

Criminal Law – Practice Question and Answer

Session: Getting Ready for Trial

Topic: Preliminary Inquiries

Recommended time: 1 hour

Score: 100 Marks

Author: Manuel Akinshola

Facts

Albert was travelling when the police pulled him over as a result of weaving in his lane. While questioning Albert, the police officer perceived a strong smell of marijuana in Albert's car. The smell was so strong as if the weed had just been smoked inside the car. The officer then conducted a search of the car but this yielded nothing. The officer also searched his body and found nothing except an empty vial which also smelled strongly of marijuana. Saliva test conducted was inconclusive.

Albert was nevertheless charged with possession of marijuana, but the evidence relied upon by the police was entirely circumstantial. Albert pleaded not guilty, presenting a witness who gave exculpatory evidence to support Albert's claim that he had quit using hard drugs more than six months before.

Albert requested preliminary inquiry at the end of which the preliminary inquiry judge determined that he should be committed to trial. The judge also rejected Albert's contention that the judge must weigh the evidence as a whole.

Albert has filed a certiorari application to quash the outcome of the preliminary inquiry. You are the lead Crown prosecutor in this case. What will be your argument against Albert's insistence that the trial judge must at the preliminary inquiry stage weigh his exculpatory evidence against the circumstantial evidence by the Crown?