

Exam:

Exam Form:

C2502

Response

1) Rob's Statement "Yes it was me"**5th Amendment**

The 5th Amendment of the Constitution attaches after an individual has been arrested and provides that an individual is protected from the deprivation of life, liberty, nor property without Due Process. The 5th Amendment applies to the states through the Due Process Clause of the 14th Amendment and further requires an individual be made aware of their right to representation after an arrest.

Here, Officer Otto observed a man sitting alone in a restaurant with a blue briefcase that was two blocks away from Bank where a robbery occurred 15 minutes prior. Similarly, the robber was a man who was carrying a blue briefcase, and after observing this, Officer Otto ordered Rob to stay put and put his hands where Officer Otto could see them. Because the 5th Amendment generally attaches after an arrest, the aforementioned interaction between Officer Otto and Rob would not necessarily violate the 5th Amendment. Further, during this interaction with Officer Otto, Rob stated "Yes it was me." in response to Officer Otto's question about him being the robber.

The prosecution will likely argue that a motion to suppress this statement based on this Amendment alone would likely fail because the 5th Amendment does not protect an individual from questioning by law enforcement prior to arrest.

Rob may argue that he made this statement while under arrest, this argument will likely fail because Officer Otto handcuffs and places Rob under arrest after Rob's response and in reliance of the statement. There is no facts indicating that Officer Otto used coercion or a forceful method to illicit the information. Officer Otto's question regarding whether Rob was the robber was not made after arrest.

Therefore, a motion to suppress this statement based on the 5th Amendment will likely fail because Rob did not make the statement under force, nor was he under arrest when he statement was made.

Voluntary Statements made Prior to Arrest

Statements made prior to arrest that are voluntary do not violate a person's Constitutional rights because they were not made as a result of a search or questioning by law enforcement.

Prosecution will argue that the statement made by Rob was made prior to arrest and through a voluntary basis because Rob volunteered the statement after Officer Otto asked the question. At the time Rob was not under arrest and was not required to answer the question.

Therefore, this may come in as a voluntary statement as well.

Stop

A police officer may stop an individual for a brief period of time when they have reasonable suspicion that the individual is likely in possession of contraband or a weapon or law enforcement reasonably believes the person committed or is about to commit a crime. The individual must reasonably believe they can leave and they have not been detained.

Here, Rob may argue that Officer Otto's statements to put his hands up and to stay put were a detention as opposed to a stop. Rob may be able to prove under this evidence that a reasonable person would not have understood that they could have stopped talking or left.

Therefore, Rob may prevail if he argues that Officer Otto detained him as opposed to briefly stopping him.

On balance, the court may deny the motion to suppress because they were voluntary and made absent to arrest.

2) Rob's Second Statement that he Left the Stolen Money in his Apartment**5th Amendment**

See rule above.

Here Rob was placed under arrest and was taken to the police station. During an interview with Officer Otto 2 hours after the arrest, Rob stated that he left the stolen money in his apartment. Generally, questioning by law enforcement without an individual's counsel present is unconstitutional, unless there was a valid waiver. Here, the prosecution will likely argue that they obtained a valid Miranda waiver.

Miranda Waiver

A defendant waives their right to an attorney and agrees to voluntarily speak to law enforcement when: 1) the defendant was made aware of his Miranda rights, 2) in a language he understood, 3) the defendant affirmatively waives them, 4) the defendant waives this right voluntarily, and 5) law enforcement does not use fraud or duress to encourage a waiver. Additionally, Miranda Waivers are offense specific.

Here, Rob affirmatively waived his Miranda Rights after Officer Otto properly advised him of the rights. This affirmative waiver allowed for Officer Otto to further question Rob about the crime he was arrested for because Miranda waivers are offense specific. During this interview, and after Rob affirmatively waived his Miranda rights, Officer Otto asked Rob about the stolen money. Rob stated that he left this money in his apartment. Thus, any statement regarding the location of the stolen money would likely be admissible as a valid Miranda Waiver.

Rob will likely argue that the waiver was insufficient because the interview took place two hours after the arrest. However, Miranda Rights attach to substantive conversations about the crimes arrested of and with the intent to illicit information regarding them. Although the interview took place 2 hours after arrest, Rob's argument that too much time elapsed or that his 5th Amendment rights were violated will likely be denied because 2 hours is not an extensive amount of time and there was a valid waiver as a result of his affirmative waiver.

Therefore, Rob's motion to suppress for his second statement will likely be denied because there was a valid waiver of his Miranda rights.

3) The Gun

4th Amendment

The 4th Amendment of the Constitution protects individuals against unreasonable searches and seizures by the government or an agent of law enforcement unless they have a valid warrant or an applicable exception to the warrant requirement applies. The 4th Amendment applies to the states through the Due Process Clause of the 14th Amendment.

Here, Officer Otto opened the brief case and discovered the gun while he confronted Rob at the restaurant that was 2 blocks away from Bank.

Rob will argue that Officer Otto violated his 4th Amendment rights because he obtained the gun without a warrant.

Exceptions to the 4th Amendment - Exigency

Exigency is an exception to the 4th Amendment that allows law enforcement to make reasonable efforts to search people or property when there is a reasonable likelihood that evidence will be destroyed or a deadly weapon may be present.

Here, the prosecution will argue that Officer Otto's search of the blue brief case was during the course of a valid 4th Amendment exception to warrantless searches.

On balance, the prosecution will argue it is denied because here was not

4) The Stolen Money

4th Amendment

See rule above.

Here, the stolen money was discovered through a valid search warrant.

Valid Search Warrant

A valid search warrant is executed when a judge or magistrate signs off and issues it and there is probable cause that evidence or contraband will be found in the area to be searched. The magistrate must be unbiased.

Here, there was probable cause to search the area based on Rob's voluntary statements during the interview. Based on this, there is probable cause that the stolen money would be found in his apartment. The warrant was validly issued and thus no objection applies.

On balance, the court will deny Rob's motion to suppress the stolen money because it was obtained through a valid search warrant.

Reasonable Suspicion

A police officer has reasonable suspicion when they

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A man carrying a blue briefcase robbed a bank (Bank) while brandishing a gun. The bank teller informed the police that she recognized Rob, a bank customer, as the robber. Fifteen minutes later, Officer Otto, who was in uniform and armed, saw Rob sitting alone in a restaurant two blocks away from Bank. Next to him on the floor was a blue briefcase. Officer Otto ordered Rob to “Stay right where you are and keep your hands where I can see them.” Officer Otto asked Rob whether he was the robber. Rob responded, “Yes, it was me.” Officer Otto opened the briefcase and discovered a gun. He told Rob he was under arrest for bank robbery, handcuffed him, and took him to the police station. There, the briefcase and gun were inventoried and booked into evidence.

Two hours later, Officer Otto interviewed Rob at the station and properly advised him of his Miranda rights. After Rob affirmatively waived his rights, Officer Otto asked him about the stolen money, and Rob responded that he had left it in his apartment. Officer Otto then put this information into an affidavit for a search warrant for Rob’s apartment. After a judge signed the warrant, officers searched Rob’s apartment where he lived alone and seized the stolen money.

Prior to his trial for bank robbery, Rob brought motions to suppress his statements under the Fifth Amendment to the United States Constitution, and to exclude the gun and money under the Fourth and Fifth Amendments to the United States Constitution.

What arguments may Rob reasonably raise in support of his motions; what arguments may the prosecution reasonably raise in response; and what is the likely outcome with regard to: