

Evidence Midterm Issue Outline

Bruce Kinnison

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Essay #1

Prosecution:

Dahlia: a. call from Walt: hearsay, excited utterance exception, fresh complaint. Crawford confrontation: non-testimonial hearsay, unavailability for Ace's confrontation right. Bruton confrontation: sanitizing statement.

b. dispatch to Paul: hearsay, non-hearsay limited purpose to explain why a particular action was taken, relevance, 352-403 especially re arming and gang report.

Paul: a. Walt's ID statement: hearsay, exception/exemption admissible only if Walt is present in court and testifying, excited utterance, Crawford confrontation, unavailability;

b. Bob's entire statement, hearsay, co-conspirator exception, conspiracy ends on arrest, Bruton confrontation, due diligence; non-hearsay re "you got me" statement, adoptive admission re Ace.

c. Dahlia info: same as Dahlia b, above.

Defense:

Paul re Bob's partial statement: hearsay, statement of past state of mind admissible when declarant unavailable and state of mind is in issue (see section 9.11);

Ace's college record: relevance, hearsay, business-official record exception, character evidence, limited purpose to show intent and motive, not mercy rule

Essay #2

Plaintiff:

Kay re Mark's coffee #1 statement: relevance, hearsay, state of mind exception used circumstantially, authorized admission and where Hospital's liability depends on the liability of declarant (see section 7.3).

Kay re Mark's staff meeting statement: hearsay, authorized admission (see above), state of mind as above; non-hearsay to show intent, motive, absence of mistake.

Kay's reaction to above: relevance, hearsay, possible prior consistent statement, non-hearsay fact of disagreement

Kay re Mark's coffee #2 statement: relevance, hearsay, state of mind non-hearsay used circumstantially, non-hearsay to show intent and absence of accident, 352/403

Mark's past employment records: relevance, double hearsay, business/official records, character evidence, character in issue?, non-character common plan, intent, absence of mistake, motive, relevance re H negligence in hiring M.

Kay re Pat's adherence to Hospital rules: relevance, character evidence, specific acts, opinion, character in issue?, habit