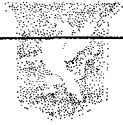


Discussion Question

There was judicial misconduct during the Rosenberg trials, Salem Witch trials and in the movie A Time to Kill. What rules of evidence or various Florida Rules of Court are most effective in preventing judicial misconduct today?

Gray's Inn



November 17, 2009

Joan Rivers: An Interview with Jake Brigance



Q



Question 1:

True or false, under Florida law, the test for determining the existence of an attorney-client relationship, is an objective test based on the first consultation between the attorney and client, when the client has the intention to seek professional legal advice.

Answer 1:

- False. The test for determining the existence of an attorney-client relationship is a subjective one and hinges upon the client's belief that he is consulting an attorney in that capacity and his manifested intention is to seek professional legal advice. The subjective belief must, however, be a reasonable one. The Florida Bar v. Beach, 675 So.2d 106 (Fla. 1996).

Question 2:

- One of the difficult ethical issues arising in criminal law is when an attorney must reveal information given to him in confidence. Under the Rules of Professional Conduct:
- A. An attorney must always report the possibility of a crime, death or substantial bodily harm to another.
 - B. An attorney must not reveal confidential information without the consent of the individual conveying the information.
 - C. An attorney must reveal confidential information if the attorney reasonably believes a crime, death or bodily harm to another is going to take place.
 - D. An attorney may never reveal confidential information.

Answer 2:

- C. Under Rule 4.1-6 Confidentiality of Information. An attorney shall reveal confidential information if the attorney reasonably believes a crime, death or bodily harm to another is going to take place.



Question 3:

- At the arraignment, Judge Noose told defense counsel his anticipated motion to change venue was denied. In doing so did the judge:
 - A. Violate the defendant's constitutional rights.
 - B. Violate the Code of Judicial Conduct.
 - C. Both A and B.
 - D. None of the above.

Answer 3:

Answer: C, both A and B.

- Changing venue is appropriate where denying same would deny access to a fair and impartial trial, a Sixth Amendment right. *Singer v. U.S.*, 380 US 24 (1965). Community hostility to a defendant is a ground or where public has been so exposed to the circumstances of the incident that bias and prejudice and preconceived opinions prejudice the proceedings. *Manning v. State*, 378 So. 2d 274 (Fla. 1979). Canon 2 of the Code of Judicial Conduct, requires "a judge shall respect and comply with the law and shall act at all times in a manner which promotes public confidence in the integrity and impartiality of the judiciary."



Question 4:

- True or false, Judge Noose violated the Florida Code of Judicial Conduct.

Answer 4:

- True. Under Canon 3(b)(4) of the Florida Code of Judicial Conduct, "a judge is to be impartial, patient, dignified and courteous to litigants, witnesses, and the jury." Judge Noose was not impartial to Carl Lee, a litigant.

Question 5

- Acting through a local pastor, a team of ACLU attorney known as the "Death Squad" solicit Carl Lee as a client even though they know his is currently being represented by Jake Brigance. Is this a violation of the Florida Rules of Professional Conduct?

Answer 5:

- Yes, Rule 4-4.2(a), Comment, does not preclude communication with a represented person who is seeking advice from an attorney who is not otherwise representing a client in the matter. Carl Lee was not seeking advice from the "Death Squad," they approached him.

Rosenberg Trials:



Question 1:

- “RUB A DUB DUB”
- A. How do you clean a Volkswagen?
- B. What glue do you use to repair torn overshoes?
- C. How do you destroy an illegal audio recording?
- D. None – Trust CARNAC

Answer 1:

- D – What does a masseuse do to your Dub Dub?

Question 2:

- “SUPERBOWL ”
- A. Who rolled two “300” games in one tournament in Cleveland, Ohio in 2008?
- B. None – Trust CARNAC
- C. What do you call a toilet that can see through walls?
- D. What does McDonald’s call its new container of lunch soup?

Answer 2:

- C – What do you call a toilet that can see through walls?

Question 3:

“In VOIR DIRE, you could not challenge a juror for cause based on this answer”

- A. “I don’t want anyone to be killed, but I can be fair knowing death is a possible sentence.”
- B. “I read about this case in the newspaper, these people should be hung.”
- C. “I was in World War II, and always believe government employees over other people.”
- D. All of the above

Answer 3:

• A – “I don’t want anyone to be killed, but I can be fair knowing death is a possible sentence.”

