HEARSAY EXCEPTIONS—CASE PROBLEMS

QUESTION NO. 1. The defendant was charged with first degree murder. The State called Faye Puryear, the mother of the victim, to testify, regarding a conversation she shared with her daughter. Her daughter came over to her house crying and said to Ms. Puryear that the defendant had kicked her out of his house. Prior to making the statement, the witness' daughter drove from the defendant's house in Willow Springs, North Carolina (it's in Johnston County in case you don't know) to her mother's house in Raleigh. The defendant objected to this hearsay testimony. Despite the objection, the trial court admitted the statement. Did the trial court err in admitting this statement?

ANSWER: _____

QUESTION NO. 2. The defendant was on trial for murder. The State offered as evidence a tape recording of a 911 call made by the defendant's son immediately after hearing the gunshot and from the room in which the male victim lay dying. The contents of the tape reflected the following conversation:

911 Operator: Okay. Is he conscious?

Wright: I don't know. I don't know. He just fell over. He just fell over. I think he fell over. Mom shot.

911 Operator: So your mother did it?

Wright: Yeah.

911 Operator: When did this happen? How long ago?

Wright: A minute ago. I don't know. I heard it and I got up and I don't know. I don't know to touch him -- if I should touch him. I don't know.

911 Operator: Yeah. You were in the bed when it happened?

Wright: I was in the bedroom. Yeah. I wasn't -- I was in the room right next to 'em. Is there somebody on the way?

911 Operator: Yeah, they're all on the way and you say it's not bleeding right now?

Wright: I can't -- it looks -- it's not like its spurting.

911 Operator: Uh huh. And you don't know where she went for sure? You know she's not in the house.

Wright: No. I don't know. I don't know. I don't know. Oh God, Almighty. And my mom.

The trial court admitted this evidence over the defendant's objection that the statements were inadmissible hearsay. Did the trial court correctly overrule the objection and admit the evidence?

ANSWER: _____

QUESTION NO. 3. The defendant was on trial for the murder of his wife. The State called a day care worker to testify about statements that the defendant's two and a half year old daughter made at day care. The child made the statements in question while playing and without prompting or questioning. The defendant's daughter hit two female dolls together and told the worker that "Mommy's getting a spanking for biting, Mommy has boo-boos all over." The worker also indicated that the defendant's daughter said, "Mommy has boo-boos all over, mommy has red stuff all over." These statements were made six days after the child's mother was killed. Did the trial court properly admit these statements from the defendant's daughter?

ANSWER: _____

QUESTION NO. 4. The defendant was on trial for murder. During the trial, the prosecutor called the victim's mother and asked her to read the February 27, 1992 entry in the victim's diary to the jury. The diary entry for February 27, 1992 was read to the jury. It said:

Charlie (the defendant) went off this morning. He wanted to take his break and I said, 'Please, let's catch up the dishes first,' and he got mad. When we finished the dishes, he wouldn't leave. I said, 'Act immature, why don't you? Why don't you try acting like an adult male?' He hit me in the side of the head and slapped me across the face, then took off. He came back a little later, didn't apologize, and wanted to use the vacuum. David changed the lock on my break. Late that night, he went off berserk, threw water, dishes, ashtrays, paper at me. Screamed he was going to kill me. Alan came to help mop and tried to hold him back. He jumped up in the car and broke the steering wheel adjuster. We filed a harassment charge. Waiting twenty-four hours.

Defendant objected on the grounds the diary entry was hearsay. The trial court overruled the objection and ruled that the diary entry was admissible under Rule 803 to show "the relationship of the parties." Did the trial court err by admitting the diary excerpt?

ANSWER: _____

QUESTION NO. 5. The defendant was on trial and charged with first degree murder. The victim's mother, Faye Puryear, testified about a conversation she had with her daughter, the alleged victim. In that conversation, the victim told her mother that she had taken out a child support warrant against the defendant and had sought advice from an attorney regarding obtaining custody of the children. The defendant objected to this evidence on the ground that it was hearsay. The Court overruled the objection and admitted this evidence. Did the trial court rule correctly?

