby suggests that history controls the interpretation of the Sixth Amendment; however, it can hardly be said that the practices listed in II-A support the admissibility of a non-testifying codefendant’s confessions without further citation to the relevant authority, bridging early to contemporary Sixth Amendment jurisprudence. The dissent notes the majority’s failure to invoke sufficient historical practice. Still, the dissent further posits that even if historical practices did, in fact, control, “*Bruton* itself would have been wrongly decided.”³³ This, for the dissent, is enough evidence to suggest that the majority’s true viewpoint is thus revealed—that “*Bruton* should go.”³⁴

B. *Presumption that Jurors Follow Instructions*

The other reason the Court relies upon in its rationale is the presumption that jurors follow limiting instructions. Justice Thomas notes that this presumption enjoys an embedded place in precedent.³⁵ The majority is reluctant to establish an exception to this presumption, which might create “inroads into th[e] entire complex code of . . . criminal evidentiary law.”³⁶ However, it is not upon this general point that the Court seems to disagree; instead, the ultimate issue becomes whether *Bruton*, which created an exception to this presumption, applies to the facts in *Samia* such that the confession was inadmissible under the Sixth Amendment, notwithstanding accompanying limiting instructions.³⁷

30. *Id.* at 2019 (concurring in judgment and noting that Part II-A is “beside the point” and only describes a “snapshot” of our nation’s history).

31. *Id.* at 2013 (noting that “[c]onsiderable authority supports this approach”).

32. *Id.* at 2019 (noting that *Sparf v. United States*, 156 U.S. 51, 58 (1895) involved a ruling concerning co-conspirator exceptions to the hearsay rule and that *United States v. Ball*, 163 U.S. 662, 672 (1896), did not involve a ruling upon admission of a codefendant’s confession).

33. *Id.* at 2025.

34. *Id.*

35. *Id.* at 2013–14.

36. *Id.* at 2014 (quoting *Spencer v. Texas*, 385 U.S. 554, 562 (1967)).

37. *Bruton v. United States*, 391 U.S. 123, 132 (1968) (quoting FED. R. CRIM. P. 14 advisory committee’s note to 1964 proposal) (finding that prejudice created by the

The majority distinguishes the nature of confessions in *Bruton*, *Richardson*, and *Gray* as being either direct or indirectly inculpatory of a codefendant.³⁸ The dissent further posits that the majority does not misnomer the distinctions but rather “distorts [them] beyond recognition when applying [them] to the facts of this case.”³⁹ In what appears to be a formalistic application of the precedents to the facts in *Samia*, the majority finds that Stillwell’s confession was not directly accusatory because it did not name Samia (as in *Bruton*), and the alteration did not amount to an obvious redaction (as in *Gray*). What the majority seems to deem dispositive is not whether the effect of an altered confession is directly inculpatory but whether the confession’s form of alteration is permissible under *Bruton* and its progeny.

IV. IMPLICATIONS OF SAMIA

The Court’s opinion in *Samia* can be characterized by its ongoing rhetorical ebb and flow of historical holdings, “fluctuat[ing] between two ends of a spectrum rights enforcing versus rights constrictive.”⁴⁰ Even amicus brief opinions assert that allowing the confession against Samia would constrict defendants’ “indispensable” rights under the Sixth Amendment Confrontation Clause.⁴¹

Moreover, the majority opinion in *Samia* seems to embody a “form versus function” debate. In its analysis, the majority appears to promote form over function in distinguishing the *Bruton* line of cases. The dissent sharply disagrees with such a promotion.⁴² In fact, at the

codefendant’s confession cannot be erased by a limiting instruction, especially since the confessor cannot take the stand subject to cross-examination).

38. *Samia*, 143 S. Ct. at 2017 (stating that “[v]iewed together, the Court’s precedents distinguish between confessions that directly implicate a defendant and those that do so indirectly”).

39. *Id.* at 2023.

40. *Constitutional Law — Sixth Amendment Confrontation Clause — Samia v. United States*, 137 HARV. L. REV. 320, 329 (2023) (noting further that the Court now gravitates towards the rights constrictive approach to Fourth Amendment rights by “hollow[ing] out this right by reframing the nature of the right and carving out various exceptions to the rule”).

41. See ACLU, *Samia v. United States*, <https://www.aclu.org/cases/samia-v-united-states> (last updated Sept. 13, 2023) (“The American Civil Liberties Union, along with the National Association of Criminal Defense Lawyers, filed an amicus brief in support of *Samia* urging the Court to rule that the Confrontation Clause bars unconfessed confessions that are directly accusatory, even where they do not expressly name the defendant. This standard would protect an indispensable constitutional right, is easily administrable before trial, and preserves an important role for separate trials in the few cases ill-suited to *Bruton*-compliant redactions.”).

