

II. Essay Question (10 points):

During the month of November 2009, the Concord Police Department was investigating a rash of burglaries in a neighborhood located in West Concord. A total of 7 houses had been burglarized during the daytime hours in a neighborhood known as Peterson Circle. The Concord Police Department had received a detailed description of a suspect. The suspect was described as a male between the ages of 30 and 40 years old. The suspect was further described as approximately 6 feet in height with a short crew cut and dark black facial hair. The police were doing regular daytime patrols of Peterson Circle in order to find this particular suspect.

On December 16, 2009, Concord Police Officer John White saw a 6 foot male in a black trench coat walking on the sidewalk in Peterson Circle. This suspect was dressed in gothic-style clothing. He had blonde hair and a light beard. Officer White approached the male. He asked the suspect his name and age. The suspect responded "my name is Jim Smith and I am 18 years old." The officer asked Smith where he lived. Smith responded that he was homeless. The officer then asked Smith where he was going, and Smith replied he was headed to a friend's house on Peterson Circle.

Officer White noticed that Smith appeared "nervous." Smith continued to walk as he answered White's questions. White told him to stop. White then patted down Smith and felt a hard object in Smith's inside coat pocket. He reached in the pocket and discovered a pistol. Smith did not have a license to carry the concealed weapon. He was immediately placed under arrest by Officer White for carrying a concealed weapon without a license (Class A misdemeanor).

Smith was brought to the Concord Police Station. Officer White read him his Miranda rights from a preprinted form. Smith then signed a waiver of these rights. In view of Smith's age, Officer White allowed him to call his mother. Smith asked White if his mother could come to the police station after she left work. White agreed and he allowed Smith to wait in the lobby for his mother. Smith's mother arrived about 4 hours later. In the interim, White provided Smith with his cell phone to make any other calls and a Coca-Cola to drink.

After Smith's mother arrived, White reviewed the Miranda form again with Smith in the presence of his mother. After reviewing the form and waiving his rights a second time, Smith provided a detailed confession to all 7 of the Peterson Circle burglaries.

Smith has filed a Motion to Suppress the pistol and his confession. You are the judge presiding over State v. Smith. Please issue a detailed ruling on Smith's Motion to Suppress the pistol and his confession.