1972

Criminal Justice Administration: Final Examination (May 15, 1972)

William & Mary Law School

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DIRECTIONS: This examination is divided into two parts. Part I consists of multi-issue questions. All issues in these questions should be fully discussed whether or not you believe any one issue is dispositive of the question as a whole. Part II questions may or may not contain more than one issue. Your job here is to select the one issue which does dispose of the question as a whole and discuss only this issue.

In all questions, both in Part I and Part II, D means defendant or accused, and P means police or prosecutor. You should use such abbreviations in your answers along with any others which clearly express the meaning intended.

I

1. D has been arrested, but not arraigned, on a charge of armed robbery. X had been previously arrested for this same crime but was not indicted. D now moves to inspect statements the police gathered from several persons which led to X's arrest. The court, over P's vigorous objection, granted D's motion. P now wishes to appeal the granting of D's motion. Will P be successful? If not, what recourse does P have?

2. D has been convicted in state court of arson, but has not, within allowable time limits, appealed his conviction. D's conviction resulted, in large part, from evidence seized in a search of his home. The search was made on the basis of a warrant which was valid on its face, but issued from an affidavit composed solely of hearsay garnered by the police from an informer who, it was alleged and proved, was trustworthy and who had given information leading to conviction of other arsonists. D, both before and at trial, demanded that P disclose the name of the informer, but the court denied his demands. D has now moved a federal court in the district he was sentenced for a writ of habeas corpus, alleging violation of his fourth and fourteenth amendment rights. Should D be granted the writ? Why?

3. In 1950 D was convicted of grand larceny. Prior to his indictment he was given a preliminary hearing where his request for appointed counsel, it being a fact that D was indigent, was denied. In D's jurisdiction, the preliminary hearing could be waived by D, but D did not know this and, when his request for counsel was denied, D undertook to defend himself, offered an alibi
defense, and failed to cross-examine the alleged victim of the crime. At trial P successfully countered D's alibi. D, now imprisoned, consults you concerning whether or not he will be successful in gaining his freedom if a proper post-conviction remedy is pursued. Should D be granted his freedom? Why?

4. In State X any misdemeanor is punishable by a jail term of not less than a year and misdemeanor charges are tried before a county court where no juries are utilized. An appeal for a trial de novo from a misdemeanor conviction lies, however, to a district court where six-man juries, five of whom may return a verdict, sit for such de novo trials. D, in X, has been charged with drunk driving, a misdemeanor. The case is on next month's docket in the county court. D demands a jury trial. Should his demand be granted? Why?

5. D was charged with a misdemeanor in State Y. The penalty for his offense was set by statute at ninety days in jail and/or a fine of $100. D, being indigent, requested that counsel be appointed to represent him at trial, but this request was denied. D then defended himself, was found guilty and sentenced to thirty days and a fine of $95. When D could not come up with the money, the court ordered him to additional jail time at the rate of $1. a day until the fine was "worked off." Legal aid, now hearing of the case, agrees to represent D, appeals his conviction and simultaneously moves to set aside the sentence. What result? Why?

II

1. D was convicted in State Y of burglary and sentenced to ten years. After serving five, he was paroled under Y law which equated parole with being a trusty although parolees were allowed to live within the state where they chose. Upon receiving a verified complaint that D was trespassing on property at night where warehouses containing large amounts of copper wire were stored, P moved the proper court to revoke D's parole and recommit him to prison. P's verified motion, alleging D's trespassing, was granted summarily without a hearing. D now brings habeas corpus, seeking to regain his parolee status. What result? Why?

2. D has been indicted for embezzlement of funds of the First National Bank. Pleading poverty, he has had counsel appointed to represent him. Counsel now moves the court for an allocation of funds to cover the costs of interviewing allegedly material witnesses. Should the motion be granted? Why?

3. Before indictment, D was given a preliminary hearing on a warrant charging him with robbery. The hearing was lengthy, and
the alleged victim of the robbery and an alleged eye-witness testified. All testimony was transcribed. Subsequently, D was indicted. Three weeks prior to trial date D, pleading poverty, requested that he be furnished, cost-free, with a copy of the preliminary hearing transcript. Should D's request be granted? Why?

4. For months the police have had D-1 and D-2 under surveillance and believe that D-2, an addict, is receiving heroin from D-1. Noting that D-1 and D-2 frequently meet at a certain park bench in a public park about midnight on Sundays, the police hid a parabolic microphone and a recording device in bushes near the bench which picked up and recorded conversations between D-1 and D-2 tending to prove they were both engaged in heavy illicit drug smuggling. At subsequent trial, both D-1 and D-2 object to this evidence being used against them. Should their objections be sustained? Why?

5. In his first trial D was charged with murder, but convicted only of voluntary manslaughter, the verdict being silent as to murder. This conviction was set aside on D's motion for a new trial when it was discovered that P's brother was on the jury and had lied about not being related to any of counsel in the case. The prosecutor then rescheduled D for trial on the original indictment. D moved to dismiss the case. What result? Why?