

MORNING SESSION

Tuesday, July 30, 2024

QUESTION NUMBER 1

(Use bright blue booklet for essay answer)

David robbed a courier delivering \$15,000 in \$20 bills to a business. During the robbery, David shot the courier in the leg. Several witnesses saw the event.

After an investigation, the police obtained a valid arrest warrant for David for armed robbery. A team of police officers led by Officer Jones went to David's known residence. From outside the house, Officer Jones announced that the police had a warrant for David's arrest and ordered everyone to exit the house.

Five people exited, including David, who was arrested and handcuffed. Officer Jones told David and the other people that a team of officers was going to enter the home to secure it. Officer Jones asked David if there was anyone else in the house, or anything in the house that could harm the officers. David said nothing. Officer Jones said to David: "If there's anything that could hurt my team before we go in..." David interrupted Officer Jones and said that there was a firearm in a bedroom drawer.

Officer Jones authorized the team to enter the home. They did not search for the firearm. Instead, they searched closets, behind doors, under beds, and in other places where a person could have been hiding. They found no one else in the home.

David was transported to a police field office where he was interviewed. Officer Smith read David a complete Miranda warning from his department's pre-printed card.

When Officer Smith read that David had a right to have a lawyer present for questioning, David said, "hold on, hold on." Officer Smith paused, but then completed administering the standard warning. Next, Officer Smith asked if David was willing to answer questions without a lawyer present, to which David stated, "I don't really agree with that one."

Officer Smith replied that she wasn't asking if David agreed, she was just telling David that he had a right to have an attorney present during questioning. Officer Smith added: "If you decide to have an attorney present, we're not going to talk about the case until then. But if you want to talk now, we can talk now." Officer Smith added: "You can agree to talk now and always change your mind later."

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David replied, "I understand." Officer Smith asked David whether that meant David would speak to Officer Smith without an attorney. David responded, "Yes."

In response to Officer Smith's questions, David denied the robbery. David admitted telling Officer Jones that there was a firearm in a bedroom, but David denied that the firearm belonged to him. When Officer Smith asked David about firearms in the house, he again stated that there was a gun "in a drawer" in "the last room to the right." He also agreed that the last room to the right was the bedroom that he occupied.

While David was at the police station, officers remained at the residence attempting to obtain a search warrant. Along with the factual basis used to obtain the arrest warrant, the search warrant application added David's statements to police before and after he received the Miranda warning.

The search warrant was issued and the police searched the house. The police seized \$12,000 in \$20 bills that were in the freezer. The police also found the firearm from the bedroom drawer that David had mentioned to Officer Jones. Both items were within the authorized scope of the warrant.

David was brought to his first appearance on the armed robbery charge, appointed an attorney, and was released after posting bond. David had dinner with his friend, Sarah. He told Sarah about the armed robbery charge and admitted to her that he was at the business where the crime happened.

David did not know that Sarah was facing criminal charges herself. Sarah contacted Prosecutor about arranging a deal in exchange for cooperation. Prosecutor told Sarah that if she could obtain valuable information from David about the armed robbery, Prosecutor would agree to dismiss Sarah's charges. Sarah then met with David again, asked him more questions, and David confessed the robbery.

Prosecutor emailed Sarah's witness statement to David's attorney along with a plea offer. Prosecutor said that the plea offer would expire in one week and would not be renewed. Because David's attorney was distracted by other cases, the offer expired before the attorney relayed it to David.

Prepare a memorandum of law for the trial court judge as follows:

- A. Discuss the admissibility of David's statements to the police before and after the Miranda warning.
- B. Discuss the legality of the police searches of David's house and the admissibility of the cash and the firearm found in the house.

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- C. Discuss the admissibility of David's statements to Sarah.
- D. Discuss any ethical or constitutional issues raised by David's attorney's conduct.

END OF QUESTION NUMBER 1

QUESTION NUMBER 2

(Use bright green booklet for essay answer)

Henry and Wanda were married in 2000 in Maine. After the wedding, the couple bought a home and resided in Palm Beach County, where they raised their two children.

During the marriage, Wanda's career has provided the vast majority of the couple's earnings, and she has generally controlled the couple's finances.

Wanda founded a successful technology company in 1998, of which she has always been the majority owner and CEO. The company's value has grown considerably while Wanda has been CEO, and many industry experts credit the company's growth to her leadership. Given the company's success, Wanda is a well-known public figure. Wanda's interest in the company is currently valued at \$100 million, and that interest was valued at \$4 million at the time of Henry and Wanda's wedding. Wanda's salary has varied throughout her time at the company, but it has been in excess of \$5 million per year since 2010. Wanda and Henry live a lavish lifestyle, including frequent travel and expensive meals.

Henry has not consistently worked during the marriage and is currently unemployed. Instead, he has generally stayed home to attend to the couple's children and the family home while Wanda worked long hours at the office. Henry graduated from college with a history major, but has never worked in that field and has no graduate degree. Before Wanda's career took off, Henry had an office job with an annual salary of \$50,000.

