



TO: Judicial Section Leaders

DATE: November 11, 2021

FROM: Texas YG State Office

RE: JUDICIAL CASE QUESTIONS

Additional Trial Questions/Comments

Hello Judicial Participants,

These questions came in under the Appellate section however, they are actually in reference to Trial Court. Per our Judicial Expert, Judge Tyler Atkinson, none of the answers change anything with the case. Some were repetitive, most were teaching points.

1. How does the PL close, with a request for triple damages, or prison, or both??

Answer: This is a Civil Charge requesting damages, not a criminal charge asking for jail time. The Plaintiff may ask for the defendant to be found liable and be required to pay an amount of money.

2. Was the effective date of Chapter 18 before 1994 (purchase of first painting)? Just checking because 18 U.S. Code Section 1961 (5) refers to effective date.

Answer: Ignore all effective dates of statues. Assume they were in effect during all activities taking place for our trial.

3. Just checking, no changes to Rules of Evidence or Rules of Procedure from last year?

Answer: Correct, no changes.

4. Can evidence be three-hole punched, stapled, or laminated?

Answer: Yes.

5. If Exhibit 2 is the "painting" do we need to create a front and back (with signature) that is 4'2" tall and 3'4" wide? Do we refer to this as the actual painting or is it a picture of the painting?

Answer: No, no need to recreate the painting. Yes, the reproduction will be considered the actual painting no matter the size – just like in years past a picture of a weapon was considered the actual weapon.



6. Do we need to put affidavits into evidence this year? What is the script for that?

Answer: Yes. See Rules of Procedure Page 16.

7. It is my understanding, from previous years, that an expert witness only has to qualify under three of the five categories under Rule 702 (knowledge, skill, experience, training, and education) but I could not find in the rules where it says there only needs to be three. Can you direct me to where this is located?

Answer: There is no "three out of five" rule. This was something a student attorney made up out of thin air a few years ago. There is no legal grounds for this made up rule. However, the Judge will likely not require proof under all five categories for a witness to qualify. Excellent credentials for one category might be sufficient.