1)

1.did the court properly deny D's motion to suppress the photograph?

6TH AMM

6th Amm of U.S. Constitution assures that any defendant has access to a legal counsel at all critical stages of a legal process after indictment.

Here, D must be allowed to have access to e legal counsel during all critical stages of legal process after the indictment.

CRITICAL STAGE

here, the police showed the teller (T) photographs of six men each whom were the same race approximate age and had blond hair and mustache like Dan (D). D was charged prior to the showing of the photographs to T because on January 15 2023, he was charged and indicted. However, showing photographs or standing in ID lines are not considered as critical stages of the legal process.

thus, showing of the photo was not violation of 6th amm.

UNREASONABLY SUGGESTIVE

During the showing of photograph or any ID lines the materials must not be reasonably suggestive. If there are unreasonably suggestive material, the testimony must be excluded and suppress.

Here, it is indicated in the fact that all the six men that was shown to T were all looking the same from race, age, and facial features. there is no indication that any of the photos made D's face stand out in any way.

Thus, the photos were not suggestive.

In conclusion, the court properly deny D's motion to suppress the photograph.

2. assuming all reasonable objections were timely made, did the court properly admit under the California Evidence Code:

RELEVANCE

An evidence would be admitted that is logically or legally relevant.

LEGAL RELEVANCE

an evidence would be admitted if it is not prejudicial, confuses the jury, waste time, or complicates the issues.

LOGICAL RELEVANCE

an evidence would be admitted if it is logically make a fact more or less probable.

a. T's testimony about her statement to the defense investigator?

RELEVENCE

T's testimony regarding the color of D's mustache and hair is logically and legally relevant because it will make a fact of D being the robber more probable as T is identifying the robber who robbed the bank. Also T's testimony is not prejudicial because it does not outweighs it's value.

Thus, T's testimony is relevant.

COMPETENT AND PERSONAL KNOWLEDGE

A witness must be competent, that is he/she will understand the fact that they must say the truth and they can tell the difference between the true statement and a false one. Additionally, the witness must have personal first hand knowledge of the fact.

here, there is no indication that T does not understand the difference between a truth and false statement, and she because she was at at the bank when the robbery occurred she had personal knowledge of the robbery and can testify to that matter.

thus, T is competent and has personal knowledge.

HEARSAY

hearsay is an out of the court statement given for the fact asserted. A hearsay is not admissible.

here, T admitting that she made an out of the court statement to an investigator and the investigator is using that for its meaning asserted.

thus, T's statement to the investigator was a hearsay

NON HEARSAY

PREVIOUS INCONSISTENT STATEMENT

A non hearsay statement is admissible if contains a statement that was given outside of the court which is inconsistent to her statement while she is testifying on the stand, only as to impeach her character in order to show that the witness testimony is unreliable and there is a chance that it will be wrong.

The defendant attorney can use T's testimony to impeach her character because T has mentioned previously that the robber has a black hair and no mustache. She admits that she made the statement but it was not correct. And she is testifying now that the robber had a blond hair with a mustache. The difference between what she has admitted to the investigator and what she was testifying to currently shows an inconsistency. And it could only be admissible to impeach the witness.

Thus, the statement is a previous inconsistent statement.

b. the photograph with T's signature?

RELEVENCE

BEST EVIDENCE RULE

AUTHENTICATION

c. the ATM record?

BEST EVIDENCE RULE

AUTHENTICATION

Question #1 Final Word Count = 697

END OF EXAM