

A defendant has been charged with being a felon in possession of a firearm. He has maintained that he was only an overnight guest in the apartment in which the firearm was recovered. At trial, the prosecution seeks to offer various items of evidence found at the apartment, including mail addressed to the defendant at that apartment, various receipts bearing the defendant's credit card information, and clothing of a size that would fit the defendant. The prosecution wishes to use the testimony of the law enforcement officer who found the items in the apartment during a search to authenticate them.

After hearing the officer's testimony, what standard should the court use in determining whether the items have been properly authenticated?

- A. Whether the prosecution has made a clear and convincing showing that the items are what the prosecution claims them to be. (8%)
- B. Whether there is sufficient evidence to establish a chain of custody of the items. (23%)
- C. Whether there is sufficient evidence to support a finding that the items are what the prosecution claims them to be. (57%)
- D. Whether, by a preponderance of the evidence, the items in question are what the prosecution claims them to be. (11%)

Correct

57% Answered correctly

47 secs Time Spent

2023 Version

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.

Physical objects (eg, mail, receipts, clothing) must be **authenticated** before they can be admitted at trial. Authentication requires a prima facie showing that the **object is** what the **proponent claims** it to be. This is most often accomplished by **testimony** of someone with **personal knowledge** of the object (eg, the officer who found the items), which comes from **firsthand observations** or experiences. Therefore, this is the standard the court should use in determining whether the items have been properly authenticated.

(Choices A & D) A proponent need not prove that an item of evidence is what the proponent claims by a preponderance of the evidence *or* clear and convincing evidence. These standards are too burdensome for authentication purposes and would likely result in the exclusion of otherwise relevant evidence.

(Choice B) A physical object can be authenticated by establishing a chain of custody—ie, a substantially unbroken account of an object's whereabouts from the time the object was

obtained until its introduction at trial. But since the prosecution intends to call the officer to testify that the items at trial are the same ones he found at the apartment, establishing a chain of custody is unnecessary.

Educational objective:

Before a physical object can be admitted at trial, it must be authenticated through a prima facie showing that the object is what the proponent claims it to be. This is commonly done by testimony based on personal knowledge of the object.

References

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

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