

Evidence

Relevance and its Limits

Rules 401, 403, & 404

Rule 401: Relevance

Evidence is relevant if:

- a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- b) the fact is of consequence in determining the action.



Rule 403: Exclusion of Relevant Evidence

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following:

- (1) unfair prejudice
- (2) confusing the issues
- (3) misleading the jury
- (4) undue delay
- (5) wasting time
- (6) needlessly presenting cumulative evidence



Rule 404(a): Character Evidence

Prohibited Uses:
Evidence of a person's character or character trait is not admissible to prove that on a particular occasion the person acted in accordance with the character or trait.



Rule 404(a): Character Evidence

Exceptions for a Defendant or Victim in a Criminal Case:

1. A defendant may offer evidence of his or her pertinent trait, and if that evidence is admitted, the prosecutor may offer evidence to rebut it.
2. Subject to the limitations in Rule 412, a defendant may offer evidence of an alleged victim's pertinent trait, and if the evidence is admitted, the prosecutor may offer evidence to rebut it and offer evidence of the defendant's same trait.
3. In a homicide case, the prosecutor may offer evidence of the alleged victim's trait of peacefulness to rebut evidence that the victim was the first aggressor.

Rule 404(a): Character Evidence

Exceptions for a Witness: Evidence of a witness's character may be admitted under Rules 607, 608, and 609.

Rule 607: Establishes that any party may attack a witness's credibility.

Rule 608: Establishes when a witness's credibility can be attacked or supported by reputation or opinion evidence or by specific instances of conduct.

Rule 609: Establishes when a witness can be impeached by evidence of a criminal conviction.

Rule 404(b): Crimes, Wrong, or Other Acts



Prohibited Uses:

Evidence of a crime, wrong, or other act is not admissible to prove a person's character to show that on a particular occasion the person acted in accordance with the character.

Rule 404(b): Crimes, Wrong, or Other Acts

Permitted Uses:

This evidence may be admissible for another purpose, such as proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident.

