

Droit - Economie - Sciences Sociales

ASSAS

**Session :** Janvier 2019  
**Année d'étude :** Troisième année de Licence Droit  
**Discipline :** Anglais premier semestre (Unité d'enseignements complémentaires 1)  
**Durée :** 1h30  
**Titulaires du cours :** Mme Marie BERNÈS-CABANNE, Mme Louise JACOB

**Les documents et les appareils électroniques ne sont pas autorisés.**

**I. Complete the following sentences, adding between 15 and 30 words. Do not start a new sentence. (20 points)**

1. Until the Fourteenth Amendment was passed...
2. While valid and neutral laws of general applicability...
3. Despite sentencing guidelines...
4. Since *Gideon v. Wainwright*...
5. Whenever evidence...

**II. Read the text. Answer each of the questions in your own words (approximately ten lines/100 words for each question). DO NOT QUOTE FROM THE TEXT. (30 points)**

**Days Before Murder Trial, Prosecutors Reveal a Missing Confession**

By Alan Feuer and Benjamin Weiser, *The New York Times*, June 6, 2018

Two years ago, on a September evening in the waning days of summer, a heroin dealer named Robert Bishun was found dead in the Bronx. Mr. Bishun had been strangled, his upright body left in the back seat of his own BMW, the murder weapon — a plastic zip tie — still around his neck. As shocking as the killing was, it was also more significant than it had first appeared. For several months, Mr. Bishun had been quietly informing federal prosecutors about the links between a New York City police officer and a violent Bronx-based drug gang. He was scheduled to testify at the officer's corruption trial. The execution set off a manhunt for the killers, and early in their search investigators focused on the officer, Merlin Alston, and the drug traffickers that he had been accused of working with. But within six months, the inquiry changed course and two other men — Robert Pizarro and Juan Rivera — were arrested and indicted. From the start, the two men's lawyers claimed that they were innocent and that someone else had murdered Mr. Bishun — an assertion that the prosecutors rebuffed for more than a year. But last month, just three days before Mr. Pizarro and Mr. Rivera were to go on trial, the prosecutors dropped a bombshell: They admitted they had known, since well before the men were charged, that one of Mr. Alston's associates [Gabriel Guillen] had made a confession to Mr. Bishun's murder, the details of which had not been disclosed to the defense.

Under the law, prosecutors must turn over to defendants any favorable evidence of significance, including

material that could be used to impeach the credibility of a government witness. The practice — known as the Brady rule — is intended to protect the due-process rights of the accused.

In the Pizarro-Rivera case, the failure to turn over crucial evidence was considered so egregious that senior officials of the United States attorney's office in Manhattan went before the judge, Alison J. Nathan, on May 17 and received an unusual scolding from the bench. "Your reputation as credible representatives of the government and officers of this court should be first and foremost in your mind," Judge Nathan told the lawyers. "And mistakes like this can lead to damage to that credibility that is not easily repaired." (...)

While lawyers for Mr. Pizarro, 38, and Mr. Rivera argued that the failure to reveal what amounted to an alternate theory of the case was grounds to have the charges dropped, prosecutors said the errors were inadvertent and would not be repeated. After questioning the prosecutors in open court, Judge Nathan turned down the defense's request to dismiss the case, but agreed to delay the trial four months, giving the defense more time to investigate. Since the Brady rule was established by a 1963 Supreme Court decision, it has been a powerful, if much-litigated, lever for defense attorneys. Convictions have been overturned and new trials granted when the government fails to meet its Brady obligations.

"It's to ensure fairness," said Daniel C. Richman, a professor at Columbia Law School and former federal prosecutor, "but in the context of a system that is fundamentally adversarial. And it pushes prosecutors, even within an adversarial model, to realize they have an obligation to do justice."

A spokesman for Geoffrey S. Berman, the United States attorney in Manhattan, declined to comment beyond what the office had said in court and in legal filings. But the episode has clearly been difficult for an office widely considered to be one of the top prosecutorial offices in the country. (...)

"Frankly, the defense is shocked that the government has withheld this information after the defense informed the government it would be unable to prepare for trial without it," lawyers for Mr. Pizarro and Mr. Rivera wrote in a letter to Judge Nathan. The prosecutors said there was never a "direct decision" to withhold Mr. Guillen's confession, which they believed was false.

Judge Nathan ultimately seemed to have concerns that the prosecutors felt they did not need to turn over the confession under the Brady rule because they did not believe it. "That, as you, I hope, know by now, is irrelevant to the Brady obligations to turn over potentially exculpatory information," she said in court on May 17. "It doesn't matter a lick that you find that information not helpful to your case."

- 1) Why was there a Brady violation in this case? (10 points)
- 2) What did Judge Nathan decide and on what grounds? (10 points)
- 3) Discuss the underlined sentences. (10 points)

**III. Choose one of the following topics and write an answer in approximately 250 words (+/- 10%). (50 points)**

1. Are grand juries still relevant in the current US criminal judicial system?

2. Andrew Wilson is a gun rights activist who designed a 3D gun and posted the printing instructions on his website. The government asked him to remove those instructions from his website, but he refused. The police received an anonymous phone call telling them that Andrew Wilson had printed out a 3D gun and was planning to use it for violent purposes. The police proceeded to his home, waited outside until he left his property, and then stopped and frisked him. They found a gun in his pocket then arrested him.

*You are Andrew Wilson's lawyer. Advise him about his constitutional rights.*