

Test Bank for Criminal Evidence 8th Edition by Hails

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CHAPTER 2: The Role of the Courts

TRUE/FALSE

1. A federal judge can be impeached if convicted of a felony.
ANS: T
2. State court systems have a hierarchical organization.
ANS: T
3. Geographical jurisdiction of a court in a criminal case is based on the location where the crime was committed.
ANS: T
4. Newly discovered evidence is not admissible on a direct appeal.
ANS: T
5. An appellate court only considers issues raised by the parties in their briefs.
ANS: T
6. The U. S. District Court is the trial court in the federal system.
ANS: T
7. The U.S. Constitution explicitly gives the U.S. Supreme Court the authority to declare that laws are unconstitutional.
ANS: F
8. The sole authority of the U.S. Supreme Court is to rule on constitutional issues.
ANS: F
9. State court judges must follow all rulings of the U.S. Supreme Court.
ANS: F

10. In a non-jury trial, the prosecutor must establish a prima facie case in order to obtain a conviction.

ANS: F

11. The plaintiff in a civil case establishes the case by a preponderance of the evidence he/she will win the case.

ANS: T

12. In a criminal case, the jurors are instructed that they must acquit if they have any doubt about the defendant's guilt.

ANS: F

13. In a criminal case, the judge can set aside the verdict if the jury voted to convict but not if they voted to acquit.

ANS: T

14. The judge is allowed to consider newly discovered evidence when ruling on a motion to set aside a verdict.

ANS: T

15. If a defendant waits for 1 year after being convicted to file a direct appeal the appeal will be dismissed.

ANS: T

16. A direct appeal of a conviction in a criminal case is restricted to issues that were raised at trial.

ANS: T

17. The reporter's transcript is a verbatim record of what was said at the trial court.

ANS: T

18. The U.S. Supreme Court will not consider a habeas corpus case filed by a state inmate on a Fourth Amendment issue if a state court has provided a full and fair hearing on the claim.

ANS: T

19. Section 1985 (Civil Rights Act) applies to anyone who deprives a person of his/her constitutional rights.

ANS: T

20. Prosecutors do not have absolute immunity in Civil Rights Act cases if they maliciously file criminal charges against a person they know is innocent.

ANS: F

MULTIPLE CHOICE

1. An independent judiciary means:
 - a. judges are free to decide cases based on their own interpretation of the law.
 - b. judges cannot be removed by the president that appointed them.
 - c. judges cannot be impeached.
 - d. all of these

ANS: B

2. The geographical jurisdiction of an intermediate level state appellate court is:
 - a. the geographical area assigned by the legislature.
 - b. the entire state.
 - c. the geographical area assigned by Congress.
 - d. determined by the state governor.

ANS: A

3. The statute of limitations applies to the time elapsed between:
 - a. commission of crime and filing criminal charges.
 - b. commission of crime and beginning of trial.
 - c. filing charges and beginning of trial.
 - d. conviction and final decision by appellate courts.

ANS: A

4. The largest portion of the workload of the trial courts is related to:
 - a. processing warrants.
 - b. pre-trial events.
 - c. trials.
 - d. sentencing.

ANS: B

5. Appellate courts decide which issues to address based on:
 - a. brief filed by the defendant.
 - b. brief filed by the prosecution.
 - c. brief filed by trial court judge.
 - d. summary of facts prepared by staff attorneys.

ANS: A

6. ***Marbury v. Madison*** is important historically because:
 - a. it was the first case decided by the U.S. Supreme Court.
 - b. it is the first case where the U.S. Supreme Court ruled that it has the authority to declare legislation enacted by Congress unconstitutional.
 - c. it was the first case to hold that the Executive Branch must obey laws enacted by Congress.
 - d. none of these

ANS: B

7. A decision of the U.S. Court of Appeals for the Second Circuit about a constitutional issue is binding on:
- only U.S. District Courts in the Second Circuit.
 - state and federal trial courts in the Second Circuit.
 - U. S. District Courts in all circuits.
 - state and federal trial courts in the entire United States.

ANS: B

8. Proof beyond a reasonable doubt is required by Due Process in:
- criminal trials.
 - civil trials.
 - both criminal and civil trials.
 - neither criminal nor civil trials.

