This is the way the professor would like the essay formated.....

In black below is the grading rubric requirement. In blue below are my thoughts.

Identified and explained the motions to dismiss that you, as a judge on this case, would expect to hear from the defense. Explained how the prosecution would counter it. **Please note: The assignment says, “motion to dismiss” but what we are really looking at are motions to limit or disallow evidence at trial (called a motion in limine).**Everything in this Project deals with Miranda rights, so I would look at the requirements (when is it required) and entitlements (what are the responsibilities of the police under it) for each of the questions asked.

1st motion: In 1 or 2 sentences, explain what the defense will argue. If you can, cite a case.

Prosecutor’s response: In 1 or 2 sentences, explain what the prosecutor will respond with. If you can, cite a case.

Define terms, as appropriate.

2nd motion: In 1 or 2 sentences, explain what the defense will argue. If you can, cite a case.

Prosecutor’s response: In 1 or 2 sentences, explain what the prosecutor will respond with. If you can, cite a case.

Define terms, as appropriate.

Identified the key issues arising from the defendant's admission made while in the police car. Explained whether the case was within the ambit of Miranda, or outside it.

What did the defendant say while in the car?

When is Miranda required (requirements for Miranda to apply)? Cite case.

Define terms here.

Apply our case to Miranda requirements.

Based on application, does Miranda apply to car statement?

Define terms, as appropriate.

Should the defendant's admission in the police car be admissible? Why or why not? Discuss with reference to [*United States v. Patane*](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv2%2Furl%3Fu%3Dhttps-3A__supreme.justia.com_cases_federal_us_542_630_%26d%3DDwMFaQ%26c%3DVJcX3xJwJKggcmYZP-xVNfKwBnVBQf3uSOPll1vxQbo%26r%3DkwvVhcJHuvIKjJNpKl1X77UKg8yUtTe61D4Lvs3q_lE%26m%3Di9iymvh1q0ykCjpImmXlgC2aX5HDyRplIAxl0tg0Tak%26s%3DbAnrzKQlpW4YufO0358QY5TuhLhJMDCedEDkKfoqzcg%26e%3D&data=01%7C01%7Cbmdaniels%40northcharleston.org%7C6ff80bf0222a45e7c6e908d7f8c84e9e%7C9299c249c3f94cfdb8e43461f45f94fa%7C1&sdata=nEsoVmIDBGY%2BkA4RMWAdSabBLsDd%2FC1IdN0TEqLx49E%3D&reserved=0) (2004).

The following is for the part of the question that says, “Discuss with reference to [*United States v. Patane*](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv2%2Furl%3Fu%3Dhttps-3A__supreme.justia.com_cases_federal_us_542_630_%26d%3DDwMFaQ%26c%3DVJcX3xJwJKggcmYZP-xVNfKwBnVBQf3uSOPll1vxQbo%26r%3DkwvVhcJHuvIKjJNpKl1X77UKg8yUtTe61D4Lvs3q_lE%26m%3Di9iymvh1q0ykCjpImmXlgC2aX5HDyRplIAxl0tg0Tak%26s%3DbAnrzKQlpW4YufO0358QY5TuhLhJMDCedEDkKfoqzcg%26e%3D&data=01%7C01%7Cbmdaniels%40northcharleston.org%7C6ff80bf0222a45e7c6e908d7f8c84e9e%7C9299c249c3f94cfdb8e43461f45f94fa%7C1&sdata=nEsoVmIDBGY%2BkA4RMWAdSabBLsDd%2FC1IdN0TEqLx49E%3D&reserved=0) (2004).” [United States v. Patane](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Furldefense.proofpoint.com%2Fv2%2Furl%3Fu%3Dhttps-3A__supreme.justia.com_cases_federal_us_542_630_%26d%3DDwMFaQ%26c%3DVJcX3xJwJKggcmYZP-xVNfKwBnVBQf3uSOPll1vxQbo%26r%3DkwvVhcJHuvIKjJNpKl1X77UKg8yUtTe61D4Lvs3q_lE%26m%3Di9iymvh1q0ykCjpImmXlgC2aX5HDyRplIAxl0tg0Tak%26s%3DbAnrzKQlpW4YufO0358QY5TuhLhJMDCedEDkKfoqzcg%26e%3D&data=01%7C01%7Cbmdaniels%40northcharleston.org%7C6ff80bf0222a45e7c6e908d7f8c84e9e%7C9299c249c3f94cfdb8e43461f45f94fa%7C1&sdata=nEsoVmIDBGY%2BkA4RMWAdSabBLsDd%2FC1IdN0TEqLx49E%3D&reserved=0) is not a good case for us. To have a ruling from the Supreme Court, you need 5 of the 9 Justices to agree on the decision (affirm or reverse the lower court decision). Generally, that group of 5 also agree on the reasoning for the decision. In this case, 5 justices agreed on the ultimate outcome but for 2 different reasons and so no clear ruling came from it. So, asking you to apply the rule from the case is tough (because the rationale for the rule is not clear). Ultimately, if you say that the rule is that sometimes, under unique circumstances, physical evidence discovered as a result of an un-Mirandized statements, may be admissible at trial, you will be fine. This seems contrary to the exclusionary rule (evidence obtained by the police in violation of the subject’s constitutional rights is inadmissible at trial), which the Supremes seem to have danced around in this opinion. Also, there is not any “physical evidence” (shell casings, drugs, stolen jewelry, or anything else that you can hold in your hands) in our case, so I will take almost anything you write here and give your full credit. Please don’t spend a lot of effort on your application of U.S. v. Patane.

Define terms, as appropriate.

Analyzed the probable effect on this case if the suspect had not asked for his lawyer, with reference to Escobedo v. Illinois.

What does Escobedo say about a defendant’s entitlement to an attorney?

What must the defendant do to be entitled to an attorney?

Did our defendant do that?

Was he entitled to an attorney?

Define terms, as appropriate.

Identified the evidence that could be added to the scenario to strengthen a defense attorney's motion to dismiss the evidence.

When does an officer have to read Miranda rights?

Requirement 1

Using this requirement, what facts can you add or make up to make admission of statements stronger? DO NOT simply restate what you have already said.

Define terms, as appropriate.

Requirement 2

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