

Part III (40 Points)

The following essay should be answered in blue books or typed.

Police Officer Jones received a phone call from someone who refused to identify himself. However, Officer Jones had a caller-I.D. function on his phone and was able to see that the caller's phone was listed to Sammy Snitch, someone Jones knew from the neighborhood. In addition, the caller's voice sounded like Sammy Snitch. The caller said that there was an individual standing on the corner of 6th and Mission who was selling crack cocaine and who was wearing a red hat and black shirt. Since Jones was only a block away from the intersection, he walked quickly to the corner of 6th and Mission. There he saw Desmond Defendant standing on the corner, wearing a red hat and black shirt.

Officer Jones yelled to Defendant, "Hey you, I want to talk to you. Come here." Unbeknownst to Jones, Defendant was hard of hearing and did not hear Jones. Defendant began to walk down the street away from Jones rather rapidly. Jones, who was in uniform, started to run after Defendant. Defendant turned and saw Jones running towards him. Defendant began to run. Jones tackled Defendant, pulled his service revolver out and told Defendant to put his hands on his head. Jones asked Defendant what he was doing on the corner. Defendant said, "Dealing crack with my man, Jason." Defendant pointed to an individual standing 25 feet away when Jones knew to be Jason Junkie, a known crack dealer. Junkie left the scene before Jones could do anything. Defendant was formally arrested and searched. Four bindles of crack cocaine were discovered in his jacket pocket. He was then taken downtown and booked.

Jones had reason to believe Jason Junkie was a major crack dealer in the city. Therefore, after booking Defendant into jail, Jones went with his partner, Pauline Partner, to Junkie's house and knocked on the door. When Junkie came to the door, Jones and Partner asked if they could come in and ask Junkie a few questions. He consented and allowed them into his very large living room.

When they asked Junkie what he was doing on the corner earlier in the day, he said, "Just hanging with my friends." At this point, the phone rang. As Junkie reached for the phone, Jones grabbed it from him and politely, but forcefully, told him he could not talk to anyone until he finished answering their questions. Jones then accused Junkie of being a major crack dealer and told him that they had videotapes of him making numerous sales on Mission Street (a lie). They also told him if he admitted his involvement in drug sales they would see that he was not prosecuted but put in a diversion program instead. (Also a lie.) Junkie broke into tears and admitted he was selling drugs on the corner earlier with Defendant and that he had made hundreds of such sales (including some sales involving substantial quantities).

Immediately following his confession, Jones and Partner conferred briefly about what to do next. They decided to give Junkie his Miranda warnings, which they did. They also told him that although he had just confessed to them, he did not have to confess again if he did not want to. Junkie said he understood; waived his Miranda rights and confessed again.

EXAM# _____

Defendant and Junkie are charged with sale of crack cocaine. Each moves to suppress all evidence taken in violation of their constitutional rights. What arguments would their lawyers make in support of such a motion and how should the court rule.

END OF EXAM