

**EVIDENCE
FINAL EXAMINATION
PROFESSOR CALHOUN
SPRING 2005**

GENERAL INSTRUCTIONS

1. You have three (3) hours to complete this exam.
2. This exam is closed book; no materials are allowed.
3. There are two parts to this exam.

Part I

- Part I is to be answered on a separate ParScore answer sheet.
- Part I consists of 35 multiple-choice questions.
- Each question is worth two points.
- Part I is worth a total of 70 points.

Part II

- Part II is to be answered in blue books or typed. If you answer Part II in a blue book, please write on every other line.
- Part II is worth a total of 35 points.

Part I: Consists of 35 multiple choice questions. Each question is worth 2 points.

Total for Part I: 70 points.

Special instructions for Part One:

You are to answer all questions according to the Federal Rules of Evidence unless the question indicates otherwise or unless a question of evidentiary privilege is raised in which latter case, you should apply the California Evidence Code, unless the question indicates otherwise.

Part II: Consists of one essay question, which is worth 35 points.

Total for Part II: 35 points.

Special Instructions for Part Two:

You are to base your answers on the Federal Rules. However, in those areas where there are significant differences in the Federal Rules and the California Code, you should contrast how each would apply. In the area of privilege, you should base your answers on the California Code but again you should note any material differences between California and Federal law.

Deal with all issues raised even though you believe disposition of one is controlling.

5. Write your exam number on the exam envelope, all used bluebooks, at the top of this page, and on the ParScore answer sheet. **Do not use your name, student ID number, or Social Security Number on any exam materials.**

6. At the conclusion of the exam, return all test materials to the exam envelope and submit it to the proctor. Do not seal the envelope.

GOOD LUCK!

PART II – ESSAY

Defendant is charged with robbery and assault with intent to kill. It is alleged that defendant and co-defendant entered a 7-11 store and held a gun on the clerk, demanding money. An argument ensued and defendant shot the clerk. He and co-defendant ran from the store. The clerk can identify both the defendant and co-defendant. Defendant denies any involvement. He claims he was home asleep in bed at the very time the robbery occurred (1 a.m.).

After defendant and co-defendant were released on bail, co-defendant disappeared and has not been found.

Defendant is being tried alone.

At trial, the following evidence was admitted by the court. Assume all appropriate objections have been made. Discuss which, if any, of the following evidence was properly admitted. Set forth your reasons.

A police officer testified that he spoke with co-defendant the day after he was arrested. Co-defendant said that he and the defendant were at the 7-11 but they were just going to grab some beers from the freezer and run. All of a sudden, defendant started yelling at the clerk, pulled out a gun and shot the clerk.

Two other clerks at different 7-11 stores in the city testified that they had been held up at gunpoint by the defendant within the last seven months.

Defendant testified that on the night of the robbery-shooting, he was at home, asleep. He was due at work at 2 a.m. He had set the alarm for 1 a.m. While sleeping, he heard some noise. He turned to his wife in bed (who also had awoken) and asked her what the noise was. She said, “It’s the alarm. It’s 1 a.m. You should get up.”

A neighbor of the 7-11 clerk was called. The neighbor testified that he plays golf with the clerk and that the clerk routinely lies about his golf scores.

END OF EXAM