

QUESTION 6 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK II

On December 1, 2008, Peter Perpetrator and Oscar Occupant were enjoying a few beers with Wendy Witness at a local pub. The three left the pub together, with Peter and Oscar leaving in Peter's car and Wendy leaving in her car. The two cars departed the pub in opposite directions. Shortly after leaving the pub, Peter's car ran a red light and struck a car traveling through the intersection, instantly killing the occupant. Peter and Oscar were ejected from their car, with Oscar sustaining fatal injuries and Peter sustaining only minor injuries. Peter was treated and released from a local hospital, when he was immediately arrested and orally given his *Miranda* rights. Upon arriving at the police station, Peter signed a form acknowledging his *Miranda* rights. The oral and written statements fully complied with the requirements of law and it is undisputed that Peter understood his *Miranda* rights.

For four hours, Officer Jones questioned Peter in an interrogation room about the events of the evening. Peter ignored the officer's questions. Finally, Peter stated, "I am tired, I want to go to bed." Jones placed Peter in a holding cell with a bed and Peter went to sleep. The next morning, while preparing Peter to be transported to court, Jones again asked Peter about what had transpired the prior evening. Peter said, "I was not drunk. I only had two beers. I was distracted by my cell phone and that is why I ran the red light. I am so sorry."

Peter was charged with two counts of involuntary manslaughter and released on personal bond. The court found Peter to be indigent and appointed counsel to represent him. Defense counsel filed a witness list, which identified Peter and Wendy Witness as the only defense witnesses. Wendy was never interviewed by police and never gave a statement to any party regarding her testimony. On March 1, 2009, Peter's appointed counsel died unexpectedly. The trial court instructed the court clerk to appoint new counsel and set the matter for a pretrial conference. The court clerk did not appoint counsel and failed to set the matter for a conference.

On June 1, 2010, the court clerk discovered that no action was taken on Peter's case. The trial court immediately appointed Lisa Lawyer to represent Peter. Peter informed Lisa that Wendy will testify that Oscar was driving Peter's car on the night of the accident. Lisa tried to locate Wendy, but Wendy had moved out of Michigan and nobody knew where she could be found. The trial court set a September 1, 2010 trial date. Lisa filed two motions with the court: a motion to suppress Peter's statement to Officer Jones; and a motion to dismiss with prejudice all charges against Peter.

How should the court rule on the motion to suppress Peter's statement? Explain your answer.

How should the court rule on the motion to dismiss with prejudice the charges against Peter? Explain your answer.

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