

Part III (40 Points)

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

An anonymous informant called Inspector Jones of the San Francisco Police Department to say that Danny Defendant was selling stolen property at his business, Danny the Fence's Pawn Shop. The informant also said Danny kept lots more stolen property in the basement of his home. Inspector Jones went to Danny's Pawn Shop where he saw lots of expensive electronic equipment for sale. Posing as a customer, Jones examined most of the equipment, checking it for scratches, etc. By doing so, he was able to see the serial numbers of all the electronic equipment. He called in the numbers to headquarters and learned that many of the items had been stolen in a recent warehouse burglary. Jones seized the stolen equipment and placed Danny under arrest. He asked Danny if he could search his house. Danny said no.

Jones took Danny downtown and booked him into the jail. He then went to Danny's house, accompanied by his partner, Inspector Smith. As Jones and Smith approached the front door they smelled marijuana smoke coming from inside. They pounded on the door, saying, "Open up. You're under arrest for possession and use of marijuana. When no one came to the door, they opened the unlocked door and entered the house where they saw Danny's wife, Debbie, smoking marijuana and watching t.v. Next to her was a large baggie, containing what looked to be ¼ pound of marijuana. They seized the marijuana and then asked Debbie for permission to search the house. She hesitated. They said, "We'll overlook the dope if you let us search." She said, "O.K. You can search the house, but not the basement." Officer Jones said, "Oh, no? What's in the basement?" Debbie said, "None of your business:." Jones said, "We think there must be something down there you are trying to hide." Jones and Smith searched the entire house, including the basement and found lots of stolen electronic equipment. They arrested Debbie and took her downtown.

Both Danny and Debbie were charged with felony possession of stolen property. In addition, Debbie was charged with felony possession of marijuana.

The next day Jones came to Danny's jail cell and gave him his Miranda warnings. Danny said he wanted to talk to his lawyer. Jones stopped and left the cell. Later that day, Danny and Debbie obtained their release on bail.

The next day Inspector Jones saw Danny walking down the street. Jones went up to him and said, "I was going to come by to talk to you but you made bail. Do you want to talk to me?" Danny said, "I guess so." Jones asked Danny about the stolen property in the store and home and Danny admitted he knew it was stolen.

After completing his conversation with Jones, Danny (still on bail) went home. Unbeknownst to him, Debbie had cut a deal with the police about how much time she would do. She was wearing a wire that recorded her conversations. When Danny entered the house, she said, "Now what do we do?" Danny told her he would get them a lawyer and that she should keep quiet. She said, "Do you think that will work?" He answered by making several incriminating statements about the stolen equipment.

Both Danny and Debbie are prosecuted for the crime for which they were charged. Both move to suppress all evidence, taken in violation of their constitutional rights. How should a court rule and why?

END OF EXAM