

Final Examination

Evidence Advocacy

Professor Gordon H. Van Kessel

Exam # _____

Part I: Retain by College X Part II: Return to Student X PART II

1 question - 90 minutes
 (2 parts -- 45 minutes each)

(A)

Dave was charged with the murder of Jack, his business partner, who disappeared on January 14, 1996 and a week later was found buried in a vacant lot known as "the west block" in San Francisco. The prosecution sought to prove that Dave planned to kill Jack after learning that Jack had agreed to cooperate with federal agents in an investigation of their antique import business concerning drug money laundering and tax evasion crimes. Dave denied that he killed Jack and claimed alibi.

The prosecution offered the following evidence. On what grounds should Dave's attorney object, how should the court rule, and why?

Testimony of Jack's wife Wilma that on January 7, 1996, Jack appeared upset when he returned from work. When she asked what was wrong, he replied, "I am having problems at work. Dave told me to watch my step. I'm afraid Dave might harm me, and I think I'd better tell him that I want out from this business arrangement." She asked, "Is there something wrong with the business?" Jack then told her for the first time that during the past year he and Dave had been laundering money for drug dealers. After discussing the situation, Wilma and Jack agreed that the next day Jack would tell Dave that he was going to quit work and move away. That evening, Wilma told her neighbor, Norma, that she and her husband were planning to quit their jobs and move to Montana and asked if Norma (who was looking for a larger home) might want to rent or buy their house. The following day, when Jack returned home, he said to Wilma that he had told Dave he was quitting the business and Dave became angry and upset. They decided to go to federal authorities, give information, and seek protection.

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PART II: (continued)

(B)

Assume the judge overruled Dave's objections and Wilma testified to the foregoing facts. In cross-examining Wilma, Dave's lawyer sought to establish that she was involved in her husband's drug laundering scheme and expected favorable treatment from the authorities in exchange for her testimony.

The prosecutor then called federal agent Al who testified that he met with Jack and his wife on January 10th when they came to his office. Wilma told Al what she had testified to earlier concerning her conversations with Jack and Norma.

The prosecution then called Tommy Turncoat and asked whether he had any arrangements with Dave with respect to killing Jack. Tommy denied that he knew Dave. The prosecutor asked, "Didn't you tell Agent Al that Dave had hired you to kill Jack?" Tommy admitted making a statement to Al, but testified that he did not recall what it was and claimed that whatever he said was for the purpose of getting a deal on the murder charge.

The prosecutor then offered properly certified copies of the following evidence:

(1) A judgment of conviction showing that Tommy Turncoat had pled guilty to the murder of Jack.

(2) A transcript of Tommy's testimony before the Grand Jury in which he admitted that he had been hired by Dave to kill Jack.

On what grounds should Dave's attorney object to the foregoing evidence, how should the court rule, and why?

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END OF EXAMINATION

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