

Private criminal justice assignment

Law



The problem with evidential hearings is that the Judge must first grant the hearing (n. D.). Legal Dictionary.). If the Judge grants it, there is still a chance that the Judge will not go back on his decision. If the evidence is still allowed into trial and the trial is lost. The attorney can file a motion to appeal the case to the appellate courts, the reason for the appeal would be based on the fact that the evidence mentioned was not admitted into the trial the first time and it was crucial for the case.

After studying that argument, the Court of Appeals may, or may, not grant such a hearing. If the judge still insists on admitting the evidence into trial then when the evidence is resented if I was the attorney representing this client I would express to the Judge that the police officers violated my client's constitutional rights by seizing this evidence. I would also bring up *Marooned v. United States* or *Wong Sun v.*

United State, cases that involved" the fruit of the poisonous tree doctrine and the private criminal justice By capillaries of an illegal entry. Officers entered the defendant's laundry at which point the defendant indicated that he was selling narcotics. The drug agents then went to the defendant and found the narcotics. At Yes's trial, Toy's statements and the covered drugs were both excluded as fruit of the poisonous tree because the search was done without a warrant.

Wong Sun's lawyer argued that Wong Sun's confession should also be excluded as fruit of the poisonous tree. The court affirmed the fruit of the poisonous tree rule, but found an exception to exclusion in Wong Sun's case on the grounds that Wong Sun had voluntarily returned to the police station

to make his statement, an act which had “ become so attenuated as to dissipate the taint” or broke the chain of inadmissible evidence. Wong Sun was granted a new trial, but his confession was admissible. Wong Sun v. United States I Ceasefires. (n. D. ” With this being said it is simple to see that the fact that my client’s rights were violated should indicate that the evidence that was gained from that violation should be dismissed as well as the case that came with it per the exclusionary rule. Assuming that the defendant has standing and the right to privacy, if the evidence was obtained illegally then the case should be dismissed because it is all fruits of the poisonous tree. There is a big possibility that the case may be dismissed. If all the evidence was obtained illegally then the prosecuting attorney as no evidence against my client.

If there is no physical evidence and no case then the case will most likely be dismissed. The prosecution could try to argue that eventually they would have found the evidence legally and it was an inevitable discovery. “ The inevitable discovery exception to the exclusionary rule allows into evidence illegally seized items that would have been discovered lawfully anyway. This exception allows evidence to be admitted, even though it was seized in violation of the Constitution. (Inevitable Discovery Exception Law & Legal Definition. (n. D.)”

However then they would have to prove how they would have found it. Depending on the constitutional violation, the scenario can vary. A Motion in liming can also be used in the beginning of the trial in order to make sure that the evidence is never allowed into trial. A Motion in liming “ is a request or motion to a Judge which can be used for civil and criminal proceedings <https://assignbuster.com/private-criminal-justice-assignment/>

and at the State or Federal level. This motion allows the attorneys and the Judges to discuss the evidence while not being in the light of the Jury (Motion in limine - Wikipedia, the free encyclopedia. (n. D.). This is one privately, in order to not taint or give unnecessary information to the Jury or to introduce information and then later take it away. Bottom line if the evidence was obtained illegally or in violation of the rights of my client then the evidence should be thrown out. If the Judge still feels to continue with the trial and not throw the case away completely. The problem with throwing away or dismissing the case is that this is a murder trial. It is acceptable to throw away evidence that was obtained in violation of a person's rights. However it is not acceptable to throw away an entire case.

The family of the person murdered seeks justice and it is up to the criminal Justice system to provide that to them. Simply dismissing a murder case doesn't occur every day. In most cases, the evidence will be dismissed and the trial will continue. There is usually further evidence such as witnesses that still make for a good case. For the dismissal of that evidence. In the long run the case wasn't strong enough against Mr. Simpson and the charges were reduced. Although we could fight for the dismissal of enough evidence to win the case, in a perfect world we would have the case dismissed.

Although, this was just an example, because these two cases differ here much, their similarities are that evidence is being dismissed enough to win a trial. Our mission is to get enough evidences suppressed or dismissed to be able to efficiently defend the client at hand. If this is successfully done, the case can be won and the rights of the citizens remain protected. These laws <https://assignbuster.com/private-criminal-justice-assignment/>

are made to prevent police misconduct. They were made so that police officers would make sure to do their job and protect the citizens, including their rights. If a person is guilty of a crime then there is ample time to gather evidence correctly and follow protocol.