

**CRIMINAL PROCEDURE SPRING 2002
PROFESSORS COPPOLA AND BACCARI**

**ESSAY
(35 POINTS)**

USE FEDERAL LAW

**LIMIT YOUR ANSWER TO EIGHT (8) BLUE BOOK PAGES, ONE (1) SIDE
EACH IN BLUE BOOK 1.**

Albert decided to take his new girlfriend Barbara on a weekend vacation in the Berkshires. They took off in his red Camaro at about 2:00 p.m. on Friday afternoon to beat the weekend traffic. Elizabeth, Albert's ex-girlfriend was still angry and upset about their recent breakup. When she learned that Albert was going away with his bimbo blond girlfriend, she decided to seek revenge. That Friday, she made an anonymous phone call to the police. She told the police that Albert was dealing drugs to children in the local area and that he kept a large stash of cocaine at his house, located at 66 Crack Lane in Lawrence and that he was leaving on Friday for the Berkshires to make a big sale. She suggested that the police "check it out."

Elizabeth had never returned Albert's house key to him. After she hung up the phone, she grabbed the key and charged over to Crack Lane. When the police arrived at Albert's front door, Elizabeth was there to greet them with a mop in her hand and an apron around her waist. They asked if they could speak to Albert and she informed them that he was away for the weekend. When they asked if they could search the house, she replied, "Of course! Alby has nothing to hide. I'm sure he wouldn't mind."

The police searched the house from top to bottom. When they got to the attic, they found several bags of powder stashed in a suitcase in the corner. They seized the powder, which

subsequently tested positive for cocaine. Elizabeth feigned her surprise and then told the police that Albert was headed for the Berkshires with his girlfriend in the red Camaro.

The Lawrence police immediately radioed the state police with a description of Albert and Barbara. Moments after hearing the radioed description, State Trooper Diana saw two people in a red Camaro matching the radio description drive by. She put on the blue lights and pulled the vehicle to the side of the road. She could see from her vehicle that the passenger had long blond hair, but when she got to the driver's side, it was apparent that they were both males. She asked the driver for his license and registration. When he rolled down the window, a waft of smoke hit her in the face and she noticed a joint in the ashtray. She had both men step out of the car at which point she handcuffed them, placed them in the cruiser and searched the entire car. Underneath the spare tire in the trunk, she found a rifle. Both men, Charlie and Dan, were taken to the station and booked for possession of drugs and possession of illegal firearms.

Meanwhile, Trooper Ferguson was relaxing in front of Dunkin Donuts when he saw a red Camaro, which met the description given over the radio; pull in to the No-Tell Motel next door. A man and a woman matching the description given got out of the car and went into the motel. Ferguson finished his last munchkin, went in to the motel office and asked the desk clerk to let him into the room where the couple was staying.

Without knocking, Ferguson and the clerk entered the room. Ferguson, with his gun drawn, ordered Albert and Barbara to get up against the wall. He handcuffed each of them and took them down to the station. At the police station, Albert was given his Miranda warning. He told the police that he was not going to say anything without his lawyer. The police refrained from asking any questions and left Albert in the interrogation room handcuffed. After two hours, the officers came back into the room and showed Albert a film of his Elizabeth making a

statement about his involvement in the drug trade. Officer Ferguson then took a bag of cocaine, which he found in the Camaro after it had been towed to the police station, and placed it on the table in front of Albert. At that point, Albert made a complete confession.

DISCUSS THE SUPPRESSION ISSUES FOR EACH DEFENDANT: ALBERT, BARBARA, CHARLIE AND DAN (in that order).

ESSAY

(35 POINTS)

USE FEDERAL LAW

USE NO MORE THAN EIGHT (8) BLUE BOOK PAGES, ONE (1) SIDE EACH,

IN BLUE BOOK 2.

One evening, while on routine patrol in an area, which had been experiencing an outbreak of burglaries, Officer Banks' attention was drawn to a car parked in a residential driveway. The trunk of the car was open, and Banks could clearly see several large green plastic trash bags, which were closed at the top and apparently full. It had been reported to the police that this type of container had been used to carry off loot in other burglaries in the area.

Banks turned his vehicle around and pulled into the driveway behind the subject vehicle. The driver quickly closed the trunk as he saw Banks approach and attempted to back the car out. He was unable to do so since the police car blocked his exit. Adam, the driver, stuck his head out the window and in an anxious voice, asked Banks to move the cruiser.

Banks approached Adam and, fearing for his safety, ordered him out of the car. Banks asked Adam for identification, which, with a shaking hand, Adam produced. The ID indicated that the driver's address was out of town.

At the point, Banks frisked Adam and took a set of keys to the car from his pocket. He opened the trunk and then the trash bag. Inside the bags, Banks found computer equipment, jewelry and cash. Banks immediately said to Adam, "OK, I suppose you are going to tell me that you're a door-to-door salesman." Banks then started to write down the serial numbers on the computer and told Adam that he was going to check these against a list of stolen computers at the station.

At that point, Adam responded, "There's no use lying, Officer! You've got me! I'm the guy you're looking for."

Banks then said, "What are you talking about?"

"You know, the burglaries." Adam said. Banks then told Adam he was under arrest and gave him Miranda warnings. Under the front seat, Banks found a ledger incriminating Frankie the fence. Frankie was arrested while sunning himself by his pool. A search of his vehicle, parked in the driveway, turned up more stolen jewelry.

**ADAM MOVES TO SUPPRESS THE ITEMS AND THE STATEMENTS, AND
FRANKIE MOVES TO SUPPRESS THE LEDGER, AND THE JEWELRY. PLEASE
ARGUE ALL RELEVANT ISSUES.**