

**FINAL EXAMINATION
CRIMINAL PROCEDURE I
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SPRING 2005**

INSTRUCTIONS

1. You have three (3) hours to complete this examination.
2. This is a closed book exam. No outside materials are allowed.
3. The exam consists of 3 essay questions. Each question is worth 1/3 of the total grade. I suggest you devote at least one hour and no more to each question, but you are free to apportion your time as you like.
4. Please answer these questions in the blue books provided to you. Write only on the right hand side of the page (skipping a page each time) and double-space your work. Please write legibly.
5. Write your exam number on your exam envelope. Put your student exam number at the top of this page, each page of questions, and each blue book. Do not use your name, student ID number or Social Security Number on any exam materials.
6. At the conclusion of the exam, return all exam materials to the exam envelope and submit it to the proctor. Do not seal the envelope. Students who do not return all exam materials at the end of the exam may not be graded.

GOOD LUCK!

Question I

FBI agents obtained a telephone wiretap order from a judge for Sid's house. They used an affidavit that said, "Sid's brother-in-law, Benny, told us that Sid is a member of al-Qaeda." The agents listened to phone conversations for three months and recorded Sid engaged in selling bootleg DVDs of first run released movies not yet in videos. Based on the intercepted conversations, the agents obtained a search warrant for Sid's house. The warrant authorized them to seize "all video tapes and video discs."

The agents broke into the house at midnight through an attic window. They seized videotapes from Sid's office, a baggie of heroin from under some dirty laundry on the floor of the garage near Sid's washing machine and several ounces of crack cocaine found in the pocket of a suit jacket hanging in a closet.

Sid's grandmother Goldie drove up to the house as the officers were conducting the search. She was detained and patted down for weapons. In her handbag they found a

pistol that is traced to the murder of two residents of the nursing home where Goldie lives. A search of the trunk of Goldie's car turns up jewelry belonging to the murder victims.

Sid is tried for selling bootleg DVDs, possession of heroin and possession of crack cocaine. Goldie is tried for the two murders.

A. Discuss all issues that would be raised in the trials, state how those issues should be resolved, and why.

B. Assume Goldie is convicted and all her appeals fail. What issues can she raise on habeas corpus?

Question 2

The FBI got a valid search warrant to look for counterfeit money in George's house. They planned on executing the warrant and searching the house the following afternoon. Early in the morning of the day of the planned search, George was arrested without probable cause by local police officers who believed he was involved in an imminent plot to blow up City Hall.

George was given Miranda warnings by the arresting police. He said, "Well I guess I have no choice but to talk." He told them there were explosives and bomb-making equipment in his house. The police rushed out to the house, broke in and found the materials.

The police then returned to George for more questioning and George said, "I want a lawyer." They ended the interrogation. George was then charged with possession of illegal explosives.

Shortly after, the FBI agents came to the jail and told George that they wanted to talk to him about their counterfeiting investigation. George said, "I suppose I am never going to see a lawyer, so I might as well talk to you guys, too." The agents gave him Miranda warnings and he confessed to counterfeiting activities. He told the agents about his warehouse where his printing materials and stash of counterfeit money were located.

After George signed his written statement of the counterfeit confession, an FBI agent says, "Anything else you would like to share with us George?" George then made a number of other statements further incriminating himself in the bombing plot to blow up City Hall.

A. Discuss all issues raised by these facts. State how these issues should be resolved and why.

Question 3

Molly was arrested as she left a bank after robbing it and killing a guard. She was taken to the county jail. At the jail, Molly met Charlene, a jail prisoner who worked as a trustee in the processing of new prisoners. Charlene was also a regular informant for the police. Charlene told Molly that she (Charlene) would arrange for Molly to be put in a safe cell with inmates who would not abuse her if Molly told her about the robbery. Molly confessed to Charlene that she committed the robbery and killed the guard.

Molly hired Sheila as her lawyer to represent her and Sheila appeared with her in court where Molly was arraigned on the robbery and murder charges. After the court hearing, the prosecutor told Sheila that the police would be conducting a lineup with Molly that evening. Sheila said she was too busy to attend. The police had the lineup with Molly, who is a middle aged white woman, viewed by the witnesses. Molly is made to stand on a stage in a line with three teenage African American women and two elderly Asian males. The witnesses picked out Molly as the robber.

At the trial, Sheila raised no issue in regard to the lineup. The witnesses identified Molly. Sheila asked them no questions about the lineup nor did she put on any evidence about the way the lineup was conducted.

Other evidence against Molly at the trial consisted of bank videotapes showing Molly committing the robbery and shooting the guard. In addition, the gun, which ballistics tests matched to the bullets that killed the guard, was taken from her when she was arrested outside the bank.

- A. Discuss all issues raised by these facts. State how those issues will be resolved and why.
- B. Assume Molly is convicted. She is now indigent and requests a lawyer to represent her on appeal. The appellate court appoints Sheila. Discuss.

END OF EXAM