

Representing Juvenile

W. J. M. M. M.

FINAL EXAM 2009

Your client Levi is being arraigned this morning for possession of a firearm, possession of a firearm on school property, and possession of ammunition. Fifteen year old Levi is a special education student at the Andrew Jackson Middle School. Levi is presently on probation for tagging. He has an open charge for receiving a stolen motor vehicle scheduled for pre-trial next week. On that charge he was a passenger in a stolen motor vehicle. The driver was his next door neighbor Plaxico. The court ordered Plaxico and Levi to stay away from each other as a condition of release.

On his way to a school dance Friday night he ran into Plaxico. Plaxico showed Levi a small gun that he found after school. As the two boys arrived at the school dance they saw that a school police officer was at the front door with a portable metal detector. Plaxico shoved the gun in his pants, and asked Levi if he would accompany him to the school football field so that they could hide the gun before entering the dance. The boys needed to climb a chain link fence in order to enter the field. Unfortunately as Plaxico climbed over the fence the gun discharged and wounded Plaxico in the upper leg.

Plaxico begged Levi to take the gun and hide it before the police came. Levi didn't know what to do. He took the gun from Plaxico, who was bleeding, and immediately dropped it as he saw the school police running toward the field. Plaxico instructed Levi to tell the police that two Asian kids shot him and that they dropped the gun and ran. When the school police arrived Plaxico told them about the two Asian males and how they dropped the gun that was now at Levi's feet. One officer looked at Levi and said "Is that true? (Statement One) Levi pointed to the end of the field and said "they went that away." The officers didn't seem to believe the boys, and told Levi that he and Plaxico were going to be arrested for possession a firearm and ammunition.

After Levi was booked at the Town police station he was brought to the detectives' office to await his mother for questioning. When Levi's mother arrived the officers at the front desk called the detectives' office. The detective informed Levi his mother was present and that he would be informed of his rights and questioned with her present. Levi told the detective he would rather speak without her present. The detective said I don't blame you, who would tell that bull crap story in front of his own mother. (Statement Two) Levi then said "I didn't make it up. Plaxico did."

After explaining Miranda rights to Levi, the detective asked him what really happened. Levi said he wasn't a snitch and knew nothing about the gun. The detective informed Levi that Plaxico already admitted at the emergency room that it was their gun and that he accidentally shot himself as they were trying to hide it. The detective said: Levi what are you going to say if it comes back with your prints? (Statement Three) Levi responded "I hardly had the gun." Realizing he was getting himself into more trouble by talking to the detective, Levi then declared he was not going to say anything more without an attorney.

FINAL EXAM 2008
Representing juveniles and youthful offenders
Brian M. Wiseman

Client Interview in Lock Up

This is what really happened; I was riding to school on the SPED (special education) bus when Junior pulled out a gun he found in his brother's room. I didn't want to have anything to do with it because I am on probation and I don't want any more problems with my probation officer. So Junior pulls out this gun and shows it to me and the girl that I think is a snitch saw it. But I didn't want to have anything to do with it and I told Junior to get rid of it. So before we went into school I walked out back with him and he asked me if I had anything he could hide it in. So I gave him a paper bag from McDonald's and said put it in here and hide it in the bushes. Then Junior put the gun in the bag and covered it with leaves. I never touched the gun I only stood there while Junior hid the gun.

So later I went to show my friend Marki where we hid the gun. I didn't pick it up. I only showed Marki the bag and moved the leaves that were on top of the bag. You can tell them to print it because I got no finger prints on it because I never possessed the gun.

So when Mr. Chadwick came into my classroom I didn't think there was any problem because it ain't my gun. Well I knew there was some problem because the school police officer was with him, but they only told me to come to the office. When I got to the office Mr. Chadwick told me that I was there because he had received information that I had a gun because someone saw me with it this morning. (STATEMENT 1) "I said I don't know anything about a gun in the bushes." The school police officer asked me if there were anymore guns around the school. I figured the girl had snitched so I told him (STATEMENT 2) "I saw someone hide something that looked like a gun in a bag in the bushes, but I never saw the person before."

Then I found out they were playing me because they already had the gun before I got there. So then the school police officer told me I was under arrest and so were Marki and Junior, **because Junior had already confessed but he told them I hid the gun for him.** Then my mother showed up and the cop told us I had a right to remain silent and all that stuff and we filled out the forms so I could tell them my side of the story. So that is when I told them (Statement 3) that "I only gave Junior the paper bag and just stood there and watched him hide the gun and never possessed it and just showed Marki where it was." I can't believe I got arrested for a firearm and it really got me depressed because I turned 14 on the day I got arrested.

