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Hypothetical Fact-Pattern

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SECTION III: ADMISSIBILITY OF REDACTED CONFESSIONS AND STATEMENTS AGAINST PENAL INTEREST IN STATE AND FEDERAL COURTS AND THE RELATIONSHIP BETWEEN THEM

This fact pattern was developed by Professor Michael H. Graham to facilitate conversation on the topics in this section.

Hypothetical Fact-Pattern

John, Bob, Stewart, Harry, and Sam are members of a drug conspiracy. Sam is arrested in possession of a large amount of heroin. He enters into a “standard plea agreement” with the United States Attorney’s Office pursuant to which he agrees to testify against John, Bob, Stewart, and Harry.

When Harry is arrested he confesses to the police implicating John, Bob, Stewart, Harry, and Sam. He describes how the heroin is imported and the role of each in the conspiracy. Harry executes a signed confession.

The police also interview Harry’s girlfriend. She tells police that Harry told her he was going to be rich—buy her anything she wants. Harry said that he and his buddies John, Bob, and Sam, had this heroin scam going with some Thai illegals. He said they were pushing a lot of “shit” all over the southeast. Harry is found dead, shot once in the back of the head, with a quarter found on both eyes.

The police obtain a similar—almost identical signed confession to Harry’s from Stewart. Stewart will not testify at trial. He asserts through his lawyer his confession was coerced. The motion to suppress is denied.

Bob is nowhere to be found. A bartender says that Bob told him that he won’t be around for a while, the “heat is on.” He and his dealer buddies, John, Harry, Stewart and Sam, have been selling heroin and the cops are closing in.