

Part II – Essay

Defendant is charged with bank robbery of a branch of the Bank of America in San Francisco. It is alleged that defendant and his co-defendant, Cody, robbed the bank at gunpoint. Cody managed to post bail and has disappeared. Defendant has been unable to post bail. At trial, Defendant took the stand to deny his participation in the bank robbery, claiming he was at home, alone, at the time of the robbery.

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 prosecutor called Police Officer Jones. Jones testified that during his interrogation of the co-defendant, not long after his arrest, Cody said, “Look, Defendant and I robbed the bank but it was all Defendant’s idea.”

Police Officer Jones also testified that he looked at surveillance tapes at the bank that were taken during robbery and that the person pointing the gun at the teller was Defendant.

Sammy Snitch was also called by the prosecutor. Snitch testified that he and several other arrestees were standing together in a holding cell the day Defendant was arraigned on the bank robbery charges. Defendant was standing about ten feet away from Snitch, talking to his attorney in a low voice before he was to go into court. Snitch heard Defendant say angrily to his attorney, “I don’t care if I did it, just get me off.”

After he testified on his own behalf, Defendant admitted on cross examination that:

1. he had been convicted five years before of bank robbery; and
2. he had lied to the court about being unable to afford an attorney in order to obtain a court appointed attorney.

END OF EXAM