

**CRIMINAL PROCEDURE
MIDTERM EXAM
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Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence.
Mapp v. Ohio

Use your social security number on the blue book and this examination. Write your answers to Question 2 in the spaces provided.

Your knowledge and ability to analyze the issues should be clear from the manner you express those thoughts on this test.

Write no more than six (6) handwritten pages using only one side of each paper or four (4) typed, double-spaced pages. We will not read anything that exceeds the page limitation.

QUESTION ONE

The same man robbed the Pine Manor Bar twice within four months. One of the witnesses caught a glimpse of a license plate on what was believed to be the get-away car. This license plate number did not yield any matches, but when the first three letters were transposed, the license plate number matched that of Red Avant's red 1996 Pontiac Firebird. Red Avant was a maintenance worker at Guns R Us down the street from the bar. Various witnesses were shown Red Avant's picture; only one, the bartender, identified Avant as the robber. Based on this identification, the police charged Avant with two counts of robbery with use of force.

While the police were on the way up the walkway to Avant's home, his tenant Butch Atlanta recognized the police officers as they approached the steps and turned and walked away from them and down the street despite their request that he stop and identify himself. When police caught up to him, they asked him where he was going to which he made no reply. They then placed him up against a vehicle and searched him. The police then found a pipe, \$1000 cash and a red stained knife. The police arrested him for possession of drugs and a concealed weapon.

The police then approached the door to Avant's two family home in Brighton, Massachusetts. The police told Avant's girlfriend that they were investigating a hit and run accident in order to gain entry to Avant's house. After the defendant was arrested, the police asked Avant's girlfriend if they could search his home and his

car. She consented. As a result of the search of his home and his car, the police seized a gun, an unusual pair of glasses, which matched the description of the glasses worn by the robber, a pound of marijuana and clothing similar to that worn by the robber.

Avant claimed that his girlfriend did not live with him and did not own the car, and therefore, the police should not have listened to her at all and needed to discuss this matter with him.

While testing of the pipe found on Atlanta disclosed no traces of drugs, DNA testing revealed that the knife was used in two recent murders and Atlanta was charged with those crimes as well.

Avant and Atlanta hire your team of attorneys, discuss the arguments you would make on their behalf and the government's likely response.

QUESTION TWO

Fourth Amendment

1. The right of the people to be secure in their _____, _____, _____, and _____, against _____ and _____, shall not be violated, and no _____ shall issue, but upon _____, supported by Oath or affirmation, and _____ the place to be _____, and the persons or things to be _____.

Please fully define each of the following terms and then explain how, if at all, it applies to the fact pattern described in Question 1.

Terry Stop

2.

3. Exceptions to the warrant requirement for a lawful search

4. Search and Seizure _____

5. Curtilage _____

6. Griffin-Douglas Principle _____

7. Totality of the Circumstances Test _____

8. Entrapment _____

9. The Exclusionary Rule _____

10. Inventory Search _____

