

Questionable Constitutional Situations

What Does That Mean??



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Situation 1:

Three police officers drive a robbery suspect to the police station. The officers have not yet found the gun used in the robbery. On the way to the station, one officer mentions to another officer that there is a school for handicapped children nearby. He says it would be terrible if one of the school children finds the gun and hurts themselves. Hearing this, the suspect tells the officers where the gun is.

Were the suspect's constitutional rights violated?
Why or why not?

No!

- This is a **Fifth Amendment** issue because the suspect was in custody, but not at a critical stage in criminal proceedings.
- The suspect was in custody, but not compelled to confess
 - The officers were talking to each other, not to the suspect.
 - More importantly, although the officers may have hoped the suspect would react to what they were saying, they had no reason to believe the suspect would care whether children got hurt.

Situation 2:

A drug addict is arrested for robbery and murder. After being in police custody for several hours, he begins to have severe withdrawal symptoms. The police call a doctor, who gives the suspect medication. Nobody realizes that one of the medications has the effect of a “truth serum.” The police continue to question the suspect after he takes the medication. Within a short time, the suspect confesses.

**Were the accused's constitutional rights violated?
Why or why not?**



Yes!

- This is a **Fifth Amendment** issue because the accused was *in custody*, but not at a critical stage in criminal proceedings.
- **The statement was coerced.**
 - The accused could not exercise his free will.
 - It doesn't matter whether the police realized the medication had that effect on the suspect.
 - If the accused could not exercise his free will, then he was compelled to be a witness against himself.

Situation 3:

While in jail awaiting trial, the defendant was being threatened by other prisoners because of a rumor that he killed a child. The defendant became friends with another prisoner. The new friend offered to protect the defendant from “tough treatment” in prison if the defendant told him whether the rumor was true. The defendant did not know that his new “friend” was really a paid informant for the FBI. The defendant admitted to the murder.

Were the defendant's constitutional rights violated? Why or why not?



YES!

- **The Fifth Amendment applies because the defendant was *in custody* and was being questioned by a paid government agent.**
- **The confession was coerced.**
 - **The only reason the defendant confessed was because he was afraid that, without protection from his friend, other prisoners would hurt him.**
 - **A threat of physical violence is enough to cause a statement to be compelled.**
 - **There does not have to be actual physical violence.**

Situation 4

Police were investigating certain robberies in which a robber used a handwritten note demanding that money be handed over to him. The police took a handwriting sample from the accused without the advice of counsel.

Were the accused's constitutional rights violated? Why or why not?

NO!

- **The Fifth Amendment** protects one from being **compelled to testify against oneself**.
 - A handwriting sample is not testimony and the content of the handwriting sample was not used against the accused.
 - The accused's handwriting was an identifying characteristic and did not involve the Fifth Amendment .
- The accused's **Sixth Amendment** right to counsel does not apply since police were simply investigating a crime (not a critical stage of the proceedings).

Situation 5

The defendant was arrested and charged with rape. At the initial hearing, he was identified by the accuser even though the defendant did not have counsel and was not offered counsel. The victim made the identification after being told that she was going to view a suspect, was given his name, and heard the evidence against him.

Were the defendant's constitutional rights violated? Why or why not?

Yes!

- **The Sixth Amendment right to counsel is at issue:**
 - The defendant had been formally charged.
 - The identification at the preliminary hearing took place during a critical stage of the criminal proceedings.

Situation 6

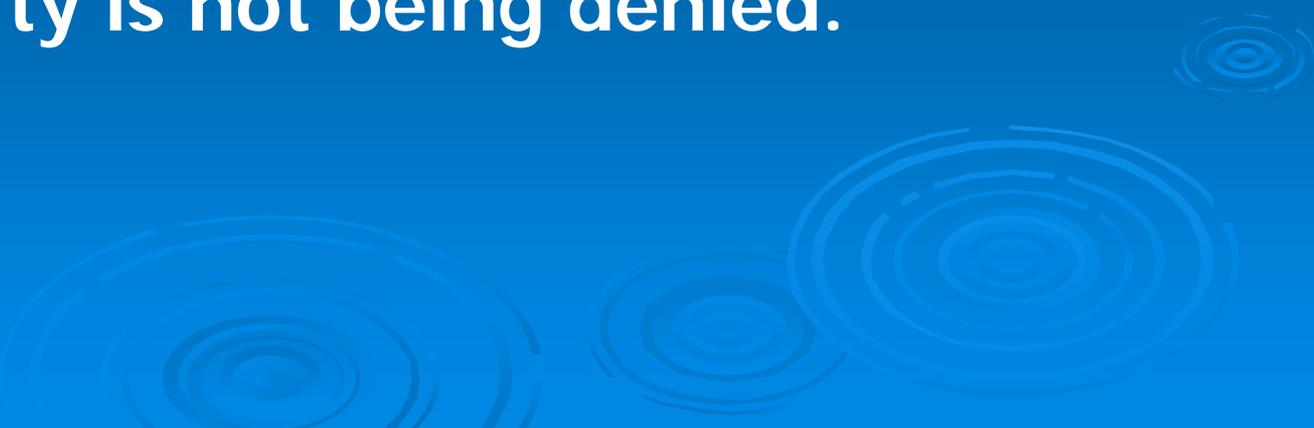
An indigent (poor and could not afford an attorney) defendant was convicted of shoplifting (less than \$150.00), and no counsel was provided. Although the penalty could have been as much as a \$500 dollar fine and 1 year in jail, he was fined \$50.00.

Were the defendant's constitutional rights violated? Why or why not?

NO!

Neither the Fifth or Sixth Amendments were violated.

The court ruled that defendants do not have a right to counsel in misdemeanor cases if imprisonment is not imposed because the right to liberty is not being denied.



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