

**QUESTION 11 THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK
IV OR IN EXAMPLIFY ANSWER SCREEN 11**

Defendant DeWitt is scheduled for trial in state court for burglary of goods, cash and other valuables. The crime occurred at the home of DeWitt's next door neighbors, the Vincents. Wally, the 11-year-old son of the Vincents' other next door neighbor, was the only eyewitness to the charged events. Wally, upon seeing DeWitt enter the Vincents' home in the early evening hours and then exit 20 minutes later laden with multiple overflowing cloth bags, promptly called 911.

Despite Wally's young age, the prosecution has built the case against DeWitt around Wally's eyewitness testimony. Wally was asked during police questioning whether he understood he was obligated to tell the truth. He said he understood that telling the truth was his responsibility and he agreed that he would do so. He was asked if he understood the difference between telling the truth and telling a lie, and he responded that he thought so. Questioned further whether the statement, "it is raining right now inside this room" was a lie, Wally answered he did not know whether it was a lie or not, but he knew it wasn't the truth.

The only other indicia of wrongdoing by DeWitt discovered by the prosecution are DeWitt's two prior convictions: (1) one for two counts of criminal fraud and false statement, to which he pleaded guilty 12 years ago, and was then released after serving four years in prison; and (2) the other for negligent homicide five years ago where, under his plea agreement to a three-year sentence, he was released after serving 15 months.

Following DeWitt's more recent release four years ago, he relocated and found a good job. Because he believes he has completely redeemed himself, he intends to take the stand to deny all charges against him. DeWitt objects to the prosecutor's use of his prior convictions, arguing they are too unrelated, too remote in time, and unduly prejudicial under MRE 609, Impeachment by Evidence of Conviction of Crime. He also objects to allowing Wally's testimony, claiming that a pre-teen cannot possibly be qualified as a witness under MRE 601, Witnesses; General Rule of Competency.

- 1. How should the Court rule on DeWitt's MRE 601 objection to Wally's testimony? Explain why.**
- 2. How should the Court rule on DeWitt's MRE 609 objection to the criminal fraud and false statement convictions? Explain why.**

*******THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK IV*****
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3. How should the Court rule on DeWitt's MRE 609 objection to the negligent homicide conviction? Explain why.

*****THE ANSWER TO THIS QUESTION SHOULD GO IN BLUEBOOK IV*****
OR IN EXAMPLIFY ANSWER SCREEN 11