

# Enwia

Law



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ment of Facts On April 5th, at 2: 00 pm, the police received a bulletin that a black man between the ages of 20 and 30 years had robbed a shop known as Moon's Sandwich shop at south of Madison in Chicago. Chicago Police, Officer Jones and Officer Smith, responded promptly and drove towards the scene. When at Madison they saw a man running Westbound on Western Avenue towards Talman. They stopped him, and he stopped. The man said he was John Murray and gave the office his identification, which indicated that he lives in the area. He further stated that he was heading to his to see, his two years old daughter whom he alleged was sick. On searching John Murray, Officer Jones found him to be in possession of \$650 and also found his wallet and a cell phone. John Murrays was passed by the officers to accompany them to the police station. At the station, he was interrogated by Detective Colombo on his involvement in robbery at Moons Sandwich Shop, which he denied. When asked where he could have obtained all the cash, he asserted that he does odd jobs and he did not have a bank account. Murray's girlfriend, Tonya, was given a call by Detective Colombo; however she didn't respond promptly but called back later. She told the detectives that her boyfriend had not been working for a while and hence, she could not tell where he could have obtained such amount of cash. After the phone conversation, detective Colombo informed Murrays on what he had learned from the phone call. John Murrays confessed, to have committed the robbery. Whereby, upon the confession, Detective Colombo handcuffed Murray, informed him of his Miranda rights and placed him in a holding cell. When Murray was still in the police station, Sandi Thomas a worker at Moon's during the robbery described the offender as African- American, medium build, 6' 0", 200 lbs, medium complexion, approximately 20-30 years old

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with short hair. An identification lineup was later conducted with six men John Murray included. Sandi Thomas positively identified Murray. (2). The Issues Three issues for determination are prevalent namely: (i). whether the stop and search/seizure was conducted legally (ii). whether the lineup was conducted properly to be admissible as evidence. (iii). Whether the interrogation leading to Murray's confession and which was conducted without informing him of his Miranda rights is admissible as evidence. (3).

Law Related to the Case The law related to the stop, search and seizure involves a general rule in the U. S fourth amendment's that states that the police officer must have a warrant issued by a neutral judge/ magistrate to conduct stop, search and seizure. However, searches without warrant have been upheld as valid if they meet the test of reasonableness, whereby, the police officer may conduct searches without a warrant if they have sufficient information that the suspect has committed a crime. This law can be observed in the case of *Brinegar V. United State*. 338 U. S. 160 (1949). On the second issue the law related to line up process states the following: the officer conducting the line up process should not be a neutral person who does not know the identity of suspect's. Secondly, the line up process should be carried out in a sequential manner where witness should be showed photos each at time. Thirdly, the witness should be informed about the procedures and rules involved. Fourthly, the line up process should follow the procedure below: confirmation that the witness understands the procedure, presentation of each photo to each witness one at a time and in a random manner, removing each photo before presenting the next one, recording positive and non-identified photos, asking the witness to sign and date the results obtained. Finally, the identification document should have the

information and sources of all photos used, people who were involved as witness and the time and date of the lineup (Keane & McKeown, 2012). (4). Arguments The first issue of admissibility is the whether the stop and search seizure was carried out properly and whether the legal procedure was followed. It can be observed that the fourth amendment in respect to search and seizure protect the persons from unreasonable searches. However, if there is enough information that is beyond reasonable doubt the officer may conduct the search (Keane & McKeown, 2012). Therefore, I pray that the fact that Mr. Murray was in possession of \$650 should not be taken to mean he was involved in the alleged robbery because even the manner in which the search/stop seizure was carried out could not lead to a safe conviction. This is because the officers did not obtain Murray's consent as required by the law when conducting their search and hence, it resulted to total violation of individual privacy. Secondly, the identification line up was fundamentally flawed, because the right procedures were not adhered to. The proper identification procedure should be as follows: an independent administrator who is conducting the lineup process. Six or more photographs should be displayed to each witness one at a time in a random manner. Whereby, the witnesses are allowed to select the suspect (Keane & McKeown, 2012). In above connection, the members of the identification lineup did not have any striking similarities with John Murray. It is apparent that only the second and the fifth person in the lineup show some striking similarity. The rest were conspicuously not of striking similarity. It was very easy for an identifying witness to identify John Murray. Therefore unsafe to charge or even convict any person from such identification (Keane & McKeown, 2012). Finally, failure by the police detectives to explain to the suspect of his Miranda rights

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before an interrogation makes the confession inadmissible as evidence. In addition, Detective Colombo had a constitutional duty to explain Miranda rights to the suspect which include but not limited to: the right to remain silent, the right to hire a lawyer as well as the right to let the suspect understand that whatever he said can, and, could be used against the suspect in the court of law. (5). Conclusions There are three issues in this case, the first issue entail whether the stop and search/seizure was conducted legally. While the second issue involves whether the lineup was conducted properly to be admissible as evidence and the final issue is whether the interrogation leading to Murray's confession and which was conducted without informing him of his Miranda rights is admissible as evidence. Based on the first issue of stop and search/seizures, the U. s constitution under the forth amendments provide full protection against unreasonable searches unless a warrant is issued by a neutral judge/magistrate of the court. However, if there is enough information that is beyond reasonable doubt the officer may conduct the search. About the lineup process proper procedure and rules should be followed as discussed above. Finally, the suspect should be provided with Miranda rights prior and after their arrest. The officer should explain to the suspect of his/her Miranda. For example, right to remain silent, the right to hire a lawyer as well as the right to let the suspect understand that whatever he says could be used as evidence in the court of law. References Keane, A., & McKeown, P. (2012). The modern law of evidence.