

MEE Question 1

While on routine patrol, a police officer observed a suspect driving erratically and pulled the suspect's car over to investigate. When he approached the suspect's car, the officer detected a strong odor of marijuana. The officer immediately arrested the suspect for driving under the influence of an intoxicant (DUI). While the officer was standing near the suspect's car placing handcuffs on the suspect, the officer observed burglary tools on the backseat.

The officer seized the burglary tools. He then took the suspect to the county jail, booked him for the DUI, and placed him in a holding cell. Later that day, the officer gave the tools he had found in the suspect's car to a detective who was investigating a number of recent burglaries in the neighborhood where the suspect had been arrested.

At the time of his DUI arrest, the suspect had a six-month-old aggravated assault charge pending against him and was being represented on the assault charge by a lawyer.

Early the next morning, upon learning of her client's arrest, the lawyer went to the jail. She arrived at 9:00 a.m., immediately identified herself to the jailer as the suspect's attorney, and demanded to speak with the suspect. The lawyer also told the jailer that she did not want the suspect questioned unless she was present. The jailer told the lawyer that she would need to wait one hour to see the suspect. After speaking with the lawyer, the jailer did not inform anyone of the lawyer's presence or her demands.

The detective, who had also arrived at the jail at 9:00 a.m., overheard the lawyer's conversation with the jailer. The detective then entered the windowless interview room in the jail where the suspect had been taken 30 minutes earlier. Without informing the suspect of the lawyer's presence or her demands, the detective read to the suspect full and accurate Miranda warnings. The detective then informed the suspect that he wanted to ask about the burglary tools found in his car and the recent burglaries in the neighborhood where he had been arrested. The suspect replied, "I think I want my lawyer here before I talk to you." The detective responded, "That's up to you."

After a few minutes of silence, the suspect said, "Well, unless there is anything else I need to know, let's not waste any time waiting for someone to call my attorney and having her drive here. I probably should keep my mouth shut, but I'm willing to talk to you for a while." The suspect then signed a Miranda waiver form and, after interrogation by the detective, made incriminating statements regarding five burglaries. The interview lasted from 9:15 a.m. to 10:00 a.m.

In addition to the DUI, the suspect has been charged with five counts of burglary.

The lawyer has filed a motion to suppress all statements made by the suspect to the detective in connection with the five burglaries.

The state supreme court follows federal constitutional principles in all cases interpreting a criminal defendant's rights.

1. Did the detective violate the suspect's Sixth Amendment right to counsel when he questioned the suspect in the absence of the lawyer? Explain.
2. Under Miranda, did the suspect effectively invoke his right to counsel? Explain.
3. Was the suspect's waiver of his Miranda rights valid? Explain.