

A defendant is charged with murder. At trial, the prosecution has called a witness who heard gun shots around the time the murder occurred. The witness did not see the murder but has testified that he saw the defendant running past his bedroom window, which faces an alley near the scene of the murder. The prosecution seeks to introduce a model of the neighborhood that shows where the witness's house is located in relation to the crime scene. The witness has testified that the model accurately depicts the layout of the neighborhood on the date in question. The creator of the model was not called to testify. The defendant argues that the prosecutor has not sufficiently authenticated the model.

Is the model admissible?

- A. No, because demonstrative evidence prepared in anticipation of litigation must be authenticated by its creator to be admissible.
- B. No, because there is no evidence that a reliable process or technique was used to create the reproduction.
- C. Yes, because the model is self-authenticating and accurately depicts the scene it purports to represent.
- D. Yes, because the witness's testimony attesting to the accuracy of the model is sufficient for it to be admissible.

Explanation:

Authenticating physical objects

(FRE 901)

Personal knowledge	Testimony by witness with personal knowledge of object (or that reproduction depicts original object) Most common method of authentication
Comparison	Comparison of object or writing against authenticated specimen by expert or trier of fact
Distinctive characteristics	Testimony on object's appearance, contents, substance, internal patterns, or other distinctive characteristics
Chain of custody	Substantially unbroken account of object's whereabouts from time it was obtained until introduction at trial Required method for authenticating objects that could easily be tampered with or confused with similar item (eg, blood sample)
X-ray images & electrocardiograms	Evidence showing accurate process was used, machine was working properly, machine operator was qualified & chain of custody Required method for authenticating physical representations of things that cannot otherwise be seen

FRE = Federal Rule of Evidence.

Tangible evidence must be **authenticated** before it can be admitted at trial. Authentication requires a prima facie showing that the evidence is what the proponent claims it to be. When **reproductions** (eg, models, drawings, photographs, maps) are offered into evidence, they may be authenticated by the **testimony of a witness** with personal knowledge that the **reproduction accurately depicts** what its proponent claims it does.

Here, the prosecution has introduced the model as a reproduction of the neighborhood where the murder occurred. The witness lives in that neighborhood, so he has personal knowledge about the layout of the neighborhood. Therefore, his testimony attesting to the accuracy of the model was sufficient to authenticate this evidence, rendering it admissible.

(Choices A & B) A reproduction can be authenticated by having its creator testify that the reproduction process and technique produces an accurate result. However, a reproduction can also be authenticated by other means (as seen here).

(Choice C) Certain types of documentary evidence (ie, evidence in a writing or other document) are **self-authenticating**, but physical objects (eg, the model) are not.

Educational objective:

Reproductions (eg, models, drawings, photographs, maps) may be authenticated by the testimony of a witness with personal knowledge that the reproduction accurately depicts what its proponent claims it does.

References

Fed. R. Evid. 901 (authenticating physical objects).

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