ANS: A

9. Which of the following is a valid reason for a judge to set aside a verdict?
- judge made erroneous rulings on admission of prosecution evidence at trial
 - material evidence introduced by prosecution at trial was false
 - newly discovered evidence casts serious doubt on defendant's guilt
 - all of these

ANS: D

10. The prosecution rarely files direct appeals because:
- they are prohibited by law from doing so except in extraordinary circumstances.
 - double jeopardy prevents an appellate court from reversing an acquittal.
 - prosecuting agencies do not hire appellate attorneys.
 - criminal cases rarely go to trial.

ANS: B

11. If an appellate court reverses a case based on insufficient evidence, the prosecutor:
- can re-file the case based on his/her own discretion.
 - can re-file the case if it has evidence that was not admitted at the first trial.
 - can re-file the case as long as the new filing is based on lesser charges than the original case.
 - cannot re-file the case or file lesser included offenses.

ANS: D

12. An indigent defendant who has been convicted of a felony has the right to appointed counsel for:
- all appeals of the conviction.
 - all appeals of conviction in state court but not federal court.
 - only for first post-conviction appeal.
 - only for appeals filed by the prosecution.

ANS: C

13. The Harmless Error Rule used by appellate courts results in the reversal of a conviction:
- if there were any errors at trial.

- b. only if the errors at trial were procedural.
- c. only if there were constitutional errors.
- d. only if the errors at trial affected the outcome of the case.

ANS: D

14. In the United States, Double Jeopardy applies to cases that are reversed on appeal:
- a. case can never be filed again
 - b. case can be re-filed except when the conviction was reversed due to insufficient evidence
 - c. case can be filed again only if prosecutor has new evidence of defendant's guilt
 - d. refiling the criminal charges is solely within the discretion of the prosecutor

ANS: B

15. Discretionary appeals in criminal cases:
- a. must allege that the initial appellate court abused its discretion in deciding the case.
 - b. can only be used to seek the reversal of a conviction.
 - c. are heard only if the justices of the higher court agree to consider the case.
 - d. are automatically filed after the direct appeal.

ANS: C

16. The document used to ask the U.S. Supreme Court to hear a case is called:
- a. Petition for Writ of Certiorari.
 - b. Petition to Proceed *in Forma Pauperis*.
 - c. Petition for Writ of Habeas Corpus.
 - d. Petition for Hearing.

ANS: A

17. A Petition for Writ of *Habeas Corpus* should be filed:
- a. with the court in jurisdiction where conviction was entered.
 - b. with the court in jurisdiction where person is currently confined.
 - c. with the appellate court in state where conviction was entered.
 - d. with the U. S. Supreme Court.

ANS: B

18. The Antiterrorism and Effective Death Penalty Act of 1996:
- a. abolished the right of inmates convicted in state court to file *habeas corpus* in federal courts.
 - b. abolished the right to file federal *habeas corpus* in death penalty cases.
 - c. requires that individuals convicted in state court file federal *habeas corpus* petitions within one year of the exhaustion of their state court remedies.
 - d. has no bearing on *habeas corpus* proceedings.

ANS: C

19. Section 1983 allows a person to sue a local government employee in federal court for a violation of:
- a. Fourth Amendment.
 - b. Due Process.
 - c. Equal Protection.
 - d. All of these

ANS: D

20. Police officers have qualified immunity from suit under the Civil Rights Act of 1871:
- for all actions done in the line of duty.
 - only for actions mandated by state law.
 - for all actions done in good faith.
 - they do not have qualified immunity.

ANS: C

CRITICAL THINKING

Earle is a state court judge in a small town in Kansas. The mayor is outraged by some of Earle's rulings. Earle does not like local politics so he has decided he would rather be a judge in a federal court. He thinks this may be difficult because Kansas only has one U. S. District Court.

1. Which of the following would violate the principle of independent judiciary?
- Earle was voted out of office by the local population after the mayor ran a publicity campaign about Earle's most unpopular rulings.
 - Earle was impeached because he accepted a bribe.
 - Earle was removed from office by the governor at the request of the mayor.
 - Earle lost his judgeship because the court boundaries were changed to favor larger cities.

