

Fairyle Band to Jail

Bode Miller and Tyler Hamilton were lifelong friends who grew up together in the rough and tumble, ethnically diverse, neighborhood of Rocky River, located on the outskirts of Gotham City.

On Tyler's eighteenth birthday (Bode was exactly one month older than Tyler) the two were cruising the neighborhood in Bode's 1968 Pontiac GTO. Earlier that evening, Bode had purchased a twelve pack of Miller Light along with a gram of cocaine. He thought that they would share these in celebration of Tyler's birthday. As the evening wore on, the two did, in fact, consume five or six beers each. However, Tyler did not share Bode's enthusiasm for the cocaine and passed up any chance to partake. As the two were sitting in Bode's car, Bode began to discuss his need for cash. Unlike Tyler, Bode was not employed and had not completed his high school education. Initially, Tyler considered Bode's comments concerning his lack of money to simply be idle chatter and replied "would you like some cheese with that whine". However, as the night wore on, Tyler began to feel that his friend was, indeed, in a dire financial situation.

As midnight approached, both were feeling the affects of the alcohol, and in Bode's case the cocaine he had consumed. As they cruised down Main Street, they came to a stop at the intersection of Main and First. At the stoplight, a blue Porsche 911 came to a stop next to them. Both looked at the driver at the same time and, without saying anything to each other, knew him to be Pedro Martinez, a large scale marijuana dealer who, word had it, always kept a large amount of cash in his elegant, downtown townhouse.

The light turned red and the Porsche pulled away. Bode quickly floored the accelerator and the GTO's 389 cubic engine roared to life, easily keeping pace with the Porsche, but following at a discrete distance. Tyler, who was barely awake by this time, asked Bode why he was following the Porsche. Bode did not give him a straight answer. Eventually, the Porsche slowed and turned into a garage under the Martinez townhouse. As the garage door closed, Bode brought his vehicle to a stop directly outside of the Martinez townhouse. Tyler looked up and asked Bode why he was stopping here. Bode said, "go back to sleep. But when you wake up, all of my worries will be over". With that, Bode exited the GTO in the direction of the townhouse.

Approximately twenty minutes later, Tyler awoke with a start as Bode jumped into the car throwing a large, army type duffel bag into the backseat of the GTO. Although Tyler questioned him as to where he had been, Bode remained tight-lipped and merely said that all his troubles were now over. Bode then drove in the general direction of Tyler's home. A short time passed during which neither spoke another word. Bode believed that Tyler was asleep and Tyler, although awake during the entire ride, let him continue to think that. Bode eventually brought the GTO to a stop in front of the house Tyler shared with his parents. Tyler, still playing possum, seemed to awake in a stupor. As he was exiting the vehicle he quickly glanced to his left at Bode and noticed a fairly large red stain on the front of Bode's shirt. Somewhat stunned, Tyler felt a sudden chill creep through his body. He began to tremble, afraid of what his friend had done. His mind began to race as he tried, in vain, to remember exactly what he had done that night.

The next morning Tyler awoke with a mild hangover. His mother and father had already eaten breakfast and left the morning edition of the Daily Planet on the table. Tyler poured himself a large glass of water along with two Alka Seltzers. As he flipped the

paper open, he eyes were immediately drawn to the lead story. There, in bold headlines it proclaimed “ALLEGED MARIJUANA DEALER VICIOUSLY BEATEN AND EXPECTED TO REMAIN IN COMA”. As he quickly scanned the story Tyler learned that Pedro Martinez had recently been indicted in federal court on charges stemming from the importation and distribution of marijuana and was currently out on bail. His mind began to race with the somewhat blurred thoughts of last night. As he continued to flip the page he noticed a dark red spot on his left forearm. He quickly tried to scrape it off. However, it took several attempts with water and dish soap for the dark red, somewhat flaky substance to completely wash off. He thought to himself, “could this be blood?”

Soon after, he phoned Bode and asked him exactly what had happened last night. Bode answered “You know full well what happened. Don’t worry, I will take care of you as long as you keep your mouth shut”. With that, Tyler put the phone down in horror.

A number of days passed without Tyler and Bode talking or getting together. However, the Daily Planet continued to follow the story and, in fact, ran an expose of Martinez’s alleged life as a marijuana smuggler. During this time, the police received a tip that a GTO had been seen near Martinez’s townhouse on the night of the beating. The police instantly began to suspect Bode, although no mention of his name was made in the newspaper. Further, as a result of his known friendship with Bode, the police also believed that Tyler may have either been involved or had some information concerning the savage beating.

