not only must the immediate contact end, but 'badgering' by later requests is prohibited."[384] Thus, the Court in *Montejo* overruled *Michigan v. Jackson*.[385]

The remedy for violation of the Sixth Amendment rule is exclusion from evidence of statements so obtained.[386] And, although the basis for the Sixth Amendment exclusionary rule—to protect the right to a fair trial—differs from that of the Fourth Amendment rule—to deter illegal police conduct—exceptions to the Fourth Amendment's exclusionary rule can apply as well to the Sixth. In *Nix v. Williams*,[387] the Court held the "inevitable discovery" exception applicable to defeat exclusion of evidence obtained as a result of an interrogation violating the accused's Sixth Amendment rights. "Exclusion of physical evidence that would inevitably have been discovered adds nothing to either the integrity or fairness of a criminal trial."[388] Also, an exception to the Sixth Amendment exclusionary rule has been recognized for the purpose of impeaching the defendant's trial testimony.[389]

Lineups and Other Identification Situations.—The concept of the "critical stage" was again expanded and its rationale formulated in *United States v. Wade*,[390] which, with *Gilbert v. Califor-*

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[384] 556 U.S. ___, No. 07–1529, slip op. at 15.

[385] Justice Stevens, joined by Justices Souter and Ginsburg, and by Justice Breyer except for footnote 5, dissented. He wrote, "The majority's analysis flagrantly misrepresents *Jackson's* underlying rationale and the constitutional interests the decision sought to protect. . . . [T]he *Jackson* opinion does not even mention the anti-badgering considerations that provide the basis for the Court's decision today. Instead, *Jackson* relied primarily on cases discussing the broad protections guaranteed by the Sixth Amendment right to counsel—not its Fifth Amendment counterpart. *Jackson* emphasized that the purpose of the Sixth Amendment is to 'protec[t] the unaided layman at critical confrontations with his adversary,' by giving him 'the right to rely on counsel as a medium between him[self] and the State.' . . . Once *Jackson* is placed in its proper Sixth Amendment context, the majority's justifications for overruling the decision crumble." Slip op. at 5, 6 (internal quotation marks and citations omitted). Justice Stevens added, "Even if *Jackson* had never been decided, it would be clear that Montejo's Sixth Amendment rights were violated. . . . Because police questioned Montejo without notice to, and outside the presence of, his lawyer, the interrogation violated Montejo's right to counsel even under pre-*Jackson* precedent." Slip op. at 10–11.

[386] *See* Michigan v. Jackson, 475 U.S. 625 (1986).

[387] 467 U.S. 431 (1984).

[388] 467 U.S. at 446.

[389] Michigan v. Harvey, 494 U.S. 344 (1990) (post-arraignment statement taken in violation of Sixth Amendment is admissible to impeach defendant's inconsistent trial testimony); Kansas v. Ventris, 556 U.S. ___, No. 07–1356, slip op. at 6 (2009) (statement made to informant planted in defendant's holding cell admissible for impeachment purposes because "[t]he interests safeguarded by . . . exclusion are 'outweighed by the need to prevent perjury and to assure the integrity of the trial process").

[390] 388 U.S. 218 (1967).