Syllabus

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

Syllabus

FELLERS *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

No. 02–6320. Argued December 10, 2003—Decided January 26, 2004

Police officers went to petitioner's home and advised him that they had come to discuss his involvement in drug distribution. They told him that they had a federal warrant for his arrest and that a grand jury had indicted him for conspiracy to distribute methamphetamine. During the course of a brief discussion, petitioner made several inculpatory statements. Once at the county jail, petitioner was advised of his rights under *Miranda* v. *Arizona,* 384 U. S. 436, and *Patterson* v. *Illinois,* 487 U. S. 285, signed a waiver of those rights, and reiterated his earlier statements. Before trial, he moved to suppress the inculpatory statements he made at his home and at the jail. A Magistrate Judge recommended that the home statements be suppressed because the officers had not informed petitioner of his *Miranda* rights, and that portions of his jailhouse statements be suppressed as fruits of the prior failure to provide *Miranda* warnings. The District Court suppressed the unwarned home statements but admitted the jailhouse statements pursuant to *Oregon* v. *Elstad,* 470 U. S. 298, concluding that petitioner had knowingly and voluntarily waived his *Miranda* rights before making the statements. The Eighth Circuit affirmed the conviction, holding that petitioner's jailhouse statements were properly admitted under *Elstad,* and that the officers had not violated his Sixth Amendment right to counsel under *Patterson* because they did not interrogate him at his home.

Held: The Eighth Circuit erred in holding that the absence of an "interrogation" foreclosed petitioner's claim that his jailhouse statements should have been suppressed as fruits of the statements taken from him at his home. Pp. 4–6.

(a) An accused is denied the protections of the Sixth Amendment "when there [is] used against him at his trial . . . his own incrimi-

nating words, which federal agents . . . deliberately elicited from him after he had been indicted and in the absence of his counsel." *Massiah* v. *United States,* 377 U. S. 201, 206. This Court has consistently applied the deliberate-elicitation standard in subsequent Sixth Amendment cases, see, *e.g., United States* v. *Henry,* 447 U. S. 264, and has expressly distinguished it from the Fifth Amendment custodial-interrogation standard, see, *e.g., Michigan* v. *Jackson,* 475 U. S. 625. There is no question here that the officers "deliberately elicited" information from petitioner at his home. Because their discussion took place after petitioner had been indicted, outside the presence of counsel, and in the absence of any waiver of his Sixth Amendment rights, the officers' actions violated the Sixth Amendment standards established in *Massiah*, *supra*, and its progeny. Pp. 4–5.

(b) Because of its erroneous determination that petitioner was not questioned in violation of Sixth Amendment standards, the Eighth Circuit improperly conducted its "fruits" analysis under the Fifth Amendment. In applying *Elstad, supra,* to hold that the admissibility of the jailhouse statements turned solely on whether they were knowing and voluntary, the court did not reach the question whether the Sixth Amendment requires suppression of those statements on the ground that they were the fruits of previous questioning that violated the Sixth Amendment deliberate-elicitation standard. As this Court has not had occasion to decide whether the rationale of *Elstad* applies when a suspect makes incriminating statements after a knowing and voluntary waiver of his right to counsel notwithstanding earlier police questioning in violation of Sixth Amendment standards, the case is remanded to the Eighth Circuit to address this issue in the first instance. Pp. 5–6.

285 F. 3d 721, reversed and remanded.

O'CONNOR, J., delivered the opinion for a unanimous Court.