- *Marsden v. Moore*, 847 F.2d 1536 (11th Cir. 1988).

Question 4:

An Attorney representing MULTIPLE DEFENDANTS must consider this factor”:

- A. What are the possible conflicts of interest representing these defendants, where their interests may be adverse to each other?
- B. Is there a substantial risk that my responsibilities to ONE client will be materially limited by representing the OTHER client?
- C. Have all the clients given informed consents after consultation, where the lawyer explains the risks and advantages of common representation?
- D. All of the above

Answer 4:

- D – All of the above
- **RULE 4-1.7 CONFLICT OF INTEREST; CURRENT CLIENTS.**

Trial Transcript

MR. ROGGE: As I have previously indicated to the Government I represented four people. I have only named two of them, David Greenglass and Ruth Greenglass, his wife. I also represented Mr. and Mrs. Elitcher, if and when they are called as witnesses and they are willing to answer to the extent of their knowledge any questions that may be put to them. I would like with Court's permission to make the fact that there is a panel of jurors present, perhaps it should be discussed at the bench.

Question 5:

- **“A criminal defense attorney can do this only if the clients gives express informed consent”**
- A. Communicate ex parte with the presiding judge about disposition of the client's case
- B. Represent one defendant while a blood-related attorney represents a separate defendant.
- C. Represent 2 separate defendants, and 2 witnesses, in the same case.
- D. B and C only.

Answer 5:

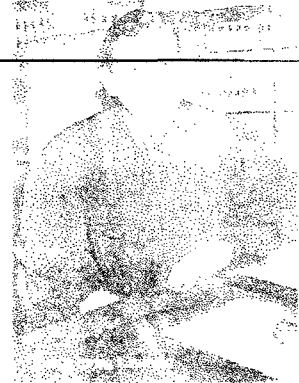
- D- B and C only.
- See: Florida Rules of Professional Conduct, Rule 4-1.7 Conflict of Interest; Current Clients Representing Adverse Interests Lawyers Related by Blood or Marriage

Question 6:

- **"DUSTIN HOFFMAN"**
- A. Who is the shortest actor ever to win an Academy Award?
- B. What chocolate deserts were recalled because of a health code violation?
- C. None – trust CARNAC
- D. Who is a distant cousin of former Baywatch stud David Hasselhoff?

Answer 6:

- C - Describe someone cleaning her Hoffman



Question 7:

The Government does NOT have to prove this element to get a conviction under the ESPIONAGE ACT?

- A. The United States was in fact injured.
- B. The information in question relates to the national defense of the United States.
- C. The information was transmitted willfully.
- D. Defendant transmitted with an intent or reason to believe the information would be used to injure the United States or to aid a

Answer 7:

A – The United States was in fact injured.

US v. Rosenberg, 195 F.2d 583, 590 (1952);

Question 8:

The reason Justice Douglas' Stay of Execution was VACATED?

- A. A new issue not raised in the original appeal is waived.
- B. Justice Douglas had no power to enter a stay.
- C. The U.S. Constitution prohibits ex post facto law.
- D. When two penal statutes apply, the Court must apply the harsher sentence.

Answer 8:

- **C - The U.S. Constitution prohibits ex post facto law**
- **U.S. Const. Art. I, § 9, cl. 3 and**

Question 9:

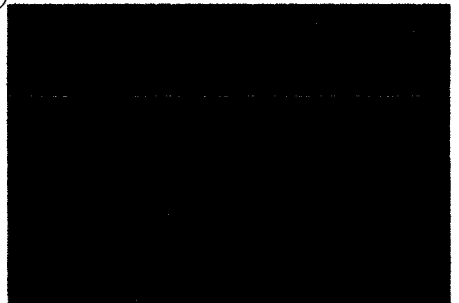
- **“SIS BOOM BAH”**
- A. Unique cheer first heard at a Texas high school football game in 1933.
- B. What Joe Boom Bah calls his sister.
- C. Music you hear from a defective Boom Box.
- D. None -- Trust CARNAC.