ANSWER: _____

QUESTION NO. 6. The defendant was on trial for rape. The State called as a witness the assistant director of nursing at the hospital where the victim was taken after the alleged assault. Frances Prevatte, assistant director of nursing, testified that on the morning of August 13, 1986 the victim told her that she was afraid of the defendant and requested that the defendant not be allowed near her. The defendant objected to this testimony on the ground that it was hearsay. The trial court overruled the objection and admitted the evidence. Was the trial judge correct?

ANSWER: _____

QUESTION NO. 7 The defendant was on trial for first degree murder. During the trial, the State offered as evidence a telephone message written by the victim's next-door neighbor, Sherri Elliott, to the victim's roommate. The victim, when he was unable to reach his roommate by telephone, called Elliott and left a message. Elliott reduced the following message to writing for the defendant's roommate:

Steve called and said that he was riding to Waynesville[,] North Carolina with his father-in-law. If he is not back by 5:00 call the Smyrna Police because something may have happened to him.

Sherri

The trial court admitted only the first sentence of this message into evidence over the defendant's objection. Did the trial court err by admitting that message?

ANSWER: _____

QUESTION NO. 8. The defendant was charged with involuntary manslaughter arising from a motor vehicle accident that occurred at approximately 10:00 p.m. Defendant's blood was tested one or two minutes after 11:00 p. m. at the major trauma area of the hospital emergency room. The defendant's blood was drawn pursuant to an emergency room doctor's orders as a part of routine emergency room treatment. A nurse, who testified, saw the defendant's blood being drawn and later the nurse retrieved a copy of the lab report and took it to the defendant's bedside. The surgeon on call testified that he received the lab reports and it indicated that the defendant's blood alcohol level was .254. The doctor recorded the result in his admission notes that were part of the defendant's records at the hospital. The actual lab report could not be located for use at trial. Is the doctor's own notation admissible?

ANSWER: _____

QUESTION NO. 9. The defendant was charged with first degree murder and robbery in connection with an incident at the Bishop Motel. The victim was the operator of the motel. Bhartsang Jadeja, the victim's brother, testified that the day after the stabbing he went to the Bishop Motel and checked the motel records to ascertain what, if anything, was missing.

According to the motel's daily records, $ 219.40 in receipts had been received since the last deposit of money received for the rental of rooms. Bhartsang Jadeja did not find any money in the motel office and no money was found on the body of the victim. Jadeja identified certain documents as the motel's daily records which indicated the number of rooms which had been rented and the amount of money received for each room. He further testified that these records were in the deceased's handwriting. Bhartsang Jadeja did not operate or work at the Bishop Motel. The defendant objected to the admission of the records from the Bishop Motel and the Court overruled the objection. Did the trial court err in admitting these records?

ANSWER: _____

QUESTION NO. 10. The defendant was on trial for rape and the victim's testimony was complicated by her difficulty identifying the location in the house where she was attacked and the car in which she was abducted. The victim testified that she suffered from "night blindness." The State offered the testimony of a medical assistant technician from the victim's ophthalmologist's office. The technician testified that she was the keeper and had the custody and control of the doctor's medical records, that they were made in the regular course of business and that they were made close to the time of the transaction indicated. The technician testified that the medical records disclosed that the victim had retinis pigmentosa or "night blindness." The defendant objected to the introduction of this medical opinion or diagnosis on the ground that it was hearsay. Did the trial court properly admit these records containing an opinion or diagnosis?

