

Problem 9A

This is a continuation of the armed robbery case in Problem 4A.

PART ONE:

The prosecution listed Marcus Wallford as a potential witness. During the investigation, the defense attorney found out Wallford had been in and out of detox centers and mental hospitals for more than 10 years.

When the prosecution calls Wallford as a witness, the defense objects that Wallford is not competent to be a witness, and offers the judge three documents -- 1) A letter from Benita Gonzalez, a social worker at Centerstone, stating that Wallford had a history of meth and heroin addiction and had been referred by the courts to Centerstone for addiction counseling three times; 2) An extract from the testimony of a psychiatrist, Adam Greenburg stating that Wallford suffered from schizophrenia and paranoia and was unable to distinguish right from wrong, that had been submitted in support of an insanity plea in a 2016 criminal case against Wallford; and 3) A copy of the jury's verdict in State v. Wallford finding him not guilty of burglary by reason of insanity.

1) May the judge consider some or all of these three documents?

2) Should the judge allow Wallford to testify?

PART TWO:

The prosecution calls Gloria Sturbaum as a witness. She is 97 years old and has poor eyesight. The defense objects that she is incompetent and requests voir dire. The jury is excused, and the defense attorney asks:

Q: Where were you the morning of March 22?

A: My granddaughter Mary took me to the credit union to get some money.

Q: Did you go into the bank?

A: No, I waited in the car.

Q: Did Mary tell you the bank had been robbed?

A: Yes. She told me all about it.

Q: Did you see any of it?

A: No.

Q: Did you see the robber run from the bank?

A: No. I saw a couple of people come out of the bank, but I didn't anyone clearly except Mary when she got back in the car.

Q: Ms. Sturbaum, can you look at the clock on the back wall of the courtroom and tell us what time it is.

A: Sorry, I can't see the clock.

Defense: We renew our objection that Ms. Sturbaum is incompetent.

Thinks about the arguments for or against allowing Gloria to testify.

PART THREE:

The prosecution calls Conrad Stephens as a witness. The defense objects and requests voir dire. The jury is excused.

Defense: Mr. Stephens, you were in the bank's parking lot when it was robbed?

A: Yes.

Q: At about 10:45, did you see two people leave the credit union, get into cars, and drive away?

A: Yes.

Q: Were you able to give the police any details about either person?

A: Not at first. I wasn't paying much attention and didn't realize a robbery had taken place until I heard the alarms go off. But, someone at the police station hypnotized me, and I was able to remember what the guy in the sweatshirt looked like, the kind of car he got into, and two letters from the license plate.

Defense: We renew our objection that Mr. Stephens is not competent to be a witness.

Thinks about the arguments for or against allowing Stephens to testify.

PART FOUR:

The prosecution calls Jenny Robinson as a witness. Jenny testifies:

1. I am Eddie Robinson's ex-wife.
2. We were divorced in 2011, but I am still in regular contact with him about the children, visitation, and child support.
3. Eddie owns several guns, which has always concerned me because the kids stay overnight with him every other weekend.
4. Eddie was fired in January, 2016, from his job at a convenience store.

5. He told me he would not be able to make child support payments until he found a new job.
6. In March, Eddie became despondent, frustrated, and increasingly desperate about being unemployed and having no money.
7. Eddie was convinced he was going to lose his visitation rights because he couldn't pay child support.

Think through the arguments for and against the admissibility of items of evidence 3-7.