Answer 9:

- D - What is the sound when a sheep explodes?

Salem Witch Trials: What do the people on the street have to say?

Jaywalking with Jay Leno!!!!



Question 1:

- Why is a confession obtained through physical violence considered inadmissible?



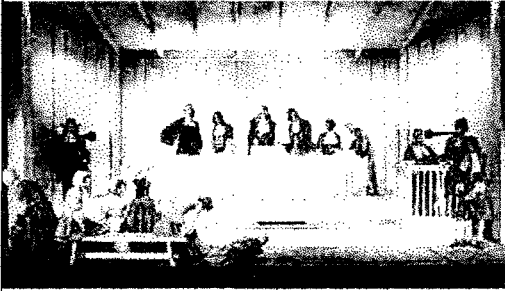
Answer 1:

- Because it is involuntary or coerced. Sliney v. State, 699 So. 2d 662, 667 (Fla. 1997).

Question 2:

- The frenzy of hysteria and terror brought about by the witch hunts might have supported the admittance of testimony based on what hearsay exception?

Salem Trials



Answer 2:

- Excited Utterances, Fl. Stat. 90.803 (2)

Question 3:

- While examining a suspected witch, the judge remarked that the suspect was lying when she denied that she was a witch. Why were the judge's remarks improper?

Cotton Mather

Answer 3:

It's a violation of Canon 3.B.(5) of the Florida Rules of Judicial Conduct, which requires judges to "perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice." It is also a violation of Canon 2.A., which requires a judge to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

Question 4:

Why would an attorney violate the ethical rules regulating the Florida bar if they charged suspects with witchcraft due to pressure from the general public despite the fact that there was little or no evidence?

Answer 4:

- Rules Regulating the Florida Bar, Rule 4-3.1 – Meritorious Claims and Contentions. A lawyer cannot bring or defend a proceeding unless there is a basis in law and fact for doing so that is not frivolous. A lawyer must have a good faith argument for an extension, modification, or reversal of existing law.

Question 5:

- Where a witness testifies that a friend of a suspected witch saw the suspect torturing a young child, why is the testimony inadmissible?



Answer 5:

- Because the testimony is inadmissible hearsay pursuant to Florida Statute Section 90.802 and Crawford v. Washington, 541 U.S. 36 (2004). Out of Court statements like this deny an individual the constitutional right to confront witnesses against them.

The End!

~~Special Thanks to Everyone~~
Who Participated and the members of

Gray's Inn:
Candace Moss
JoAnn Brandenburg
Christopher Bruce
Jessica Callow
Catherine Cano
Jennifer Chamagua
Ellen L. Cohen
Manuel J. Dominguez
Marius J. Ged

TIE BREAKER QUESTIONS

Question 1:

What actor played attorney Jake Brigance in the movie version of A Time to Kill?

Answer 1:

Matthew McConaughey.

Question 2:

What actress played Abigail Williams in the movie version of The Crucible?

Answer 2:

Winona Ryder.

Question 3:

What actor played the Defendant Carl Lee Hailey in the movie version of A Time to Kill?

Answer 3:

Samuel L. Jackson.

GRAY'S INN – “THE TONIGHT SHOW”

RULES AND SCORING

Please sit with your pupillage group.

Rules: There are three segments during this presentation and each segment is worth a total of 25 points for a maximum of 75 points that can be awarded per pupillage group.

Scoring: For the first two segments, Joan Rivers and Carnac the Magnificent, pupillage groups can consult among their group members. Each group will then hold up their answer card and every correct answer to the legal questions earns that group five points. There are five legal questions for each segment. The non-legal questions for the Carnac segment are not scored.

For the third segment, Jaywalking, pupillage groups cannot consult among their group members. Each group will be asked one easy question and one legal question. Group members get one chance to answer the easy question and, if right, the group will get five points. For the legal question, group members get four chances to answer their question correctly. The group gets 20 points for a correct answer on the first try, 15 points for the second try, 10 points for the third try and 5 points if the group gets the correct answer on the fourth try.

First, second and third place will be determined based on the three highest scores. In the event of a tie, a tiebreaker question will be asked and the first group to get it right wins. Enjoy the show!