ANSWER: _____

QUESTION NO. 11. The defendant, who was on trial for rape and attempted murder, sought to offer into evidence medical records detailing the victim's medical history. In preparing the discharge summary, Dr. Clancy, who examined the victim the morning after the alleged attack, noted that the victim had a "psychiatric history including anti-social behavior, substance abuse, substance addiction, [and] uncooperativeness" and was "well-known to The Oaks [a psychiatric facility] for previous psychiatric history." When questioned, the doctor did not recall the source of this information. The doctor indicated that the victim's mother provided some information and that he had access to a medical record from previous treatment. Did the trial court err by sustaining the State's objection to the defendant's offer of these medical records?

ANSWER: _____

QUESTION NO. 12. The defendant was on trial for first-degree rape and first-degree kidnapping. During the trial, SBI agent Troy Hamlin, a specialist in fiber and hair analysis, testified that he conducted a hair comparison on hairs taken from the victim's head and pubic area and hairs taken from defendant's pubic area. The examination revealed that a negroid pubic hair found in the pubic hair combings received from the victim after the rape was microscopically different from defendant's pubic hairs, and therefore the pubic hair in question "did not originate from defendant." The State objected to the defendant's request to have the report introduced into evidence and this objection was sustained. SBI agent Jeb Taub, a specialist

in the analysis of bodily fluids, testified that he performed tests on a rape kit taken from the victim and on a blood sample taken from defendant. The tests disclosed that the semen found in the victim's panties was not attributable to defendant. The State also objected to the defendant's request to have Taub's report introduced into evidence and that objection was also sustained. Did the trial court err by sustaining these objections to exclude the reports as hearsay?

ANSWER: _____

QUESTION NO. 13. The defendant was on trial for first degree murder in a case that was the subject of considerable local controversy. Al Beaty, the assistant city manager for Winston-Salem, testified that after the first trial in this matter, he was asked by the city manager to do a review of the Winston-Salem Police Department's investigation of the Deborah Sykes murder. Beaty testified that he conducted this review by interviewing individuals who had information about the case, including persons employed by the Police Department, the District Attorney's office and the defendant's attorneys, and reading the transcript of the first trial. After conducting the review, Beaty testified that he prepared a report entitled, *Review of the Winston-Salem Police Department's Investigation of the Deborah B. Sykes Murder.* The report was released by the city manager's office. At the conclusion of Beaty's testimony, defendant's counsel moved to introduce the report and an exhibit from the report as evidence. The State's objection to defendant's request to introduce the report into evidence was sustained. Did the trial court err in sustaining the State's objection?

ANSWER: _____

QUESTION NO. 14. In an assault with a deadly weapon with intent to kill inflicting serious injury case, the defendant attempted to elicit certain testimony from an SBI agent. The SBI agent had arrived at the scene several hours after the shooting occurred and interviewed an eye-witness. The SBI agent interviewed the eyewitness in the agent's state issued vehicle outside the police department. The agent testified on voir dire that the eyewitness stated the victim's car was "flying down the road" followed by an SUV. The driver jumped out of the SUV, ran up to the victim's car, and shot out the rear windshield and one of the rear side windows. Then the victim staggered out of the car. The eyewitness called 911 and tried to plug the victim's wounds. The eyewitness told the SBI agent that he asked the victim who did this and the victim said, "Bruce did it." The defendant was not named Bruce. The eyewitness indicated to the SBI agent that he did not know how many people were in the SUV -- maybe two or three. This eyewitness was not available to testify at the trial. Did the trial court err by sustaining the State's objection to the admission of the statement made by the now unavailable eyewitness to the SBI agent that was contained in the agent's official report of his investigation?

ANSWER: _____

QUESTION NO. 15. The defendant was on trial for failure to register as a sex offender. During the presentation of the State's case, the following testimony was offered:

[PROSECUTOR]: (Hands Witness Exhibit) Now, I am going to show you another document that has previously been marked as State's Exhibit Number 12. Can you identify this document?

[DEPUTY BURGESS]: Yes that's the sex offender registration worksheet.

