

Essay for in-class discussion after lunch break

Doctor was having breakfast in the kitchen of his home when he heard noises coming from his medical office. The office was attached to Doctor's house with a separate entrance from the street. The office had not yet opened for the day. Upon entering his office from his kitchen, Doctor saw an intruder wearing a ski mask standing near a locked cabinet where Doctor stored his drugs. The intruder saw Doctor and picked up a heavy glass paperweight from a nearby desk and threw it at him, barely missing his head as it shattered against the wall. The intruder then bolted out an open window and made his escape in a car parked outside.

Doctor raced to the window in time to see a car pull away and was able to write down the last four digits of the license plate. Doctor called the police, and Officer responded to the call. Doctor told Officer that he did not see the face of the intruder, but that the intruder was "real big." Doctor gave Officer the partial plate numbers.

After checking out locally registered cars with those partial plate numbers, Officer determined that one such car was registered to Bill. Officer also conducted a criminal history search and found that Bill had a long criminal record that included convictions for sale and possession of narcotics. Officer obtained Bill's home address from motor vehicle records and went to his house to question him. Officer rang the doorbell, identified himself as a police officer to a woman who answered the door, and said he wanted to speak to Bill. The woman responded that Bill was not home and that she was his live-in girlfriend. She told Officer that Bill had just gone to buy cigarettes and invited Officer into the house to wait for him. While inside the house, Officer spotted what appeared to be a prescription pad on top of a desk in the corner of the room. He walked over to the desk and saw on the face of the pad that it belonged to Doctor.

When Bill returned, Officer questioned him about the burglary at Doctor's office. Bill denied that he had anything to do with the burglary and said that the prescription pad must belong to one of his five houseguests. Officer then seized the prescription pad and arrested Bill for burglary. Bill was six feet four inches tall and weighed over 300 pounds.

At his arraignment, Bill pleaded not guilty to the charge of burglary in the first degree, which is defined as:

A person is guilty of burglary in the first degree when he knowingly enters or remains unlawfully in a dwelling with intent to commit a crime therein, and when, in effecting entry or while in the dwelling or in immediate flight therefrom, he or another participant in the crime:

- (a) Is armed with explosives or a deadly weapon; or
- (b) Causes physical injury to any person who is not a participant in the crime; or
- (c) Uses or threatens the immediate use of a dangerous instrument; or
- (d) Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm.

1. Do the above facts satisfy the elements of burglary in the first degree?
2.
 - (a) Did Officer legally enter Bill's house?
 - (b) Assuming legal entry, was the prescription pad legally seized?
3. Was there a legally sufficient basis to arrest Bill?