

Miranda fact pattern analysis critical thinking examples

[Law](#), [Evidence](#)



Re: A Motion to Suppress statements and evidence acquired during the execution of the warranty

Issue: The police in this case are said to have had a search warrant that allowed for them to search the house. This warranty gave them the right to ask the suspect to step aside and allow them to search for any illegal firearm or anything else illegal in the house. In the *Miranda v Arizona* the police upon finding anything illegal in the house, they are supposed to inform the suspect of the right to remain silent and the right to avoid self incrimination (Levy, 1968). There is also the right to have an attorney present during any form of questioning.

The police however denied the defendant the right to an attorney present as they went on to question him about the presence of other things in the house before he could contact his lawyer. The fact that he asked for a lawyer means that he knows his rights and they were violated during the arrest.

This is demonstrated by that his Fifth Amendment right which entitles him not to speak to the police unless in the presence of an attorney was violated.

In the report the police have indicated that they read the suspect his rights after they had questioned him about his house and had denied him a chance to contact his cousin Vinny who is a lawyer. The police only accessed the cocaine and marijuana and also the gun because the suspect instructed them where they were, this evidence and is acquired illegally and cannot be used against the defendant in a court.

The evidence that is acquired for this case was not acquired through the right procedure and should not be used during the case hearing nor should it be presented to the jury in case the judge decides that the case should go to

the judge (Levy, 1968). In any case without the evidence that was acquired from the house of the defendant it there is no case against him and the case should not go to court.

Rule: the defendant seeks a motion to suppress the evidence that was collected from his house during the time of his arrest based on:

- The police did not inform the suspect of his rights and he was questioned before he could contact his lawyer.
- The evidence that was found was because the suspect directed the police to it, this renders it not applicable to the court case and cannot be used as a reason for having a trial in the first place.

Application - suspect has filled a pre-trial motion to suppress the evidence that was collected from his house based on the violation of the Fifth Amendment in the bill of rights. The Fifth Amendment clearly states that no person shall be asked to answer on involvement in a crime unless before the presence of a grand jury. This means he was questioned without the presence his lawyer regardless of the fact that he actually asked to have one present. His rights were read to him after he was asked about the where about of his possessions. This means he was a witness against himself and he could have gladly done that for other intentions making the evidence not to be legally acquired.

The Fifth Amendment is derived from the Grand Jury Clause and the Due Process Clause that are to be always upheld at all times (Levy, 1968) . The rule of law is clear that law is law unto itself and this means that when one breaks it in order to enact another one there are consequences to be expected. This allows for prohibition of self incrimination and the rights of a

suspect when arrested are to remain silent. The *Miranda v. Arizona* ruling protects suspects against any form of curtailment of their freedom outside the court system either before or after they have been arrested.

The police had a search warrant that only allowed the house to be searched and not to question the suspect. The evidence should be dismissed as it is not valid to be used in a court of law. The evidence that will be used to make the case not to reach trial will be the police report and gives the steps taken after the invasion into the house of the suspect.

Conclusion: the case should not be moved to trial as all the evidence that was collected from the house of the defendant was acquired illegally by the police as per their report. If the case proceeds to court, then the evidence will not be used and the accusations will not be based on anything except the prior history of the suspect of possession of fire arms. The law is meant to protect the people at all times and should be honoured. Anytime the law enforcers are to enact the law, they should follow it to the letter by adhering to the rights of the person being arrested (Levy, 1968).

References

Levy Williams Leonard, (1968), *Origins of the Fifth Amendment: the right against self discrimination*, Springer Publishers, Washington D. C