So the only other cases I got are the cases I am on probation for which is just the distributing weed (Class D substance) and the school zone cases, and the case that is suppose to go to trial next month which is the receiving a stolen motor vehicle case where I was the passenger and didn't know Junior had stolen the car. I never defaulted and I

never missed an appointment with probation and I have been going to school every day so can you tell me when I'm going home?

Assuming what your client tells you is true and that he is being charged with possession of a firearm, please answer the following questions.

- (1) Discuss all arguments and possible motions you expect from the assistant district attorney and probation at your client's arraignment day. What will you argue? (35 points)
- (2) At a hearing to suppress your client's statements what will you argue? Please address each statement separately. (35 points)
- (3) Discuss all possible school related collateral consequences your client faces. (15 points)
- (4) Can Junior's statement be admitted through Mr. Chadwick's testimony at a probation violation hearing? Please discuss all possible arguments. (15 points)

FINAL EXAM 12/20/06
REPRESENTING JUVENILES AND YOUTHFUL OFFENDERS
INSTRUCTOR BRIAN M. WISEMAN

Bobby Finn is a 14 year old Irish citizen who has been living in the United States since he was 4 years old. For the past year he has been living in the Federal Street housing projects with his Aunt Maura and her three young children. Aunt Maura had to take him in after his parents were arrested, convicted and sentenced to prison for selling oxycontin out of their apartment. Aunt Maura wants to place Bobby with relatives in California that he has never met. She complains that he doesn't listen to her and that she believes he spends most of his free time smoking marijuana with his new "low-life" friends.

Bobby use to do well in school but his marks and attendance have dramatically declined since his parents' arrest. Two weeks ago Bobby admitted to sufficient facts for possession of marijuana and was placed on a six month continuance without a finding (CWO). He also has an open charge of use of a motor vehicle without authority of the owner. You are his attorney and you expect that charge to be dismissed because the car belongs to Aunt Maura's boyfriend Tony.

Last month Tony moved in with Maura, her kids and Bobby. Tony is a security guard at the housing development and aspires to become a city police officer. Tony has expressed to Maura that she has to be a stricter disciplinarian with Bobby to insure that he doesn't fall into his parents' drug addiction.

Yesterday morning Vice -Principle Chadwick received a report that some students had been smoking marijuana in the school parking lot after school and that one of them may have possessed a gun. The boys ran off and left the remains of marijuana "blunt" they were smoking. Chadwick investigated and found that four eighth grade students were in the area at the time. One of the boys was Bobby Finn.

Chadwick consulted with Boston Police Officer McMurphy who advised Chadwick to send each of the boys to him and to summons their parents. Bobby was his first interview. Aunt Maura was unavailable. Her boyfriend Tony immediately came to the school from his security job and arrived in full uniform. When Tony arrived, Officer McMurphy properly advised them of Bobby's *Miranda* rights. He offered them an opportunity to consult.

Tony responded that he was in law enforcement himself, understood Bobby's rights and that Bobby has been arrested 2 times in one month and has now heard *Miranda* three times. Tony expressed that he believed it was time for Bobby to stand up and take responsibility for his actions.

Officer McMurphy then said "Bobby we know you are now in the family business and that you were selling marijuana in the parking lot yesterday." Bobby replied; (1) "I wasn't selling it. I was just smoking a blunt with friends." McMurphy then said Bobby we know the real story. We know about the gun." Bobby replied; (2) "I don't

know anything about a gun. All I got is some weed." As he said this he emptied his pants pockets which contained six small bags of marijuana. Officer McMurphy arrested Bobby for possession of marijuana with intent to distribute, and possession with intent to distribute within a school zone.

After arresting Bobby, Officer McMurphy suggested to vice principle Chadwick that he search Bobby's locker to see if there was more contraband. Chadwick went to Bobby's locker. In Bobby's locker Chadwick only found a loose leaf notebook. Chadwick, who was curious about Bobby's declining school work, opened the notebook and discovered a ledger recording various sales and sixteen \$20.00 bills. Chadwick gave the notebook to Officer McMurphy. The ledger and money are held as evidence of the charges.

- (1) You are Bobby's attorney. Discuss all arguments and possible motions you expect from the assistant district attorney and probation at Bobby's arraignment on the new charges. What will you say? (40 points)
- (2) At a hearing to suppress **Bobby's Statements**, what do expect the Commonwealth to argue? What will you argue? (30 points)
- (3) At a hearing to suppress the **Search of Bobby's Notebook**, what do you expect the Commonwealth to argue? What will you argue? (15 points)
- (4) If neither Chadwick nor McMurphy show up for a probation violation hearing, are Bobby's statements admissible through a police report? Please discuss all possible arguments. (15 points)