

A defendant is on trial for knowing possession of a stolen television. The defendant claims that the television was a gift from a friend, who has disappeared. The defendant seeks to testify that he was present when the friend told her neighbor that the television had been given to the friend by her mother.

Is the defendant's testimony about the friend's statement to the neighbor admissible?

- A. No, because the defendant has not presented evidence of circumstances that clearly corroborate the statement.
- B. No, because the friend's statement is hearsay not within any exception.
- C. Yes, as nonhearsay evidence of the defendant's belief that the friend owned the television.
- D. Yes, under the hearsay exception for statements affecting an interest in property.

### Explanation:

**Hearsay**—an **out-of-court statement** offered to prove the **truth of the matter asserted** therein—is **inadmissible** absent an **exception**. Therefore, a statement offered for another purpose—eg, to show the statement's **effect on the listener**—is **not hearsay** and is generally admissible.

Here, the defendant is on trial for knowingly possessing a stolen television that he claims was gifted to him by his friend. The defendant seeks to testify that he overheard his friend say that her mother had given her the television. Although this is an out-of-court statement, it is not hearsay. That is because the statement is being offered to prove that the defendant *believed* that the friend owned the television before giving it to him (effect on listener)—not that the friend had actually owned it (the matter asserted) **(Choice B)**. Therefore, the defendant's testimony is admissible nonhearsay evidence.

**(Choice A)** Unlike other hearsay exceptions, a statement against interest is the only hearsay exception that must be supported by corroborating evidence—but only if the statement is offered in a criminal case and exposes the declarant to criminal liability. This exception does not apply here because the friend's statement (1) is not hearsay and (2) does not expose her to criminal liability.

**(Choice D)** The hearsay exception for statements affecting an interest in property applies when (1) a statement appears in a document, (2) the statement relates to the document's purpose, and (3) later dealings with the property are consistent with the statement's truth. This exception is not applicable here because the friend's statement is not hearsay and did not appear in a document (since she *told* her neighbor).

### Educational objective:

Hearsay is an out-of-court statement offered to prove the truth of the matter asserted therein. An out-of-court statement that is offered for another purpose (eg, to show its effect on the listener) is not hearsay and is generally admissible.

### References

Fed. R. Evid. 801(c) (hearsay definition).

Fed. R. Evid. 802 (rule against hearsay).

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## Admissibility of statements

