

CLARIFICATION FROM THE PROBLEM DRAFTERS:

Due to a scrivener's error by the Court Reporting Service of Stetson, the following question and answer were not included in the transcript of Charlie Wyatt's Deposition. The question and answer should be treated as if they were included in the deposition, and Charlie Wyatt's answer was given under oath. Parties may refer to it as "Errata Sheet, Wyatt Depo."

Q: Did you ever have Sebastian Swanson procure drugs for you?

A: Absolutely not. I am not on drugs. Us Representatives aren't as crazy as some of those streaming television shows make us out to be. I was drug tested this March for my annual physical, and the results can show that I was clean as a whistle.

TEAM CLARIFICATIONS:

1. What order will the motion arguments be in? I know the rule says Prosecution first, but one motion is by the defense. Will the prosecution go first and rebut on that one as well?

Answer: For the oral argument portion of the hearing, the Government will argue first and have a rebuttal. For the evidentiary portion of the hearing, the Defense will present evidence first, close first, and have an opportunity for a closing rebuttal.

2. Will there be a ruling on the suppression motion? Given that the evidentiary hearing is on different issues, it seems like the process might be different this year. And the ruling on the suppression motion could conceivably affect the evidentiary hearing.

Answer: Judges will be instructed that they will take the Motion to Suppress under advisement. Therefore, parties may offer, subject to the Federal Rules of Evidence, evidence currently subject to the resolution of the motion to suppress during the evidentiary hearing.

3. Can we use facts from the original motion record in the evidentiary hearing? E.g., there are facts about Wyatt in the original motions that are not in the supplemental materials.

Answer: The only item from the initial Competition Problem record that can be referenced during the evidentiary hearing is the Indictment. The testimony of the witnesses at the evidentiary hearing is limited to what they asserted in their depositions or that which can be reasonably inferred from those assertions, subject to the Rules of the competition regarding inferences. Closing arguments in the evidentiary hearing should be limited to the testimony or exhibits admitted at trial, the applicable law (see below), and any relevant information in the Indictment.

4. The rules say no case law in the evidentiary hearing, but in the past the issues were the same, so the legal arguments were already out there. What law should we rely on for the evidentiary hearing? Obviously there are applicable rules, but are we relying on them without interpretation?

Answer: During the evidentiary hearing, teams will be permitted to refer to how courts have interpreted the applicable Federal Rules of Criminal Procedure, particularly the appropriate definitions or tests for any of the relevant terms in the applicable rules, i.e. how courts define "prejudice" under Rule 14. However, teams may not submit copies of case law to the Court or reference case law during closing argument for the purpose of comparing the facts of this case to the facts of any similar case.

5. What is the proposed location to move the trial to under the change of venue motion?

Answer: This is addressed in the request for relief in the Motion to Change Venue.

6. What is the size of the jury pool?

Answer: The parties do not have this information. The parties were given the total population of Rep. Wyatt's district, which makes up the Southern District of Stetson.

7. Are students allowed to reference the depositions of the witnesses during the Motion to Suppress/ Motion to Exclude Expert Witness?

Answer: Students may not reference facts from the Supplemental Evidence during the oral argument portion of the rounds.

8. Can you voir dire witnesses upon introduction of an exhibit to evidence?

Answer: Voir dire will be at the discretion of the presiding judge

9. Are signatures and names on exhibits inferred to be those that they are purported to be?

Answer: All exhibits are authentic.

10. Can stipulated facts from the competition problem be used in the evidentiary hearing?

Answer: Facts from the Stipulations in the Competition Problem may not be used during the evidentiary hearing. All necessary and relevant facts can be obtained through the witnesses.

11. Can you create exhibits to be introduced based on the depositions?

Answer: No additional exhibits may be created by the teams. The admission of demonstrative evidence is at the discretion of the presiding judge

12. Will the "defendant" be present during the evidentiary hearing?

Answer: Defendant Charlie Wyatt must be called as a witness during the evidentiary hearing.

13. Will we be asked questions during the first 30 minute portion of the competition?

Answer: Judges will be permitted to ask questions to the participants during the oral argument portion of the round

14. Is case law allowed during the first 30 minute portion of the competition?

Answer: Case law is allowed and encouraged during the oral argument portion of the round.

15. Since this is a no inference competition, should we approach examinations as if witnesses only know the information contained in their depositions, or can we assume that witnesses know information contained in the motions and factual stipulations?

Answer: Witnesses are bound only to their depositions. However, Charlie Wyatt and Jess Barlee have read all of the depositions.

16. Can we treat exhibits as the real, authentic piece of evidence or should they be treated as copies of the original?

Answer: All exhibits are authentic.

17. Is the check (Ex. E) endorsed?

Answer: The parties do not have this information.

18. Is the population of Rep. Wyatt's district 700,000 and the population of the judicial district is 500,000? (It says 700,000 in ¶ 2 of the Stipulations from the problem, but then Jess Barlee says there are 500,000 in this district in her deposition at page 4, line 5).

Answer: Rep. Wyatt's district and the Southern District of Stetson are the same area with the same population

19. Will there be rebuttal for closing arguments on the supplemental evidence, and does it need to be requested?

Answer: The Defendant will have an opportunity for rebuttal in the evidentiary hearing. A team that reserves time for a rebuttal will be given that opportunity so long as the team then does not use the time it reserved. Whether a team loses a rebuttal because it did not make the proper reservation will be left to the presiding judge.

20. Referencing the Amended Notice of Hearing, Paragraph H, does “probable cause” refer to Counts 1 and 9-18 of the indictment or probable cause for the government to obtain Wyatt's information from SkyHigh Computing?

Answer: Probable cause refers to the counts against Charlie Wyatt.

21. The Amended Notice of Hearing ¶ H(i) states that “[I]n deciding Defendant’s motion filed on September 15, the Court will consider the following matters to be relevant during the evidentiary hearing: the probable cause against Rep. Wyatt.” We request clarification on this issue. Are we to argue whether probable cause existed for the search, which was the basis of the Motion argument? Or are we to argue whether probable cause existed for the indictment of Rep. Charlie Wyatt?

Answer: This provision of the Amended Notice of Hearing was included because parties may find the sufficiency of the evidence against Charlie Wyatt relevant to their arguments during or the presentation of evidence at the evidentiary hearing.

22. Rule (D)(3) prohibits inferences during Direct Examination, stating that “[A] witness must confine his or her answers to facts and opinions stated in the problem.” May witnesses be asked about matters that appear in the problem but not within that witness’ specific deposition testimony?

Answer: A witness may be asked any question that counsel has a good-faith basis for asking. However, witnesses are bound by their deposition testimony.

23. We are wondering if we will be allowed to give a brief unscored opening before putting on witnesses, since it will be really odd to just start into witnesses?

Answer: No, opening statements are not permitted during the evidentiary hearing.