42. *Samia*, 143 S. Ct. at 2024 (“[W]hat should matter is not a confession’s form but its effects”).

beginning of the dissent, Justice Kagan poses a series of hypotheticals demonstrating the Court's precedents under *Bruton*, *Richardson*, and *Gray*, followed by a hypothetical that mirrors the facts in *Samia*.⁴³ Essentially, the Court's schism is best illustrated in each side's framing of the issue. While the majority contemplates *how* Stillwell's confession was altered, the dissent contemplates *what* results from the alteration. This framing arguably applies to how the Court views its precedents as well.

However, the dissent's "functionalistic" approach is against the majority's formalistic framing. Looking at an alteration's effects instead of form illuminates another rationale contrary to the majority opinion. *Bruton* and *Gray* precluded admission of non-testifying codefendant's confessions because both cases involved an impermissible identification of the defendant.⁴⁴ It seems *Bruton* involved an "actual" direct accusation, while *Gray*'s accusation was more "constructive." Because of the resulting gray area between *Bruton* and *Richardson*, the dissent's framing also seems to indicate that a fact-based inquiry will be required in cases such as *Samia* and *Gray* to determine the effects of alteration.⁴⁵ So, Stillwell's confession in *Samia* seems to fall entirely in line with *Bruton* and *Gray* because of the apparent alteration.

Nevertheless, there remains a question about how prosecutors, defendants, and courts will now approach *Bruton* issues in light of the Court's opinion in *Samia*. In short, the majority's framing of the precedent is controlling, as it is the official ruling of the Court. Interestingly, it now seems that *Bruton*'s confessions can be framed under one of four discernable categories based on the form of alteration: 1) direct reference, 2) obvious omission, 3) discrete omission, and 4) no reference.

A. *Direct Reference*

Where a non-testifying codefendant's confession directly names a defendant, that confession is inadmissible under *Bruton*.⁴⁶ This has not changed with *Samia*, so attorneys practicing criminal law—

43. *Id.* at 2020–21.

44. *See* *Bruton v. United States*, 391 U.S. 123, 124 (1968) (involving an oral confession to a postal inspector naming the defendant); *Gray v. Maryland*, 523 U.S. 185, 188–89 (1998) (involving replacement of omitted names with "deleted" and blank white spaces separated by commas).

45. *Samia*, 143 S. Ct. at 2024.

46. *See* *Bruton*, 391 U.S. at 126.

whether prosecution or defense—can reasonably rely on this rule moving forward, at least with respect to the current state of the law.

B. *Obvious Omission*

While *Gray*'s holding seemingly precludes admission of “obviously” altered confessions, it is less clear what is considered “obvious.” It is upon this very point that the Court seems fractured in *Samia*.⁴⁷ Nevertheless, the Court holds that such a confession is admissible so long as it is not “directly identifying” a non-confessing codefendant.⁴⁸ In light of both *Samia* and *Gray*, courts are now tasked with evaluating the “form” rather than the “effect” of alterations to determine whether an omission is sufficiently “obvious” to fall under *Gray* and consequently be precluded.

C. *Discrete Alteration*

This is precisely where *Samia* cements the final block on the quadripartite analytical framework of the *Bruton* line of cases. In assessing the form of the alteration of a confession, practitioners, and courts can now accept an alteration that replaces the defendant's name with natural descriptors (i.e., “other person”).⁴⁹ According to *Samia*, such descriptors are not obvious omissions or alterations that create an incurable prejudice.

D. *No Reference*

Finally, and rather obviously, courts can allow for the introduction of confessions that do not reference the defendant but only implicate the defendant in connection with otherwise admissible evidence.⁵⁰ This point is in accordance with *Richardson* and essentially the bookend opposite *Bruton*.

CONCLUSION

United States v. Samia will allow for more flexibility for prosecutors to introduce non-testifying codefendant's confessions so long as they are indirectly accusatory. The Supreme Court has struck a balance between directly and indirectly accusatory confessions given

47. See *Samia*, 143 S. Ct. at 2024.

48. *Id.* at 2010.

49. *Id.*

50. See *Richardson v. Marsh*, 481 U.S. 200, 208–09 (1987).

by non-testifying codefendants by holding that replacement of a defendant's name in that confession with "another person" is sufficient under the Sixth Amendment and *Bruton* and its progeny such that the defendant is not deprived of rights under the Confrontation Clause. This decision showcased dueling arguments on *Bruton*. While it seems clear which alterations are now Constitutionally permissible, it is not yet clear what this might cost defendants moving forward.

