

Question #1

Timmy received a drone for his 13th birthday. He duct taped his older brother Bobby's "GoPro" camera to the top and launched it on its inaugural flight around his neighborhood. The camera altered the drone's weight and balance, and Timmy lost directional control, launching it into neighbor Norm's yard. Norm, a devoted survivalist (and paranoid schizophrenic), saw the drone hovering in the vicinity of his tree house, grabbed his 12 gauge Remington, and shot the drone out of the sky. Timmy ran inside to tell his helicopter mom Mary who anonymously called police to report the sound of gun fire in her neighborhood. Norm reloaded, waiting on his back deck for the second wave of drone attack.

Mary, angry at Norm's negligence, went to Norm's home and pounded on the front door. Officer Otis drove up and asked to search the property. Mary stood on the porch pretending to be Norm's wife. She said "sure" and directed Otis to the rear yard. Otis hopped the fence, saw Norm, and directed him to drop the gun; Norm complied. Otis searched Norm and felt an empty shotgun shell in the front pocket of Norm's overalls. Otis placed Norm in handcuffs and ordered him to sit on the deck.

Otis noticed what appeared to be a dead Chevy pickup with a camper shell on blocks in the yard. As Otis approached it, Norm's "real" wife Wanda exited the camper shell through the rear door. As she did, Otis leaned in and saw a counter top chemistry lab. Otis detained Wanda, entered the camper, and lifted a beaker to his nose. He recognized the smell of an ingredient used to manufacture meth. Otis then turned his attention to the Chevy's cab. He seized a handgun from under the front seat, a small quantity of suspected methamphetamine from the center console, and the vehicle registration from the glove box.

Otis placed Norm under arrest and called for a backup officer to transport him to jail. On his way out, Otis picked up the pieces of Timmy's drone, including Bobby's still operable GoPro camera. Otis took the camera back to the station and downloaded its contents. In addition to footage of Norm's backyard, the camera had captured footage of a large marijuana grow in Bobby's backyard, which Otis believed was consistent with illegal cultivation. The video was date stamped one week earlier.

Norm was convicted of manufacturing meth and of being an ex-felon in possession of a firearm.

Bobby was charged with cultivation in juvenile court. At his arraignment on the petition, the judge denied Bobby a public defender because Mary was a wealthy business owner. Mary, angry at her sons, refused to hire Bobby an attorney. Without any inquiry by the juvenile court Judge, Bobby represented himself and was adjudicated a ward of the court.

*Discuss Norm **and** Bobby's rights under the Fourth, Fifth, and Sixth Amendments. Do not discuss any substantive defenses or other issues.*

Question #2
Criminal Procedure Final Exam

Brittany was a frequent consumer of the criminal justice system with several felony convictions under her Gucci belt. She was arrested on charges of selling counterfeit designer handbags in the parking lot of a local law school. She posted bail and hired attorney Al to represent her after seeing his ad on late night t.v. When they appeared in court, the DA requested additional time to file charges. As she left the court, Deputy Dan motioned to her and said, "What a fabulous bag. Where can I get one for my wife? Brittany explained that she sold them out of her home business at 54 Center St.

Unbeknownst to Brittany, Deputy Dan used this information in a Statement of Probable Cause for a search warrant of Brittany's home at "54 Center St." for "items of counterfeit fashion." Dan neglected to mention in his affidavit that during a photo lineup which included Brittany, none of the three witnesses who purchased fake bags picked her out as the seller. Judge Jim, who happened to be Dan's Godfather, issued the warrant. When Dan and several deputies executed the warrant two weeks later, they failed to notice that 54 Center St. was actually comprised of three similar but separate units: 54A, 54B, and 54C. They entered through 54B, which happened to be Brittany's pad. Dan entered first without knocking and Brittany shrieked, "Oh, Hi! Are you here to buy that bag?" Dan said, "No," and placed her in handcuffs. Hearing her, Brittany's deadly purse dog Princess bit Dan in the leg. He picked up Princess, intending to temporarily place her in the laundry room. As he opened the laundry room door he noticed boxes and boxes of purses. Dan realized he couldn't distinguish a genuine bag from a fake one. So he took them all.

Dan retrieved Princess and sat next to Brittany on the couch. She tearfully asked him what was going to happen. Dan told her that Princess would be going to doggie jail. He read her Miranda rights; she replied, "I think I need to call Al." Dan ceased questioning her and transported her to county jail. The next day, based upon the evidence seized during execution of the search warrant, the District Attorney charged Brittany by way of felony Complaint with illegal distribution of counterfeit goods. She entered a not guilty plea and refused to waive time. Before her Preliminary Hearing and at the request of the District Attorney, Dan went to visit Brittany. He read her Miranda rights, and asked her if she had talked to Al. She told Dan that Al had visited her, but that after listening to the solid legal advice of her cell mate, she wanted to tell Dan the truth. Her statement was incriminating, but also contained possible exculpatory facts. The District Attorney failed to provide Al with a copy of her statement until two days before trial. Brittany was subsequently convicted by a jury of illegal distribution of counterfeit goods.

Discuss Brittany's rights under the Fourth, Fifth, and Sixth Amendments. Do not discuss any substantive defenses or other issues.