

4)

Call #1. a.

Proposition 8

In California under proposition 8, every relevant evidence is admissible, subject to exemptions.

Since it is the criminal trial in California superior court, proposition 8 is applied.

Logical relevance

If the evidence is material to a disputed fact, it is logically relevant. Carol (C) is a severed co-defendant, who had pleaded guilty for distributing cocaine to customers including Des (D). She further testified that all her customers agreed to sell cocaine. Therefore it is relevant to decide if D's involved in selling cocaine.

Legal relevance

The court should consider the balance between the probative value and danger of unjust prejudice.

C's testimony doesn't seem to create unjust prejudice and it has a probative value as discussed above. Therefore, it is legally relevant.

Personal knowledge

The witness should have personal knowledge regarding his testimony.

Since C had acted as a distributor for a ring of cocaine dealers. In that role, C asserted that she had sold hundreds of pounds of cocaine to many people, including D, during the period of the charged crime.

In addition, C testified regarding her recording of the note that there's a notation of sales of cocaine from January through April of 2019 by C to various people other than D. She further

testified that on pages 3 - 4 were notations of sales from May through October in 2019 to various people, including D.

Therefore, she has a personal knowledge about what she witnessed.

Best evidence rule (Secondary evidence)

All documentary evidence admitted to the trial should be the original or a legitimate machine duplicate without a dispute about the genuineness of the document.

Because the original book is admitted, it is good to be used for the trial.

Authentication

All documents should be authenticated for its genuineness.

Because C identified a notebook as hers, it is properly authenticated.

Hearsay

Hearsay is an out-of-court statement to prove the truth of matter asserted. It is generally inadmissible, subject to exceptions.

C's notebook is recorded outside of the court, and thus a hearsay evidence.

Business record

A document records every business routine is a business record. It is exceptions to a hearsay evidence rule, and therefore admissible.

C testified that C recorded she used to keep track of income and expenses related to the cocaine sales as each occurred. There's reasonably low possibility of forgery or inaccuracy, and it is a mechanical recoding of the routine business. Therefore, it is business record, and thus admissible.

Past record recollected

A past record recollected can not be submitted by the original party, but only be submitted by an opposing party as an exhibition. the witness can, however, read it to the jury, and the reading is a part of his testimony.

C testified regarding her recording of the note that there's a notation of sales of cocaine from January through April of 2019 by C to various people other than D. She further testified that on pages 3 - 4 were notations of sales from May though October in 2019 to various people, including D.

Therefore, all in all, C's testimony regarding the note is properly admitted.

Call #1. b.

Character evidence

Character evidence to prove the conformity of the defendant's conviction is generally inadmissible. However, character evidence is admissible as a circumstantial evidence of intent, preparation, identity, knowledge absence of mistake, opportunity and plan.

However, if the crime was convicted more than 10 years ago, it is not admissible.

First of all, forgery itself is not logically relevant to the distribution of cocaine. In addition, because of the danger of prejudice, it is legally not relevant, and thus inadmissible. Moreover, it is a character evidence without any exceptions. Even the forgery crime took place 11 years ago. Therefore it is not proper for the court to admit the character evidence.

Call #2.

Attorney client privilege

Attorney-client privilege prevents a lawyer from sharing any information regarding the communication, legally significant actions between a client, or any work product related to it unless it was for a purpose of fraud, deception or crime. The privilege can be waived only by the client, not by the attorney.

Even though prosecutor Pete (P) asserted Attorney-client privilege, and Abe (A), an attorney for C, made the testimony, the court made an error to deny privilege, because C did not waived her privilege.

Therefore, it was improper for the court to deny the privilege.

Question #4 Final Word Count = 734

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