

EVIDENCE CALHOUN FALL 2009
PART II – ESSAY

Dennis Defendant is charged with the murder of Vernon Victim. Defendant denies committing the crime. He claims he was home alone at the time of the murder. Conflicting eyewitness testimony was given regarding the identification of Defendant as the person who shot and murdered Victim.

The following evidence was also admitted at trial. Assume all appropriate objections were made. Was the following evidence properly admitted? Why or why not?

The prosecution called Francisco Friend, Victim's best friend. Friend testified that the day before the murder Victim said to him, "I'm afraid of Defendant. He told me he was going to shoot me."

The prosecutor then called Barry Ballistician, a certified ballistics expert with the county. Ballistician identified a ballistics report his assistant prepared in which his assistant compared the markings on the bullet which killed Victim with markings on bullets he (the assistant) test fired from a gun found in Defendant's home. Based on this test report, Ballistician testified it was his opinion that Defendant's gun was the murder weapon. The report was also introduced into evidence.

Defendant then testified. In addition to denying the murder, he insisted "I could not have killed the victim. I wouldn't do something like that. I'm the kind of guy who helps old ladies across the street. In fact, I did just that on my way to court today."

On rebuttal, the prosecutor called Officer Jones who testified that several people in Defendant's neighborhood told him Defendant had beaten them up. He also testified that he had seen Defendant take money from a cup a blind man was using to beg.

END OF EXAM