

### **ESSAY QUESTION NO. 3**

#### **Answer this question in booklet No. 3**

An Alaska State Trooper traveled to a small town to investigate a report of a disturbance at the home of Carl that had occurred around midnight the night before. Carl told the trooper that he was sleeping in his bed at that time when a man walked into his bedroom. Carl did not lock his front door at night. Carl told the trooper that it was dark and hard to see, but the man looked somewhat like the new teacher in town (Carl did not know the teacher's name). Carl said that the man sneaked across the bedroom, looked around, and began rummaging around Carl's bedroom dresser, but was startled when Carl sat up in his bed and called out. The man grabbed a book from a nearby shelf and threw it toward Carl. The man then staggered across the room and fled out of the house. The book grazed Carl's forehead, causing a small bruise. Carl immediately called the local police department to report what happened, but got the answering machine. The next morning the local police officer got the message and turned the matter over to the state troopers.

The trooper checked with Carl to see if anything had been taken from the house. Nothing was missing. But Carl said that he had found his wallet, which he had put on his dresser the night before, on the floor near the door.

Doug was a new teacher in town. As he walked to school that morning, he saw a trooper approaching him. Because people in town had been talking about what had happened at Carl's house, Doug was not surprised to see a trooper. Doug said "hi" and started to walk around the trooper.

But the trooper, based on what he had learned from Carl, told Doug that he needed Doug to come with him to the local police station. The trooper told Doug that he was checking the whereabouts of everyone in town the night before. Doug asked if he could drop some books off at school, but the trooper said that he really needed to talk with him right away. Doug went with the officer to the police station.

When they arrived at the police station, the local police chief was already there. The police station, housed in a small building, consisted of an office area where the police chief worked and a single-person holding cell in the corner looking into the room. The trooper motioned toward a chair next to the holding cell and Doug sat down. The trooper sat in a chair near Doug and the police chief stood between Doug and the door, leaning casually against the wall. The trooper handled the interview informally, not taking notes or doing anything else to memorialize the interview. Both the trooper and the police chief were in uniform.

The trooper asked Doug where he had been the night before. Doug said that he was over at a friend's house playing cards from about 10 p.m. to 1 a.m., along with his roommate. He and his roommate went home after the game broke up. Doug gave the trooper the names of the other people who were at the card game, including that of his roommate. At one point Doug asked if he could head off to school, but the trooper told him "not quite yet -- just a couple more questions." The trooper then asked Doug if he was drinking any alcohol during the game. Doug told him that they all had a few beers while they played cards. The trooper then told Doug that he was free to go. Doug left and went back to the school.

The trooper waited until Doug finished teaching his next class, then went to the school and arrested Doug for first-degree burglary.

The state's proposed indictment presented to the grand jury charged Doug with the crime of first-degree burglary. The grand jury witnesses called by the prosecution were the trooper and Carl. The trooper testified that Doug had told him the following: "Doug admitted to being in town and not at home at the time of the burglary and admitted to consuming alcohol that night."

Carl testified about what had happened, consistent with what he had told the trooper. But Carl also testified that he saw the person in his house and it was Doug.

1. Discuss whether the evidence presented at grand jury establishes the elements of the crime of burglary in the first degree.
2. Doug intends to file a motion to dismiss the indictment because the state failed to present exculpatory evidence to the grand jury. Discuss the arguments to be included in this motion and the likelihood of their success.
3. Deciding that a claim that his statement was involuntary is not viable, Doug nonetheless intends to file a motion to suppress his statement made to the trooper. Discuss the arguments, apart from involuntariness, that Doug can raise in the suppression motion and the likelihood of their success.