ANS: C

2. Earle wants to pursue his dream of being a U. S. District Court judge. Which of the following is most likely to help?
- Ask the Kansas State Judicial Council to nominate him
 - Ask one of the U. S. Senators from Kansas to submit his name to the president
 - Run ads on TV in Washington, D.C.
 - File appropriate papers to run for a judgeship in the U. S. District Court in Kansas at the next election

ANS: B

3. Assuming Earle becomes a judge for the U. S. District Court for the District of Kansas, what will be the geographical jurisdiction for his court?
- Any cases arising in the state of Kansas
 - Only cases in which the U. S. government or any of its agencies are parties
 - Only federal case based on event occurring within 150 miles of the U. S. District Courthouse in Topeka, Kansas
 - All federal crimes committed in the state of Kansas

ANS: D

4. Will Frank be hearing appeals from criminal cases?
- No, all appeals from trials in the state's trial courts go directly to the state's highest appellate court.
 - No, only the federal courts can reverse convictions from state trial courts.
 - Yes, if a defendant in a state criminal case who was not sentenced to death appeals, the state court of appeals reviews the record of what transpired at the trial court level.

- d. Yes, but only for defendant convicted in state trial court who assert that there is newly discovered evidence.

ANS: C

- 5. How will Frank decide if a case is on direct appeal or discretionary appeal?
 - a. If the presiding justice assigns him to a case, the case should be treated as a direct appeal.
 - b. If he is allowed to vote on whether the Court of Appeals for the Second District should hear the case, it is a direct appeal.
 - c. Direct appeals must be filed before trial, all other cases are discretionary appeals.
 - d. If a statute mandates that the Court of Appeals for the Second District hear the case, it is a direct appeal.

ANS: D

- 6. Is Frank required to vote to reverse a criminal case if constitutional errors occurred at trial?
 - a. Yes, the defendant's constitutional rights must be protected.
 - b. He should vote to reverse only if he is convinced that error affected the outcome of the case.
 - c. He should not vote to reverse due to constitutional errors because only the federal appellate courts are allowed to consider constitutional issues.
 - d. He should not vote to reverse if the error occurred in a jury trial because appellate judges must respect the jury's determination of guilt.

ANS: B

- 7. Can the United States Supreme Court reverse his rulings?
 - a. Yes. The United States Supreme Court automatically grants a Petition for Certiorari for cases tried in state courts that raise constitutional issues.
 - b. Maybe. The United States Supreme Court can grant a Petition for Certiorari for any case tried in state courts if 4 justices vote to hear the case.
 - c. Maybe. The United States Supreme Court can grant a Petition for Certiorari for criminal cases raising constitutional issues if 4 justices vote to hear the case.
 - d. No. The United States Supreme Court never grants a Petition for Certiorari if the case received a complete review by the state appellate courts.

ANS: C

Gwen was convicted on embezzlement charges in state court and is serving a sentence in a state prison. She is trying to decide how to get out of prison.

- 8. What would be the advantage of a direct appeal?
 - a. Gwen will have a constitutional right to have an attorney represent her on appeal because she has no money.
 - b. If the Court of Appeals rules in Gwen's favor she will have Double Jeopardy protections from being tried again.
 - c. Gwen will be able to present evidence that the judge ruled was inadmissible at her trial.
 - d. All of these are possible outcomes of filing a direct appeal.

ANS: A

- 9. Should Gwen file a Petition for Habeas Corpus?
 - a. Yes, if the Petition for Habeas Corpus is granted the court will hold hearing and Gwen will be able to present all her evidence to a new jury.

- b. Yes, if she wins the Petition for Habeas Corpus her conviction will be reversed.
- c. No, she does not qualify for habeas corpus because she is in prison.
- d. No, habeas corpus is used to challenge illegal confinement, not to reverse a conviction.

ANS: D

10. Should she file a Civil Rights Act case?
- a. No, a judge in a Civil Rights Act case cannot order anyone released from prison.
 - b. No, Civil Rights Acts cases can only be filed after a conviction has been reversed by an appellate court.
 - c. Yes, if she establish that her constitutional right were violated the federal judge in the Civil Rights Act cases will mandate that her conviction be reversed.
 - d. Yes, if she files a Civil Rights Act case in federal court she will be released on bail pending the outcome of the Civil Rights Act case.

ANS: A