Henry has a bank account solely in his name that had \$15,000 in it when Henry and Wanda married. During the marriage, Henry used the account to pay for some of his personal expenses. He would receive money from Wanda occasionally and deposit it into the account. There is currently \$20,000 in the account.

In 2017, Wanda's father died. He left Wanda \$1 million in his will.

Two years ago, the couple began experiencing problems in their marriage, and Wanda decided to move to Austin, Texas, where her company maintains an office. She has lived there ever since. Henry still lives in the couple's marital home in Palm Beach County. The couple's two children are now adults and live on their own.

Henry intends to file a petition for dissolution of marriage. Although Henry does not have access to significant sums of money, he seeks to retain Lawyer to represent him in the divorce proceedings. Henry seeks alimony from Wanda. In

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addition, Henry states that Wanda is concerned about the media obtaining information about her personal finances through the divorce. He believes that Wanda will not want to make any public financial disclosures during the proceedings.

At a meeting with Lawyer, Henry expressed his concern about not being able to pay Lawyer's hourly billing rate if the case requires significant litigation. Lawyer proposed a fee arrangement under which Lawyer would receive a 25% share of any judgment that Henry receives in the divorce. Henry asked whether there are any alternatives to Henry paying Lawyer's hourly rate or the 25% fee arrangement.

Prepare a memo that addresses the following:

- A. Whether the parties' assets will be considered marital or non-marital in the divorce.
- B. The likelihood of Henry receiving alimony from Wanda.
- C. Whether Henry can obtain a dissolution of marriage in Florida, given Wanda's Texas residence.
- D. Under Florida law, each party to divorce proceedings must file a financial affidavit with the court that sets forth assets and liabilities. Assume that Wanda requests to file her financial affidavit under seal. Discuss any issues raised under the Florida Constitution by such a request.
- E. Discuss any ethical issues raised by Lawyer's proposed 25% fee arrangement and any alternatives to Henry paying Lawyer's hourly rate or the 25% fee arrangement.

END OF QUESTION NUMBER 2

QUESTION NUMBER 3

(Use bright orange booklet for essay answer)

Tenant, a 90-year-old widow, lives in a single-family rental home in Seminole County, Florida. Recently, Tenant noticed a large crack in the ceiling of the kitchen. Tenant was concerned because two years ago, a similar crack appeared in the master bedroom. The bedroom ceiling then collapsed during a thunderstorm.

While Landlord promptly repaired the bedroom ceiling collapse, Landlord has not responded to Tenant's attempts to contact him about the kitchen ceiling crack. Tenant sent Landlord a letter via first-class mail two weeks ago about the ceiling crack and enclosed photos. In the letter, Tenant also told Landlord that she intended to withhold rent until Landlord fixed the kitchen ceiling crack and terminate the lease if necessary. Since sending the letter, Tenant has left three unreturned voicemails with Landlord.

In addition to the kitchen ceiling crack, there is a pothole that is approximately one foot wide in the home's driveway. Landlord showed the pothole to Tenant when Tenant first rented the home and promised to fix it. Landlord never fixed the pothole, even though Tenant periodically reminded him about it. Tenant avoided the pothole whenever she walked or drove on the driveway.

Last month, however, Neighbor walked up the driveway to give Tenant a piece of mail that had been mistakenly delivered to Neighbor's mailbox. Neighbor had walked up the driveway to bring misdelivered mail to Tenant's home several times over the years. Tenant always thanked Neighbor for bringing Tenant her mail.

This time, Neighbor did not see the pothole because she was watching a video message on her phone. Neighbor tripped on the pothole and injured her knee.

Neighbor limped back home and her husband drove her to the emergency room. A doctor diagnosed Neighbor with a severely sprained knee and recommended that she use crutches for at least two weeks.

Tenant then received a letter from Neighbor's lawyer. The letter demanded that Tenant and Landlord reimburse Neighbor for a \$3,000 emergency room bill. The letter also demanded \$5,000 in lost wages from Tenant and Landlord because Neighbor, a massage therapist, was unable to work while she recovered from the knee injury.

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Tenant contacted Attorney about the matters involving Landlord and Neighbor. Regarding Tenant's dispute with Landlord, Attorney confirmed that the lease between Tenant and Landlord incorporated the Florida Statutes on landlord/tenant matters in all material respects. The lease does not expire until six months from now.

Tenant also told Attorney that she did not pay her rent for this month because of the ceiling crack, even though the rent was due five days ago.

During a conflict check, Attorney found that another lawyer in Attorney's firm prepared a will for Landlord five years ago.

Prepare a memorandum that addresses the following:

- A. Discuss Tenant's rights against Landlord as to the kitchen ceiling crack.
- B. Discuss whether Tenant's withholding of rent gives Landlord the right to bring an eviction lawsuit against Tenant. Your discussion should also address any defenses Tenant may have in an eviction lawsuit and whether Tenant would be required to pay rent during the pendency of a lawsuit.
- C. Analyze whether Neighbor has a valid claim against Tenant or Landlord and any applicable defenses.
- D. Discuss whether any ethical issues preclude Attorney from representing Tenant in a lawsuit against Landlord.

END OF QUESTION NUMBER 3

END OF MORNING SESSION