

QUESTION 3 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK I

Sam Kelly was in police custody in the interrogation room with a homicide detective. Before questioning Kelly, the detective advised him of his *Miranda* rights pursuant to a written form that Kelly read, and then signed, indicating he understood his rights.

The detective began interrogating Kelly about a shooting that had killed a young boy in the vicinity of Kelly's house. Although multiple questions were asked, Kelly said nothing in response and just continued to look down at the floor, and especially at the table in front of him. On occasion Kelly would respond to questions by saying "yeah," "no," or "I don't know." For the most part, Kelly sat silent.

The interrogation continued in this fashion for nearly three hours, with virtually nothing of substance having been said by Kelly. The detective then asked Kelly, "Do you believe in God?" Kelly made eye contact with the detective and said "yes." Kelly's eyes welled up with tears. The detective then asked, "Do you pray to God?" Kelly responded "yes." The detective asked, "Do you pray to God to forgive you for shooting that boy down?" Kelly answered "yes" and looked away. The interrogation ended 15 minutes later.

Kelly was charged with murder and gun offenses. Prior to trial, he moved to suppress his statement to police. The central contention of Kelly's motion was that he had invoked his right to remain silent and, accordingly, the detective should have ceased interrogating him and the detective's continued interrogation warranted suppression.

Evaluate Kelly's argument for suppression and discuss its likelihood for success. Explain your answer.

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