5)

Prop 8

In Ca criminal cases all evidence is relevant comes in unless it violates the constitution.

1. **"Yes I did. I asked him Who shot you?"**

Legal Relevance

All Evidence is is legally relevant if its probative value substantially outweighs its prejudicial value.

Logical Relevance

All evidence is logically relevant if it makes a fact more likely than not.

Here we have both legal and logical relevance since the officer asked Vick who shot him, it tends to make a fact more likely than not and its probative value outweighs its prejudicial value.

Hearsay

Hearsay is an out of court statement being brought in to prove the truth of the matter asserted.

Statement of Opposing Party (CA)

A statement of opposing party in CA comes in regardless of the availability of the declarant. It is a statement made by the party opponent that is presumed to be accurate.

Dan's lawyer should have objected on the grounds of hearsay that this statement should not be admissible. However, the court would find that this statement is an exception to hearsay under a statement of opposing party and since vick is unavailble to testify because he died from the injuries he sustained when Dan shot him it would still come in.

Thus, the court would find that this statement comes in.

2. What did Vick say to you in response?...."

Legal Relevance

All Evidence is is legally relevant if its probative value substantially outweighs its prejudicial value.

Logical Relevance

All evidence is logically relevant if it makes a fact more likely than not.

Here, there is legal and logical relevance because Vick stated that Dan shot him, therefore identifying his shooter, and it makes a fact more likely than not.

Hearsay

Hearsay is an out of court statement being brought in to prove the truth of the matter asserted.

Statement of Opposing Party (CA)

A statement of opposing party in CA comes in regardless of the availability of the declarant. It is a statement made by the party opponent that is presumed to be accurate

Here, Dan's attorney should have objected to this testimony as it is hearsay since it is being brought in to prove who shot Vick. However the court would likely find that this was a statement of opposing party and would likely allow this statement to come in.

Thus, this statement comes in.

3. "During the conversation what did Dan tell you?...."

Legal Relevance

All Evidence is is legally relevant if its probative value substantially outweighs its prejudicial value.

Logical Relevance

All evidence is logically relevant if it makes a fact more likely than not.

Here the evidence is logically and legally relevant since the statement made by Vick in regards to Dan to Greta is relevant, since its probative value outweighs its prejudicial value and it makes a fact more likely than not.

Hearsay

Hearsay is an out of court statement being brought in to prove the truth of the matter asserted.

Statement against pecuniary interest

A statement against pecuniary interest in CA is allowed if the statement was made by the defendant and the defendant made it against his interest.

Here, Dan's attorney is going to argue that this statement is double hearsay and should have objected in since he cannot confront Vick under the confrontation clause. However prosecution is going to argue that it comes in under statement against pecuniary interest, and that Dan made it against his interest, when he told Greta about it.

Thus, this statement would likely be allowed in.

4."Have you heard Dan was arrested for Assault with intent to kill in 1997"

Impeaching Character witness

Opposing counsel can impeach a character witness by asking them about specific instances of conduct as long as the defendant opens the door and the defendant is claiming he has a certain reputation in the community.

Here, Dan's attorney should have argued that this question by prosecution was improper, and that it should be excluded. However Dan here opened the door by claiming he shot Vick in self defense and by calling character witness of Cate who testified he was a peaceful person. As such, the prosecution was allowed to ask about prior conduct.

Thus, the court would find this question was proper.

5 "No I had not heard that but it would not change my opinion to Dan's peaceful Nature."

Character witness

A witness can only testify to a persons character, as to their reputation and their opinion of them in the community, when the door is opened by the defendant. However, once cross examined on specific instances of conduct, and the witness denies it would change their mind. The prosecution cannot ask anymore questions.

Here, there should have been no objection made as the witness was testifying that she did not know about the arrest and that the arrest would not change her mind.

Thus, the statement should have been allowed.

6. The prosecutor moved to introduce into evidence a certified copy of the 1997 Arrest report

Legal Relevance

All Evidence is is legally relevant if its probative value substantially outweighs its prejudicial value.

Logical Relevance

All evidence is logically relevant if it makes a fact more likely than not.

Here, the certified copy of the arrest report is logically relevant since it tends to make the fact Dan was arrested more likely than not but its probative value here does not substantially outweighs its prejudicial value. Therefore Dan should move to exclude the evidence on the fact that bringing in this evidence is highly prejudicial. \

Thus, the court would find this evidence probative value does not outweigh its prejudicial value.

CA only Defendants have the ability to introduce admit into Evidence arrest reports.

Generally an arrest record does not come into evidence, however in California there is a particular rule that only the defendant is allowed to admit into evidence any police/arrest reports.

Here, Dan's attorney should have objected to this being admitted into evidence under this rule. Not to mention its prejudicial value significantly outweights its probative value.

Thus, the evidence of the certified copy of the 1997 Arrest Report does not come in.

END OF EXAM