

A defendant was charged with possession of cocaine with intent to distribute. He had been stopped while driving a car and several pounds of cocaine were found in the trunk.

In her opening statement, the defendant's counsel asserted that her client had no key to the trunk and no knowledge of its contents. The prosecutor offers the state motor vehicle registration, shown to have been found in the glove compartment of the car, listing the defendant as the owner.

Should the court admit the registration?

- A. No, as hearsay not within any exception.
- B. No, unless authenticated by testimony of or certification by a state official charged with custody of vehicle registration records.
- C. Yes, as a statement against interest.
- D. Yes, as evidence of the defendant's close connection with the car and, therefore, knowledge of its contents.

Explanation:

Evidence is **relevant**, and admissible unless otherwise provided by law or other rules, if: it has any tendency to make a fact more or less probable than it would be without that evidence (ie, **probative**) *and*

the fact is of consequence to the outcome of the case (ie, **material**).

Whether the defendant knew that there was cocaine in his possession is an issue of material fact in this case. The defendant's counsel claimed that he had no key to the trunk and no knowledge of the cocaine found therein. But a state motor vehicle registration found in the glove compartment listing the defendant as the owner provides **circumstantial evidence** of his close connection with the car. Since this would make it more probable that the defendant knew that there was cocaine in his trunk, the registration is *relevant*.

However, one basis for exclusion raised in this question is the **hearsay rule**, which generally bars the admission of **out-of-court statements** (eg, vehicle registrations) offered to prove the **truth of the matter asserted** therein (eg, the vehicle's owner). Here, the registration is *not* hearsay because it is being offered to prove the defendant's close connection to the car—not his ownership of it. Therefore, the registration need not be excepted (eg, as a **statement against interest**) or excluded from hearsay to be admitted (**Choices A & C**).

The other basis for exclusion raised here is lack of **authenticity**. All tangible evidence must be authenticated—ie, proven to be what the proponent claims it to be—before it can be admitted to **prove its contents**. Therefore, a state custodian would have to certify the registration (ie, a **public record**) to prove that the defendant owned the car, but not to establish his connection to it (**Choice B**). And since no other grounds for exclusion have been raised, the court should admit the registration.

Educational objective:

Evidence is relevant if it has any tendency to make a material fact more or less probable. Relevant evidence is admissible unless it is excluded by law or other rules—eg, hearsay, authenticity requirements.

References

Fed. R. Evid. 401 (test for relevance).

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Legal bases for excluding relevant evidence (FRE 402)

U.S. Constitution
(eg, obtained illegally)



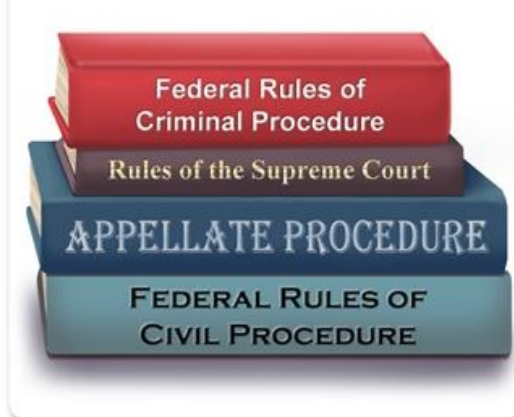
Federal statute
(eg, prohibited disclosure)



Federal Rules of Evidence
(eg, hearsay)



Other rules promulgated by
U.S. Supreme Court



FRE = Federal Rules of Evidence