

See a video of this question here:



Sample Question

Subject: Criminal Procedure

A man was arrested for burglary. When he was brought to the station, the police began to fingerprint him. The man unequivocally requested an attorney be present for the fingerprinting process. The police ignored his request and continued to fingerprint the man.

Can the man successfully challenge the fingerprinting procedure and get the fingerprints excluded from evidence?








- (A) Yes, because he was not given his right to counsel.
- (B) Yes, because the man unequivocally requested an attorney.
- (C) No, because even though the police improperly withheld his right to counsel, the fingerprints will not be excluded.
- (D) No, because the man did not have a right to counsel for fingerprinting.


Subject: Criminal Procedure

Legal Issue: Is a defendant entitled to counsel when the defendant is getting fingerprints taken?

Legal Rule and Analysis: There are two ways to challenge a pretrial identification procedure: (1) the Sixth Amendment right to counsel and (2) a Due Process violation. This question focuses on the right to counsel. The Sixth Amendment right to counsel exists for post-charge lineups and showups but not photo identifications or fingerprinting.

The Sixth Amendment applies to all “critical stages” of prosecution.

<p>Critical stages: ✓</p> <ul style="list-style-type: none">  ● Arraignments ● Probable cause hearings ● Sentencing  ● Plea bargaining ● Police interrogation  ● Post-charge lineups 	<p>Non-critical stages: ✗</p> <ul style="list-style-type: none">  ● Blood sampling  ● Fingerprinting  ● Taking of handwriting  ● Taking voice or hair exemplars
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Conclusion: therefore, the man does not have a right to counsel for fingerprinting.

Choose an answer choice that most closely matches your conclusion and explain why the others are incorrect.

Answer to Question 7

(D) is the correct answer. Fingerprinting is a type of pretrial identification procedure. There are two ways to challenge a pretrial identification procedure: (1) the Sixth Amendment right to counsel and (2) a Due Process violation. This question focuses on the right to counsel.

The Sixth Amendment right to counsel exists for post-charge lineups and showups but not photo identifications or fingerprinting. Therefore, the man does not have a right to counsel for fingerprinting. Thus, (D) is the best answer.

(A) is incorrect because the man does not have a right to counsel for the fingerprinting.

REMAINING ANSWER DELETED FROM THIS SAMPLE.