

FINAL EXAMINATION
ROBERT CALHOUN
CRIMINAL PROCEDURE II
SPRING 2006
INSTRUCTIONS

1. You have **three (3) hours** to complete this exam.
2. This exam is **closed book**; no materials are allowed.
3. This exam consists of three (3) parts.

Part I

- } Part I is to be answered on a separate ParScore answer sheet.
- } Part I consists of 20 multiple-choice questions.
- } Each question is worth two points.
- } Part I is worth a total of 40 points.

A. Part II

- } Part II is to be answered on this exam paper in the space provided. (If you type, you may answer on a separate sheet of paper, but you should restrict your answer to the same amount of space provided by the question.)
- } Part II consists of seven (7) short answer questions. These range in value from 4 to 8 points.
- } Part II is worth a total of 40 points.

B. Part III

- } Part III is to be answered in blue books (or typed). If you answer Part III in a blue book, please write on every other line.

- } Part III consists of one (1) long essay question.
- } Part III is worth a total of 40 points.
- } With regard to the essay question, deal with all issues raised even though you believe disposition of one is controlling.

4. Write your **exam number** on this exam envelope, all used blue books, at the top of this exam packet, and on the ParScore answer sheet. **Do not use your name, student ID number, or Social Security Number on any exam materials.**
5. At the conclusion of the exam, return all test materials, including blue books, ParScore answer sheet, scratch paper, and this exam packet to the envelope and submit it to the proctor.

GOOD LUCK!

Part III

Essay (40 points)

Defendant is called before a California Grand Jury, convened to investigate cocaine distribution. He is asked several questions about his association with other people in California, Florida and Columbia. Citing the Fifth Amendment, he refuses to answer these questions on the grounds that

- it would incriminate him under the laws of California;
- it would incriminate him under the laws of Florida;
- it would incriminate him under the laws of Columbia;
- it would incriminate his close friends and relatives.

He is ordered to answer the questions by a judge and, when he refuses, he is found in contempt and sentenced to 6 months in jail.

While he is in jail, the grand jury votes to indict defendant on charges of felony cocaine distribution. The indictment is filed and a warrant issues for his arrest.

However, a detainer is not lodged with the jail authorities and defendant is released from jail at the conclusion of his six month jail sentence. He moves to Florida to live with relatives who are also charged with the felony cocaine allegations. Three years later he is arrested for drunk driving in Florida and the warrant for the cocaine charge is discovered. He is arrested on the cocaine warrant and transported to California. Prior to trial on the cocaine charges he moves to dismiss the charges on the grounds that his speedy trial rights have been violated. As part of that motion, he claims he can't remember the details of what he was doing at various important times three years ago. His motion is denied.

He is convicted of unlawful transportation of cocaine. The punishment for this offense is set by California as imprisonment in the state prison for three, four, or five years. At the sentencing hearing the judge hears evidence that the defendant has prior drug convictions (which were not charged as enhancements) and that defendant actually sold far more cocaine than the amount involved in the charged offense.

The judge find these facts to be true and, based upon that, sentences defendant to five years in state prison.

1. Discuss the legality of his contempt conviction, in light of the grounds defendant gave for refusing to answer questions;
2. Discuss whether the judge was correct in denying defendant's speedy trial motion on the cocaine charges;
3. Discuss the legality of defendant's sentence.

Give reasons to support all your conclusions.