[PROSECUTOR]: As the custodian, was this a record that was made by the sheriff's department?

[DEPUTY BURGESS]: Yes, it was.

[PROSECUTOR]: Is it kept in the normal course of business by your office?

[DEPUTY BURGESS]: Yes, it is.

[PROSECUTOR]: Is it regular practice of the sheriff's department, in fact, to establish a sex offender worksheet when a person initially comes and registers?

[DEPUTY BURGESS]: Yes, sir. Every time.

The trial court admitted the document as a business record under *Rule 803(6)*. Was the trial court's ruling to admit the records as business records correct?

ANSWER: _____

QUESTION NO. 16. The defendant was on trial for first degree murder. During the cross-examination of the defendant's expert psychologist, the following colloquy occurred:

Q. . . . Have you ever seen an article called, "An Expert Witness in Psychology and Psychiatry" written by David Foust and Jay Siskan?

A. No, I have not, but I've been examined about it before.

Q. Did anyone point out to you that that article contains reference that studies show that professional clinicians do not, in fact, make a more accurate clinical judgment than lay persons?

A. Yes, I think that quote was read to me yesterday.

Q. And, in fact, was the follow up to that quote read to you that professional psychologists perform no better than office secretaries in distinguishing visual motor deductions on normal versus brain damaged individuals on commonly employed screening tests?

A. No, that was not read to me.

The defendant's counsel objected and moved to strike this testimony. The trial court denied the motion. Was the trial court correct?

ANSWER: _____

QUESTION NO. 17. During the trial of a wrongful death case against a pharmacist who prescribed certain medications that allegedly lead to the plaintiff's decedent's death, the plaintiff's attorney questioned one of the plaintiff's own expert witnesses concerning the contraindications of certain medications. The witness testified that the Physician's Desk Reference or "PDR" was an accepted and reliable authority in the field of medicine. Plaintiff's counsel then moved to admit into evidence blow-ups of relevant excerpts from the PDR. The trial court sustained the defense's objection to those exhibits. Did the trial court err?
ANSWER: _____

QUESTION NO. 18. During the trial of a criminal case, the defendant's attorney called a character witness and established that the witness was familiar with the reputation of the defendant in the community in which he lived for truthfulness. Then the defendant's attorney asked "what is the defendant's reputation for truthfulness?" The Assistant District Attorney loudly objected and contended that the witness' knowledge of the defendant's reputation must be based on statements by other people and is consequently hearsay. Should the trial court sustain this objection?

ANSWER: _____

QUESTION NO. 19. The defendant was on trial and charged with selling a counterfeit controlled substance and being a habitual felon. The following testimony was elicited by the Assistant District Attorney from a detective:

Q: For how long have you worked in that area [Martin and Freeman Streets]?

A: I rode a beat in that area for approximately a year and a half back when I was on uniformed division and that's a strong period as far as trying to work for drugs. We have--I have probably been on at least three or four searches in that area alone since I have been in drugs and vice.

MR. MANNING: Objection.

THE COURT: It's not responsive, but I will allow it. Overruled at the same time.

Q: In your experience have you found that in Raleigh, in the area of Martin and Freeman Street, that not only crack cocaine is sold, but also things that are sold as crack cocaine but turn out not to be?

MR. MANNING: Objection.

THE COURT: Overruled.

THE WITNESS: Yes.

Q: And are you aware of why Martin and Freeman Street has been targeted on those occasions by the police department?

A: Because it is an open air market for drugs.

MR. MANNING: Objection.

THE COURT: Overruled.

THE WITNESS: Numerous complaints from citizens, normal patrols. There is a high percentage of drug arrests made in that area.

MR. MANNING: Objection.

THE COURT: Overruled.

Did the trial court err by overruling the defendant's objections to this evidence concerning the Martin Street and Freeman Street neighborhood?

