

Sample Mental Capacity Scenario

The defendant, who was 21 years old, had an intelligence quotient measure of 58, according to a forensic psychologist's report. He was charged with felony breaking into or entering the home of a former friend's father for the purpose of stealing firearms. The victim monitored his bedroom with a motion-activated camera because of prior thefts. The defendant was photographed entering the room and looking in cabinets and a closet where guns were normally stored. He left the room empty handed and nothing was reported missing from the home.

The victim called the Johnston County Sheriff's Department, provided the photographs, and identified the defendant, a former friend of his son, as the suspect. A sheriff's investigator, in uniform and in a marked patrol car, drove to the defendant's home, left a card with a phone number, and asked that the defendant call him. Later the same day, the defendant contacted the investigator by telephone and agreed to see him at a specific time.

When the investigator returned to the defendant's home, he spoke with the defendant and his mother in their front yard. The investigator told the defendant and his mother about the photographs taken on the date of the break-in. The investigator told the defendant that he was not required to answer any questions. The defendant's mother attempted to answer questions for her son; she explained to the investigator that the defendant was "slow" and "not as smart as some of the other kids."

The investigator asked the defendant to sit in the patrol car to answer questions. According to his testimony, the investigator told the defendant he was not under arrest and was free to leave at any time. Seated in the front passenger seat of the patrol car, the defendant told the investigator that he had entered the home looking for pistols that he could sell. The defendant appeared to the investigator to be nervous and remorseful, and he expressed concern about causing his mother worry.

Prior to the defendant's statement in the patrol car, the investigator did not know why the defendant had entered the victim's home. Based on the defendant's statement, the investigator told the defendant that he was going to be arrested and taken to the jail.

The investigator drove the defendant, who remained in the front passenger seat of the patrol car, without handcuffs, to the Johnston County Jail. According to the investigator, he advised the defendant of his *Miranda* rights, asked him repeat his earlier statement, transcribed the defendant's statement by hand, and asked the defendant to sign the written statement. The defendant signed the written statement.

The defendant testified that he did not recall the investigator advising him that he was not under arrest at his home, or that he was free to leave, and the defendant did not recall being advised of his *Miranda* rights. The defendant testified that he had signed the handwritten statement while seated in the patrol car, "so I could just get it over with."

There was no evidence of coercion by the investigator, but the evidence suggested that the investigator had notice that he was questioning a suspect with a mental disability.