

In April of 1996 Conan Wayne Hale, a twenty year old, jailed in the prison of Lane County, Oregon on burglary and theft charges related to the shooting deaths of three teen agers, gave confession over the phone to a Catholic priest, who was sitting across from him on the opposite side of a glass partition. Unbeknownst to either Hale or the priest, prison authorities surreptitiously taped every single one of their words. The County's District Attorney has now acquired the tape, heard it, and may decide to use it in prosecuting Hale. The legal situation regarding admissibility of the tape is unclear. Oregon has a law making conversations between priests and people who seek their spiritual guidance as confidential. There is also, however, a law that says all jail conversations, except those between lawyers and their clients, may be recorded, even surreptitiously. Assume that the law allows the taping of the conversation. Assume also that Mr. Hale's words on the tape implicate him in the triple homicide.

Should the County District Attorney use the tape in prosecuting Mr. Hale? If so, why? If not, why not?

Case from the October 19, 1996 Intercollegiate Ethics Bowl.

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