

#### PROBLEM 17A.

This is a continuation of problem 5A, State v. Waldron & Atkins for the murder of drug dealers. In this version of the problem, the defense is alibi. The defendants claim they were in Boston on the night of the killing, so someone else must have done it.

The defense suggests that one of the victims, Natasha, not only sold drugs but blackmailed some of her customers by threatening to reveal that they were drug users. The defense asserts that one of the people being blackmailed killed Ernest & Natasha. The defense offers into evidence a diary kept by Natasha, in which she wrote the names of the people she was blackmailing, the dates on which she demanded payments, and the dates and amounts of any payments she received. The defense argues that the diary proves that several other people had motives to kill Natasha. The prosecutor objects that the diary is hearsay and the defense argues that it is a business record, Rule 803(6).

Think through the arguments for and against the admissibility of the diary based on what we know so far, and whether additional foundation must be laid. .

#### PROBLEM 17B.

Same problem.

The defendants claim they shared a room at the Hampton Inn at Boston Logan Airport the night of the killing. To confirm Atkins' alibi, her defense attorney presents a hotel registration receipt, accompanied by the following testimony from Eduardo Camacho, the assistant manager of the hotel.

The receipt marked Exhibit A is used only for guests who do not make advance reservations. Because we are an airport hotel, we get several stranded travelers a day who do not have advance reservations. Upon arrival, the guests tell the desk clerk their name and address, which the clerk enters into the computer. The guest also provides a drivers license and credit card. The clerk enters the date of arrival and departure and processes the credit card, and the computer prints out the form. The guest then signs the form on the bottom. The guest gets a copy upon check-out, and we keep the original for 90 days as proof that the person authorized the charge.

The prosecution objects that it is hearsay. Think through the arguments for and against the admissibility of the receipt based on what we know so far, and whether additional foundation must be laid.

## PROBLEM 17C

Same problem but with a twist. The prosecutor believes that Waldron and Atkins planned the murder and that Atkins flew to Boston and checked into the hotel to establish an alibi, while Waldron stayed in Bloomington and did the killing.

Both Atkins and Waldron takes the stand in their own defense, deny the killing, and claim to have gone to Boston for the weekend and shared a room at the Hampton Inn. On cross-examination of Waldron, the prosecutor shows the Atkins hotel receipt to her, asks her to admit that her name is not on the receipt, and then offers it into evidence.

Waldron's lawyer objects that this is hearsay. Think through the arguments for and against the admissibility of the receipt based on what we know so far, and whether additional foundation must be laid.

## PROBLEM 17D.

Same problem. The prosecution offers into evidence a written report from the Indiana State Police Forensics Unit, signed by a certified forensic examiner named Curtis Field, in which Field states that he examined fingerprints found at the scene of the killing of Natasha Tate and compared them to prints on file for Atkins and Waldron, and found six marks (prints found at the scene) that matched prints from Waldron using the ACE-V system -- same whorl pattern and 8 to 10 points of agreement on ridge characteristics for each, verified by a second examiner at the unit.

1. Waldron's attorney objects that it is hearsay, and the prosecutor responds that it is an official record of the State Police under 803(8).

2. The defense objects that it is hearsay, and the prosecutor responds that it is a business record of Curtis Field because examining fingerprints is his occupation, so is admissible under Rule 803(6).

3. Assume the court ruled that the fingerprint report is not admissible. When Atkins presents her defense, she re-offers the report into evidence as part of her defense that Atkins had nothing to do with the crime and was out of town -- to show that her fingerprints were not found there. The State objects that the document is hearsay.

4. Finally, what if this were a civil case? The heirs of Natasha Tate sue Waldron for wrongful death (we have to assume Waldron has some money). They offer the forensic report into evidence to help prove Waldron was the killer. Waldron objects that it is hearsay.

Think through the arguments for and against the admissibility of the report under these scenarios, based on what we know so far, and whether additional foundation must be laid.

#### PROBLEM 17E

Go back to problem 16A, the testimony by the EMT in the Big Red case. Suppose instead of testifying, Marissa included all that information, including what everyone said, on a standard EMT form called “Bloomington Hospital EMT Incident Report,” which she filled out at the hospital after arriving at the Emergency Room. It is standard procedure for EMTs to fill them out and give them to the admitting nurse, who includes the report in the hospital record.

The EMT report is offered by Turner and objected to as hearsay within hearsay by Big Red. Think through the arguments for and against the admissibility of the report based on what we know so far, and whether additional foundation must be laid.