

**QUESTION 12    THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK  
IV OR IN EXAMPLIFY ANSWER SCREEN 12**

Peter worked as a security guard in a jewelry store at a mall. About 8 p.m., Peter saw a man in his mid-30s with a short red beard, wearing a red baseball cap, dark glasses, and a black vinyl jacket walk in the store alone. The man went to the Rolex watch counter, spoke to the sales clerk and tried on Rolex watches. The clerk turned her back and Peter saw the man push a watch up his sleeve. When the clerk turned back around, the man handed her only one watch back and started to leave. Peter approached the man. The man looked directly into Peter's face and hastily left the store into the mall. The clerk yelled to Peter she was missing a watch. The police were called at 8:10 p.m. Peter searched for the man but could not find him.

The police received the report at 8:10 p.m. and searched the area. About 9:00 p.m. the police found a man matching the given description named Donald at a Coney Island five miles away, eating with another man. Donald was arrested on an outstanding traffic warrant. The other man was also arrested. Both men were handcuffed and placed in the back seat of the police car.

About 9:10 p.m. Peter received a phone call from the police to meet them in the parking lot of the Coney Island. Peter arrived at 9:20 p.m.

Peter got out of his security car and walked to the police car before the officer got out of his car. Peter looked into the back seat and pointed to Donald wearing a red cap and black vinyl jacket and immediately said, "That's him." The police asked about the other man. Peter said he had never seen him before. The police charged Donald and released the other man at the scene.

Donald complains that in his encounter with Peter and the police: (1) he should have had an attorney as he was under arrest on an outstanding warrant; (2) he should have been in a live line up; (3) that too much time passed between the alleged incident and his encounter with Peter; and (4) the encounter was not fair because he was in handcuffs in the police car, which was prejudicial. Is Donald correct?

**State and discuss the law that controls the encounter between Peter and Donald. Apply the law to the issues Donald raises and support your conclusions.**

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