

Evidence Final Issue Outline
Bruce Kinnison
April 14, 2014

Essay #1

Wally writing license plate on heroin bindle: non hearsay to explain police investigation. 352/403 re heroin in bindle, non hearsay relevance vs confusion of issues. Hearsay, confrontation, declaration against interest, spontaneous declaration, contemporaneous statement, present sense impression.

Vic photo ID: hearsay exception for prior ID without foundation, confrontation, forfeiture doctrine, non hearsay use in investigation, 352/403.

Ace's testimony in Bob's trial re V being still alive: prosecution offer to show consciousness of guilt. Waiver of privilege against self incrimination by testifying.

Bob's statement taking full responsibility: hearsay, declaration against interest, evidence only admissible that implicates the declarant, unavailability.

Dr Gee: psychotherapist/patient privilege, patient-litigant exception; attorney/client privilege, waiver by negligent or inadvertent disclosure of report(?), inadmissibility as statement made during plea bargaining; possible redaction of Ace's statements, no evidence that other psychs had considered report as support for no waiver.

Essay #2

Wendy at trial: spousal privileges, effect of separation, waiver of privilege not to be called, waiver of privilege not to testify against spouse?, crime/fraud exception to privilege.

Flora: relevance, hearsay, character evidence, credibility impeachment opinion re Dan's driving, husbanding and lying, requirement that Dan testify or provide hearsay statements before Flora's opinions, impeachment by felony convictions, CA Beagle/FRE differences.

Dr Ted: physician/patient privilege, patient/litigant exception, exception where conduct of the patient causes the case, hearsay, party admission, subsequent precautions.

Judicial notice request: easily verifiable fact

Pat's psych records: psychotherapist/patient privilege, patient/litigant exception, character evidence, character evidence for limited purpose, intent, common plan, 352/403.