

CRIMINAL PROCEDURE I

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OUTLINE OF ISSUES ON

MIDTERM EXAM

I. Cocaine

A. Fruit of unreasonable stop?

1. Did C seize D, under *Mendenhall*?

2. Unreasonable? Did C have reasonable suspicion?

a. Tip

i. W is presumed *unreliable*, and nothing to rebut it.

No direct evidence of *basis of knowledge*, but perhaps could infer that W had bought drugs from D.

b. C's observations: D walked away faster after he saw C.

B. Fruit of unreasonable frisk? Did C have reasonable belief that D was armed & presently dangerous?

C. Fruit of illegal arrest? Did C have probable cause to believe D had committed crime?

a. Same facts as discussed above re reasonable suspicion to stop.

b. In addition,

i. C recognized D from prior drug bust (but C did not explain D's role).

ii. C found box cutter, which tends to corroborate W's tip.

D. Fruit of illegal entry into car?

1. C searched car by entering.

2. Unreasonable?

a. SIVA?

i. Under *Chimel*? As car within D's reach at time of arrest, entry OK.

ii. Under *Belton*? Was D a recent occupant?

b. Auto exception? Did C have *probable cause* to believe evidence in car?

E. Fruit of illegal opening of backpack?

1. C searched it by opening it.

2. Unreasonable?

a. SIVA?

i. Under *Chimel*? Not clear if D could reach it?

ii. Under *Belton*? Yes, if D a recent occupant.

b. Auto exception? OK under *Acevedo*, if C had p.c. to believe evidence in backpack.

II. Marijuana

A. Fruit of one of C's prior acts, if illegal?

B. Fruit of illegal opening of trunk?

1. A search.

2. Unreasonable?

a. SIVA?

i. Under *Chimel*? No, as out of D's reach.

ii. Under *Belton*? *Belton* does not apply to trunk.

b. Auto exception? Did C have p.c. to believe evidence in trunk?