ANSWER: _____

QUESTION NO. 20. The defendant was on trial for first degree rape. When the victim was called to testify, the following exchange occurred:

Q. Will you please tell us your name?

A. (No response)

Q. Are you able to hear my question?

A. (No response)

Q. Can you understand what I'm trying to ask you?

A. (No response)

Q. Are you Virginia Vaughn Finney?

A. (No response)

THE COURT: Sheriff, take the jury to the jury room for just a moment, please.

(JURY OUT)

THE COURT: Ms. Finney. Ms. Finney, are you able to hear me? Answer up, yes or no. The jury is out of the courtroom now, Ms. Finney. I need to know from you, are you going to testify in this case, or not.

A. I do not wish to, to testify.

MR. ELLIS [PROSECUTOR]: May I ask a few questions in an attempt, Your Honor?

THE COURT: You may try.

Q. Ms. Finney, do you not wish to testify because you have problems recalling what happened to you.

A. Yes.

Q. I have a –

A. I've been threatened by the D.A. (Inaudible)

THE COURT: You've been threatened by whom?

A. The D.A., Corey Ellis. (Crying)

THE COURT: You've been threatened by the D.A.

A. Yes.

THE COURT: How has the D.A. threatened you, Ms. Finney?

A. I was doing good.

THE COURT: Do what?

A. I was doing a lot better.

THE COURT: You're going to have to slow down here.

A. (Crying) And I don't want to talk about it no more please. I just don't want to remember anything anymore. I don't want to go through this. I've been informed by the D.A. if I did not then I would be arrested, and I've been arrested at my work; and I lost my job and everything (inaudible). I was trying to go on with my life until Corey Ellis started aggravating me and my family constantly. They put me in a room, closed the door and would not let me out. I don't want to know anymore. I just want to get out of here. I do not wish to testify and I want to leave. And if I try to leave I'm arrested. I am harassed constantly. And I want out. (Crying)

THE COURT: Well, Mr. Ellis, I believe it's time to make a decision about whether or not you're going to have a witness.

A. (Crying) He's the cause of me losing my job, sir.

Q. Ms. Finney, were you served with a subpoena at your work?

A. Yes, sir, by you.

Q. And is it your belief that you lost your job because you got a subpoena at work?

A. Yes, sir, it is.

Q. Is that one of the reasons you're angry with me?

A. Part of it, because you aggravate me all the time. I don't wish to talk to you anymore.

Q. Can I ask you to look at what I've marked as State's Exhibit 10, ma'am. I marked this piece of paper as State's 10. Can you take a look at that and tell me if you've seen that before. I've laid it there on your knee, Ms. Finney, State's Exhibit 10, will you please take a look at it.

A. (No response)

Q. Is State's Exhibit 10 a written summation of what's happened to you?

A. (No response)

Q. Was State's Exhibit 10 written by you?

A. (No response)

MR. ELLIS: Well, Judge, I don't know that there's anything more I can do with this witness.

Later during the presentation of the State's case, the prosecutor apparently realized that Mrs. Finney was present in the courtroom. At the prosecutor's request, the trial court asked Mrs. Finney to come forward. The trial court then told her, "Mrs. Finney, I'm ordering you to come to the witness stand." Mrs. Finney responded, "When my lawyer is present I will come. My lawyer's not here." The trial court asked Mrs. Finney again to take the stand and she again informed the trial court that she would not testify without her lawyer. After the trial court ascertained that Mrs. Finney's lawyer had the flu, the trial court concluded that Mrs. Finney was unavailable to testify and admitted hearsay statements that the victim made to a detective. Did the trial court correctly determine that the victim was unavailable for refusing to testify?

