

A defendant is on trial for possession of heroin. During the prosecution's case-in-chief, a police officer testifies that he watched another officer seize a bag of white powder from the defendant and seal it in an envelope, which both officers initialed and dated and then placed in the police property room.

The prosecutor then calls a chemist to testify that she obtained, intact from the property room, the dated, sealed envelope with the initials of both police officers, whose handwriting she recognized from previous experience, and that testing disclosed that the powder therein was heroin. The defendant argues that the prosecutor has not sufficiently authenticated the powder tested by the chemist as the powder that was seized from the defendant.

Is the chemist's testimony admissible?

- A. No, because the chemist lacks firsthand knowledge that the powder came from the defendant.
- B. No, unless the envelope and powder are produced in court or their absence is explained.
- C. Yes, because an object in official custody is self-authenticating.
- D. Yes, because the powder is sufficiently identified as having come from the defendant.

Explanation:

Real evidence (eg, bag of white powder) is only admissible if it is properly **authenticated**—ie, proven to be what the proponent claims it to be. This foundation can be laid by:

presenting identification testimony – testimony from a witness who can recognize the item based on **personal knowledge** of the item's distinctive and **readily identifiable features** *or*

establishing a chain of custody – evidence establishing a **substantially unbroken history** of the item's **condition, location, and custodians** from when it was acquired to when it is presented in court.

Here, the chemist cannot provide identification testimony because she lacks firsthand knowledge that the bag of powder came from the defendant. Instead, a police officer testified that he saw another officer seize that bag from the defendant and seal it in an envelope that they dated, initialed, and placed in the property room. And the chemist seeks to testify that she personally removed that same envelope—intact and identifiable by the officers' initials—from the property room and tested the powder. As a result, her testimony is admissible to complete the chain of custody needed to sufficiently identify the powder as having come from the defendant **(Choice A)**.

(Choice B) Although the chemist's testimony is necessary to admit the envelope and powder into evidence, her testimony can be admitted without those items being produced or their absence being explained.

(Choice C) Federal Rule of Evidence 902 limits [self-authenticating evidence](#) to documentary evidence (ie, evidence supplied by a writing)—not real evidence (ie, tangible items—as seen here).

Educational objective:

Real evidence can be authenticated through testimony on its readily identifiable features by a witness with personal knowledge. This can also be done by establishing a chain of custody that shows the substantially unbroken history of the item's condition, location, and custodians from when it was acquired to when it is presented in court.

References

Fed. R. Evid. 901 (authenticating evidence).

Fed. R. Evid. 104(b) (preliminary questions).

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Chain of custody for authentication
(unbroken history of item's condition, location, and custodians)



Confiscating
evidence

Identifying/storing
evidence

Retrieving evidence
from storage

Testing
evidence