Approximately one week after the beating, the police arrived at Tyler’s home. His mother answered the door and greeted the police. They informed her that they were investigating the beating of Martinez, and asked her if they could search the house. She readily allowed the police to search the entire home, including Tyler’s bedroom. It was during the search that the police found a black T-shirt with, what appeared to be a bloodstain on the left upper arm. Laboratory analysis later identified the bloodstain as being the same blood type as that of Pedro Martinez.

Soon after the blood analysis returned from the state crime lab, the police began to question Tyler about his activities on the night of the Martinez beating. Tyler didn’t believe that he was involved, but did not want to implicate his friend, Bode. As a result, he declined to speak with the police.

The police continued to pursue any and all leads. Eventually, through painstaking forensic work, the police believed that they could tie both Tyler and Bode to the beating. Tyler, as a result of the blood stained T – shirt. Bode, primarily on the basis that he was seen leaving the townhouse on the night in question, coupled with the fact that his partial bloody fingerprint was found on a glass in the townhouse. The police had also interviewed numerous individuals associated with Bode to whom he had alluded that all of his money problems were now gone.

Question(s) 1 – 8 refer to the above fact pattern. You DO NOT have to apply the fact pattern to questions 9 – 20

QUESTION 1

Tyler and Bode are arrested for the beating of Martinez. You are a criminal defense attorney and are asked by Tyler's mother to represent both Tyler and Bode.

- (a) What information would you gather from her in preparation for a bail hearing for Tyler?
- (b) What are the most important factors that the judge will consider in determining whether or not to set bail for Tyler?
- (c) Are you able to represent both Tyler and Bode at the bail hearing? If yes, why? If not, why not?
- (d) Is it possible that Tyler will be released on bail? If yes, why? If not, why not?

QUESTION 2

Assume that the police charge Tyler and Bode with the beating in *district court*.

- (a) Will the case remain in the district court for further hearing(s)?
- (b) If the answer to (a) is yes, explain the nature of those hearings.
- (c) Is the grand jury process applicable to these charges?
- (d) If yes, explain how the grand jury process works.

QUESTION 3

List any and all investigative tools and sources that you would employ in order to gather as much information as possible in preparation of Tyler's defense?

QUESTION 4

Assume that Tyler's case remains in district court.

- (a) When would the pretrial conference be held?
- (b) What parties would attend the pretrial conference?
- (c) What would take place at the pretrial conference?
- (d) When would the pretrial hearing be held?
- (e) A pretrial conference report is *attached* to this exam. Please fill out the report.

QUESTION 5

(a) If you were representing Tyler, would you recommend that he take a polygraph exam? Explain your position fully.

QUESTION 6

List any and all possible pretrial motions that Tyler's defense attorney would file in either district or superior court.

QUESTION 7

Explain and distinguish the various identification procedures that the police may employ as they investigated the case.

QUESTION 8

Assume that Bode informed the police that Tyler had no involvement in the alleged crime. Based upon this information, as Tyler's defense attorney, what, if

any, motion would you file with the court if Tyler and Bode were tried jointly?
Explain the basis of the motion and how it would best help Tyler.

QUESTION 9

Explain the **Miranda Principle**.

QUESTION 10

Explain **Double Jeopardy**.

QUESTION 11

Explain **competency to stand trial** and distinguish it from **criminal responsibility**.

QUESTION 12

Explain the various aspects of a probation officers job.

QUESTION 13

Explain joinder of offenses and distinguish it from joinder of defendants.

QUESTION 14

Explain **Statutes of Limitations** and its importance to the criminal justice system.

QUESTION 15

What is **voire dire** and when does it takes place in the context of a criminal proceeding.

QUESTION 16

- (a) Define a Motion in Limine.
- (b) When is a Motion in Limine filed?
- (c) What is the purpose of a Motion in Limine?

QUESTION 17

- (a) Set forth the order and manner of the opening statements.
- (b) What facts must the prosecution present in its opening statement?
- (c) What facts is the prosecution limited from presenting in its opening statement?

QUESTION 18

- (a) When do you cross – examine a witness?
- (b) What are the goals of cross – examination?
- (c) What types of questions do you ask on cross - examination and provide an example of a question.

QUESTION 19

Set forth any and all potential ramifications of a guilty plea.

QUESTION 20

Explain **excludable time** in the context of a criminal case.

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