ANSWER: _____

QUESTION NO. 21. The defendant was on trial for first degree murder. A witness made statements to law enforcement officers concerning the crime. The witness later moved to Philadelphia. Prior to the trial, the State filed a petition pursuant to *N. C. Gen. Stat. 15A-813* to summons this witness to testify. An officer from the local police department went to Pennsylvania and went to the address that the officers had for this witness. At that address, the

witness' mother told the officers that the witness had moved and she did not know her daughter's address or phone number. The officers searched the house and did not locate the witness. The defendant objected to the introduction of the witness' statement on the ground that the State had failed to establish that the witness was unavailable. The trial court overruled the defense's objection. Did the trial court err?

ANSWER: _____

QUESTION NO. 22. The defendant was on trial a second time for first degree murder. During the first trial, a witness testified for the defense in support of the defendant's alibi claim. In particular, the defendant contended at his first trial that he was with this witness on the night of the murder. Before the defendant's second trial, this witness was indicted as a co-defendant. The defendant's trial strategy at his second trial was to avoid connecting himself to his co-defendant. At the defendant's second trial, the State called the co-defendant to testify as a witness. Outside the presence of the jury, the witness took the stand, and when asked his name, he responded, "I refuse to answer any questions based on my Fifth Amendment right and the advice of my counsel." Upon being asked several more questions, this witness responded in the same manner. The prosecution then asked that the witness be declared an unavailable witness and asked that the court reporter be allowed to read his testimony from the first trial into the record. The trial judge found the witness to be an unavailable witness and under Rule 804(b)(1) permitted his testimony from the first trial to be read into evidence. Was the trial court's ruling correct?

ANSWER: _____

QUESTION NO. 23. The defendant was on trial for first degree murder. The State offered the testimony of a police officer who spoke with the victim at the emergency room. The victim had just undergone a procedure to drain fluids from his chest cavity and to re-inflate his lung. The victim told the officer several times that, "the defendant shot him, I'm dying" and that the defendant was mad at him because he had been out all day. At the time that this statement was made, the victim had been examined and treated by doctors who believed that the victim would recover and was in no imminent danger of dying. In fact, doctors and nurses had assured the victim that he was going to be alright. It was the doctor's opinion at the time that this statement was made that the victim's wound was not fatal and that he would recover. The defendant later developed a massive, uncontrolled infection and died eight days after the shooting. Did the trial court properly admit the victim's statements to the law enforcement officer?

ANSWER: _____

QUESTION NO. 24. The defendant, who was on trial for murder, offered the statement of his co-defendant, Umar Malik. Malik had married the defendant's sister and absconded to Pakistan prior to the trial. Malik gave a statement to police officers after his arrest that implicated himself in the victim's murder. In particular, Malik told the officers that the deceased was calling his spouse and being vulgar with her. According to Malik' s statement, when the defendant and Malik confronted the deceased, the deceased pulled out a firearm and Malik knocked the gun

from the deceased's hands. Malik then contended that the deceased grabbed a ball bat and swung at him. Malik admitted grabbing the bat from the deceased and beating him with it. Malik told the officers that the defendant was in a vehicle nearby when the victim was beaten to death. After Malik made the statement, police officers questioned the defendant about that statement and the defendant responded, "That's a lie." Only one witness testified who was present during the alleged murder and that witness indicated that he could not see what occurred. At trial, the defendant offered Malik's statement as a statement against penal interest. Did the trial court err by sustaining the State's objection to the admission of that statement?

ANSWER: _____

QUESTION NO. 25. The defendant was on trial for first degree rape and other sex offenses against minor children. The defense gave both oral and written notice of its intention to offer hearsay statements of a deceased declarant on the first day of trial. The deceased declarant was a cousin of the alleged child victims and the statement described events involving the victims that could provide an innocent explanation for the injuries described by the State. A voir dire hearing was held a day or two later and the trial court held that the defense had failed to provide sufficient notice to the State to permit the introduction of this evidence. Was the trial court correct?

