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**Motion to suppress Delia's statement regarding the Roman coins on a public alley**

The government cannot trespass into the plaintiff's home or intrude upon the plaintiff's areas including his body, papers, and effects where he or she has a reasonable expectation of privacy (REOP). The reasonableness of this expectation is determined by the totality of the circumstances and whether the person's statements were not held out to the public.

Her, Detective F received an anonymous email stating that the robber was Delia (D) and that she was trying to sell the stoled coins. Based on the email tip, F followed D. An anonymous email by itself can be a basis for probable cause as long as it is supported by other circumstances indicating the this tip was reliable and where there is confirmation by further evidence that the tip was trustworthy. Thus, the Detective's following of the defendant is lawful if it can be corroborated by further evidencing obtained from an investigation based on the initial anonymous tip.

Here, detective F followed D and saw her using a payphone in a public alley, which was not in a phone booth. D was talking in public and any statements heard from her by the public or governmental agents could be used against her as long as they were given voluntarily by D. D will argue that it was talking to a private party about something private therefore she had REOP. The prosecutor will successfully counter that D did not have REOP in such a place where she could easily expect that other people would overhear her. Thus, D did not have REOP on an public alley and the court should to grant the motion to suppress this statement.

**Motion to suppress Delia's statement at 9:00pm**

The Fourth Amendment protects people from unreasonable searches and seizures and requires warrants supported by probable cause. Warrants supported by probable cause are required for a seizure from the defendant's body to be valid. Any evidence obtained in violation of the 4th Amendment will be excluded under the exclusionary rule as fruits of the poisonous tree. Two out of the three exceptions to this rule are where the evidence was inevitably discovered and where an independent source brought the evidence into the investigation.

The facts state that Detective went to N's house which had a deck that overlooked the alley and lied to Nell about needing to go on the deck because he was investigating a terrorist plod and lives were at stake. N consented to his entrance at 9pm at night. Here, the detective lied to N about the reason why he needed to be in his deck. Lying to obtain consent to enter someone

else's home invalidates consent and any evidence resulting from such invalidly obtained consent should be excluded as fruits of the poisonous tree unless an exception to this rule applies. Here, the investigator arrived at incriminating evidence, D's statement, through evidence that it was illegally obtained. However, the contents of the statement were eventually found to be true and were corroborated by the fact that the search at D's house resulted in the finding of the products of the crime.

Moreover, when the object that enhances sound is readily accessible to the public, the evidence that results from its use will not be excluded as long as the officer or detective was lawfully placed where the evidence was collected.

Here, Detective F aimed the microphone at D and heard her statement to the other person about a possible buyer for the coins. Hearing D's statement was only possible because the Detective used an object to enhance his hearing capacity, a Bird Song Microphone. D had bought this microphone from a pet store, which promised to enable listener to hear the chirping of birds from a distance of 150 feet.

D will present the defense that the government obtained evidence through unlawful means because it arrived at the evidence through an enhancer of the Detective's sensory effects. The prosecution will argue that these objects can be obtained at a pet store and thus are readily available to the public. The prosecution will likely prevail in this argument given the Supreme Court's precedent that the use of drug-sniffing dogs to seize contraband is legal as long as the dogs were located in a place where they could be lawfully be placed to begin with.

Therefore, although F 1) lied about the reason for his need to be on the deck and 2) used an enhancer to obtain the evidence, the prosecution will prevail on its argument that the first should not be established as illegal conduct under the inevitable discovery exception to the exclusionary rule and the fruits of the poisonous tree, and the second will also not be found illegal due to the Supreme Court's decision about the use of sensory enhancers.

Thus, the court should deny the motion to suppress this statement as well.

### **Motion to suppress the Roman coins**

The Fourth Amendment protects people from unreasonable searches and seizures and requires warrants supported by probable cause. Warrants supported by probable cause are required for a seizure from the defendant's body to be valid. Any evidence obtained in violation of the 4th Amendment will be excluded under the exclusionary rule.

Here, the coins were found at D's house.

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Here, the judge issued a warrant to search D's house and recover the coins.

Good faith exception to the warrant requirement applies.

Thus, the court should deny the motion to suppress the coins.

### **Whether Delia is guilty of robbery**

Robbery is the taking and carrying away of property of another with the intention to deprive the owner thereof through the use of force or threat of force. It is an specific intent to crime that requires that the means rea includes the intention to permanently deprive the owner of its possession or control. For Delia to be convicted of robbery, concurrence between the two physical (taking and carrying, and using force or coercion) elements and the specific intent (permanently depriving) must occur. Robbery is completed when the defendant secures possession of the stolen goods.

Here, D took and carried away valuable coins, property of Oscar and/or the coin shop, and fled the crime scene. The coins were under O's immediate control at a shop where he apparently worked. D had the intention to permanently deprive O of them since she fled immediately and did not return the objects stole. These elements occurred simultaneously. Thus, prima facie, a robbery might have occurred.

However, the element "use of force or threat of force" requires further discussion. To D will argue that because O did not say anything he was not placed in fear. Fear will be determined based on the objective circumstances of the case. For example, the fact-finder will look for evidence: of the color of the gun, how D used it, whether O knew what a toy gun looked like, whether D knew that a reasonable person would fear a gun like that being pointed to his or her face, if that type of toy is know in the general society, etc.

Moreover, as a defense, D will argue that she was using a toy gun that could not possibly harm anyone, under a factual impossibility defense, which is applicable here since the prosecution will likely not charge D for attempted robbery, but for robbery. While this is true that no one would be harmed (in case it was in fact unloaded) by a toy gun, it still can cause actual fear on victims. However, given the facts above, more details are needed.

Thus, D may or may not be found guilty of robbery based on the actual circumstances of the criminal conduct. More information regarding the evidence presented by both parties is needed in order to conclusively establish whether D is guilty of robbery.

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**END OF EXAM**