5)

Prop 8

In California, in criminal case all relevant evidence is admissible, subject to some public policy exclusions.

1.

Relevance

Evidence is logically relevant if it has a tendency to prove or disprove a fact. In CA, the fact must be in dispute. A legally relevant evidence may nonetheless may be excluded if its probative value is substantially outweighed by the unfair prejudice.

Here, the question "who shot you" is has tendency to prove the show the shooter's identity and it is highly probative to figure out who is the shooter.

Thus, it is relevant.

Hearsay

A statement made out of court and offered for its truth is inadmissible as hearsay unless an exception, exclusion applies.

Here, the statement is made out of the court because it was made in the Bar and it is offered to show the identity of the shooter.

Thus, hearsay.

Presence Sense Impression/ Spontaneous Statement

A statement made while perceiving an event is excluded from hearsay rule. In CA, the statement must be made about the declarent's conduct.

Here, the question is asked while Olivia is perceiving the event because was asked in the bar while she was perceiving Vick lying on the ground, and bleeding. However, the question is not related to her own conduct because she was not the one who was shot.

Thus, inadmissible.

Excited Utterance / Contemporaneous Statement

A statement made while under a stress of a startling event is excluded from hearsay rule.

Here, Olivia might made the statement under stress of a startling event because seeing somebody lying and bleeding would put a regular person under stress.

Thus, admissible under this rule.

2.

Relevance

See rule above.

Here, the statement is highly probative since it is showing the shooter as Dan and the shooter's identity is in dispute.

Thus, relevant.

Hearsay

See supra.

As discussed above, this statement is also made out of the court and offered for its truth because it was made in the bar and it is offered to show Dan as A shooter.

Presence Sense Impression/ Spontaneous Statement

A statement made while perceiving an event is excluded from hearsay rule. In CA, the statement must be made about the declarent's conduct.

Here, although the statement was made about his own condition, it was not made while he was perceiving it because it was made 5 minutes after the shooting.

Thus, inadmissible.

Excited Utterance / Contemporaneous Statement

A statement made while under a stress of a startling event is excluded from hearsay rule.

Here, the statement was made under a stress of a startling event because it was made by the victim of shooting while he was bleeding to death and being shot is a startling event.

Thus, admissible.

Dying Declaration

A declaration made by unavailable declarant in connection of belief they are dying while the statement is made is excluded from hearsay rule. This rule is applicable for civil and homicide cases. In CA, the declarant must be dead.

Here, the declaration is made by unavailable declarant because it is made by deceased victim Vick. Moreover, it is likely that he made the statement in belief that he was dying because he was lying down bleeding and the statement is about why he is dying. Moreover, since he is dead

it is homicide case.

Thus admissible.

3.

Relevance

See supra.

Here, the statement is probative because it has tendency that Dan was angry at Vick because of cheating and thus he might be the first aggessor. Moreover, since Dan is claiming that he shot in self defense the question is in dispute.

Thus, relevant.

Hearsay

See rule above.

Here, the statement was made three weeks before the event outside of the court.

Thus hearsay.

Non-Hearsay Purpose

A statement may be offered other than its truth (such as motive) and is admissible as non hearsay.

Here, prosecution will argue that the testimony is made to show Dan's motive to shot Vick other that whether the Vick actually cheated Dan.

Thus, admissible as non hearsay.

4.
Relevance

See rule above.

Here, the question is relevant because it will put Cate's credibility at stake since she dated Dan before and she might have bias. However, it might be prejudical because the arrest was more than 10 years ago.

Thus, relevant.

Impeachment

A witness may be impeached for their truthfulness. In cross exam prosecutor may bring

contrary evidence to impeachment.

Here, the question about Dan's prior conviction will prove that Cate might not have credible reputation testimony because she did not know about the prior conviction.

Thus, proper impeachment.

5.

Impeachment

See rule above. A witness may also be impeached for bias.

Here, Cate likely have a bias because after the question she stated that even if she heard her opinion would not change showing a possible bias.

Thus, admissible.

Character Evidence

A defendants character might be attacked when the defendant puts his pertinent trait at issue. In cross examination opinion and reputation is admissible. However, specific conduct is not admissible.

Here, since Dan put his peacefullnes at issue it can be attacked.

Thus admissible.

6.

Relevance / Character evidence.

See supra.

Here, the record is highly prejudicial because it will affect the jury's opinion and it is not related to current case. It is likely offered to show the Dan's character in conformity that since he was arrested for assault he must be shot vick.

Thus inadmissible.

Authentication

A tangible evidence must be authenticated. Ancient document which is more than 20 years old is self authenticated.

Here, since the document is from 1997 it is self authenticated.

END OF EXAM