ANSWER: _____

QUESTION NO. 26. At the defendant's trial for murder, the defense called its investigator to testify to a statement given to him by the defendant's girlfriend. The investigator testified in a voir dire hearing that the defendant's girlfriend told him that she had a party in her home on the date of the alleged murder. According to the girlfriend's statement to the investigator, she picked the defendant up between 7:00 and 8:00 p.m. and brought him to her house. The defendant, according to his girlfriend, remained at her house at a party that entire evening. As such, the defendant offered this evidence in support of an alibi defense. The State and the defendant stipulated that the defendant's girlfriend was unavailable. Did the trial court properly exclude this evidence?

ANSWER: _____

QUESTION NO. 27. At the defendant's trial for first degree murder, the State offered testimony concerning the victim's statements to Reverend Moore. The victim had known Moore for at least eight months and during that time her church attendance had increased. The victim called Reverend Moore and indicated to him that she was upset and needed to talk. Reverend Moore came to the victim's home. The victim recounted to Reverend Moore the defendant's sexual advance towards her earlier that evening. Reverend Moore then asked the victim if the defendant had a gun and the victim went to the defendant's room, retrieved his briefcase and opened it in the presence of Reverend Moore. The briefcase did not contain the defendant's gun. The defendant objected to the victim's statements to Reverend Moore on the ground that they lacked sufficient guarantees of trustworthiness. Did the trial court err in admitting this evidence?

ANSWER: _____

QUESTION NO. 28. The defendant was charged with two counts of first degree murder. The body of one of the victims was found in the crawl space of an abandoned house after a fire had been extinguished on the premises. The State's theory of the case was that the defendant and the victim were present at the house shortly before the fire and that the defendant started the fire in an effort to conceal the victim's body. At trial, the State called a city fire inspector to read into evidence a statement made to him by a homeless person who was present at the scene of the fire. The statement recited that:

There was a fire in the living room. There was clothing found in the area of the living room. I was in the hallway asleep upstairs. The smoke woke me up. I noticed a black male and a white female there this morning about day break. I stayed all night here. I am a smoker.

The homeless man could not be located by police officers at the time the trial was held. The State gave adequate notice of its intent to offer this evidence and the trial court admitted this evidence over the defendant's objection that it lacked sufficient indicia of trustworthiness. Did the trial court properly admit this evidence?

ANSWER: _____

QUESTION NO. 29. In a murder case, the State gave notice of it's intention to offer a declarant's statement into evidence under Rule 804(b)(5). At a voir dire hearing two law enforcement officers testified that the declarant told them that he met the defendant four days after the murder and that he purchased drugs for the defendant over a three day period. The declarant told the officers that the defendant spent freely and gave him $1,200 to $1,500 to purchase cocaine and heroin. The declarant also indicated that the defendant gave him money in small amounts and also that he paid for cabs for the declarant's use in purchasing these drugs. The declarant could not be located to appear and testify at trial. Subpoenas were issued for the declarant and officers checked at motels in the area where the declarant usually lived. The declarant had previous convictions for robbery with a dangerous weapon, common law robbery and assault. Law enforcement officials were able to corroborate or verify much of the information that the declarant provided including the location where the defendant was staying, the declarant's description of the defendant and the fact that the defendant paid the declarant's hotel bills. Based on these facts, the trial court admitted these statements concluding that they had sufficient guarantees of trustworthiness. Did the trial court err by admitting these hearsay statements?

ANSWER: _____

QUESTION NO. 30. The defendant was on trial for trafficking in heroin. The defendant gave notice to the State of his intent to offer as evidence two letters he claimed to have received after his arrest. The letters were written by one Patrick Babatundi and signed either "Pat" or "Patty." The author of the letters apologized to the defendant for "whatever has happened" and stated that "such product" is "mine." No one other than the defendant testified about Mr. Babatundi. The defendant could not locate Patrick Babatundi to testify at his trial and a subpoena issued to his

last known address was returned unserved. The trial court judge refused to permit the defendant to introduce these letters into evidence. Was the trial court's ruling correct?

ANSWER: _____