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Paper 2-

Expert Witness

When I think of a witness I think of the movie Witness starring Harrison Ford, where a young boy is a witness to a murder and Harrison Ford goes to protect this boy until the trail. If you haven’t seen Witness it is great movie that is an excellent example of the witness protection program and witness intimidation. A witness is somebody who gives evidence after seeing or hearing something. So essence a piece of evidence, used in a trial.

In-order to use a witness for evidence in court the witness needs firsthand account of what happened of the matter before court, declaration that the witness will testify truthfully, and lastly determination of competency. Competency is the ability to do something, especially measured against a standard, the standard being the court and the truth. If these three rules are not satisfied then the witness can’t be creditable in court and can’t be used as evidence. Determining credibility of a witness is given to us by the Confrontation Clause of the Sixth Amendment, “in all criminal prosecutions; the accused shall enjoy the right … to be confronted with the witnesses against him”. (FindLaw, 2003)

Which brings us to the rights of the defendant is to compel the attendance of the witness, confront and cross-examine witnesses, and testify in their defense. Under the right to confront and cross examine a witness; the defended has the right under the Sixth Amendment as said before to see who is accusing them of the crime. In order to give the right to confront and cross-examine the first rule must be enforced, the right to compel the attendance of the witness. Which is also stated under the Sixth Amendment, “in all criminal prosecutions, the accused shall enjoy the right… to have compulsory for obtaining witnesses in his favor”.(Text, 2010) To enforce the right to compel the attendance of the witness we have a subpoena which is a court order for someone to appear at a trial, “if the person given a subpoena doesn’t appear, some courts have the discretion to find the person in contempt of court and either order the person’s arrest or issue fines accordingly”. (GEEK, 2003)

The right defendant’s right to testify in their defense is given under the Due Process Fifth and the Fourteenth Amendments. The Fifth Amendment states, “Nor shall be compelled in any criminal case to be a witness against himself”. (FindLaw, 2003) On a side note the Fifth Amendment gives us the right to, refuse DNA and Fingerprints, and clam the Fifth. To Claim the Fifth is saying under the rights of the constitution to ruse to answer questions if they implicate them in any type of criminal activity. (Self, 2003)

There are two types of witnesses ordinary witnesses and expert witnesses. The ordinary witness is what we have been talking about. a ordinary witness that has a firsthand account about an event through personal observation. Ordinary witnesses can be used as evidence if found credible in a case.

An expert witness is held to the same standards as an ordinary witness, but a witness that has special knowledge about a topic or a specialized area of study. The title of expert witness is given by a judge, if you are considered an expert witness you are always an expert witness in that field unless the judge declares so. That is my goal is to be considered an expert witness for computer science, computer forensics, Information Technology, and Network Security. I think that would be a great thing not only to put on a resume, but to accomplish, to be considered an expert witness is a great honor and shows great respect.

Cited Works

Gardner, Thomas. Anderson, Terry. (2010). *Criminal Evidence Principles and Cases Seventh Edition*.Wadsworth Cengage Learning. Belmont California.

U.S. Constitution. Find Law for Legal Professionals. January 15th 2003. Retrieved From: <http://supreme.lp.findlaw.com/constitution/>

What is a Subpoena. Wise GEEK. September 8th 2003. Retrieved From: [http://www.wisegeek.com/what-is-a-subpoena.htm#](http://www.wisegeek.com/what-is-a-subpoena.htm)

Legal Information center: Due Process, Self Incrimination. Get Legal Public. June 15th 1999. Retrieved From: <http://public.getlegal.com/legal-info-center/fundamental-rights/5th-amendment>

Fifth Amendment Right Against Self Incrimination. Find Law for Legal Professionals. January 15th 2003. Retrieved From: <http://criminal.findlaw.com/criminal-rights/fifth-amendment-right-against-self-incrimination.html>