DOWNLOAD PDF RELEVANCE: GENERALLY ; CONDITIONAL ADMISSIBILITY

Chapter 1 : NRS: CHAPTER 48 - ADMISSIBILITY GENERALLY

In practice conditional relevance tends to apply in the following cases: Foundation for admissibility of physical evidence or expert opinions Example: Prosecution calls expert witness to the stand to prove bullet found at the crime scene was fired from the weapon discovered in the defendant's home.

All relevant evidence is admissible, except: Evidence which is not relevant is not admissible. Although relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues or of misleading the jury. Although relevant, evidence may be excluded if its probative value is substantially outweighed by considerations of undue delay, waste of time or needless presentation of cumulative evidence. Evidence of another act or crime which is so closely related to an act in controversy or a crime charged that an ordinary witness cannot describe the act in controversy or the crime charged without referring to the other act or crime shall not be excluded, but at the request of an interested party, a cautionary instruction shall be given explaining the reason for its admission. The testimony of a witness who previously has undergone hypnosis to recall events that are the subject matter of the testimony is admissible if: The court, on its own motion or that of a party, may exclude the testimony of a person who previously has undergone hypnosis to recall events which are the subject matter of the testimony if the court determines that such testimony is unreliable or is otherwise inadmissible. The court shall instruct the jury to exercise caution when considering the reliability of the testimony of a person who previously has undergone hypnosis to recall events that are the subject matter of the testimony. The provisions of this section do not limit: Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show that the person acted in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident. Nothing in this section shall be construed to prohibit the admission of evidence in a criminal prosecution for a sexual offense that a person committed another crime, wrong or act that constitutes a separate sexual offense. In all cases in which evidence of character or a trait of character of a person is admissible, proof may be made by testimony as to reputation or in the form of an opinion. On cross-examination, inquiry may be made into specific instances of conduct. Evidence of the habit of a person or the routine practice of an organization, whether corroborated or not and regardless of the presence of eyewitnesses, is relevant to prove that the conduct of the person or organization on a particular occasion was in conformity with the habit or routine practice. Habit or routine practice may be proved by testimony in the form of an opinion or by specific instances of conduct sufficient in number to warrant a finding that the habit existed or that the practice was routine. Except as otherwise provided in subsection 2, evidence of domestic violence and expert testimony concerning the effect of domestic violence, including, without limitation, the effect of physical, emotional or mental abuse, on the beliefs, behavior and perception of the alleged victim of the domestic violence that is offered by the prosecution or defense is admissible in a criminal proceeding for any relevant purpose, including, without limitation, when determining: Expert testimony concerning the effect of domestic violence may not be offered against a defendant pursuant to subsection 1 to prove the occurrence of an act which forms the basis of a criminal charge against the defendant. If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and at the hearing allow the questioning of the victim regarding the offer of proof. At the conclusion of the hearing, if the court determines that the offered evidence: The accused may then present evidence or question the victim pursuant to the order. The court may order that such evidence be excluded from the proceedings if the court finds that the probative value of the evidence is outweighed by the creation of substantial danger to the victim. Evidence is not inadmissible solely because it is evidence of transactions or conversations with or the actions of a deceased person. Except as limited by this section, in addition to the matters made admissible by NRS Matter otherwise privileged under this title does not lose its privileged character by reason of any interception. When, after an event,

measures are taken which, if taken previously, would have made the event less likely to occur, evidence of the subsequent measures is not admissible to prove negligence or culpable conduct in connection with the event. This section does not require the exclusion of evidence of subsequent remedial measures when offered for another purpose, such as proving ownership, control, feasibility of precautionary measures, or impeachment. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This section does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negativing a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution. A meeting held to further the resolution of a dispute may be closed at the discretion of the mediator. The proceedings of the mediation session must be regarded as settlement negotiations, and no admission, representation or statement made during the session, not otherwise discoverable or obtainable, is admissible as evidence or subject to discovery. A mediator is not subject to civil process requiring the disclosure of any matter discussed during the mediation proceedings. Evidence of furnishing or offering or promising to pay medical, hospital or similar expenses occasioned by an injury is not admissible to prove liability for the injury. Evidence of a plea of guilty or guilty but mentally ill, later withdrawn, or of an offer to plead guilty or guilty but mentally ill to the crime charged or any other crime is not admissible in a criminal proceeding involving the person who made the plea or offer. Evidence of a plea of nolo contendere or of an offer to plead nolo contendere to the crime charged or any other crime is not admissible in a civil or criminal proceeding involving the person who made the plea or offer. Evidence that a person was or was not insured against liability is not admissible upon the issue whether the person acted negligently or otherwise wrongfully. This section does not require the exclusion of evidence of insurance against liability when it is relevant for another purpose, such as proof of agency, ownership or control, or bias or prejudice of a witness.

conditional relevance governed by the Federal Rule of Evidence (b). Rule (b) refers generally to all cases where the relevancy of the evidence depends upon fulfillment of a condition of fact, providing that the.

Its rationalist tones may not engender the passion of notions like prejudice, due process, or even privilege. Yet its theoretical and practical importance cannot be denied. For example, the heart of the Federal Rules of Evidence, Rule , codifies the two fundamental principles of the common law of admissibility: Moreover, identification of the mode of relevance is usually the prelude to proper application of other exclusionary rules. Much turns, then, upon the question of relevance. As relevance gained ascendancy in the law of evidence, so did the notion that the relevance of evidence can be "conditional," in the sense of depending upon a favorable finding of fact. Conditional relevance is said to underlie a wide variety of common-law decisions. Accordingly, it also appears in several places in modern codifications. However, the notion of conditional relevance has recently been subjected to powerful theoretical criticism. Describing relevance as conditional in these examples simply misconceives the requirement of relevance. So convincing is this argument that conditional relevance now seems unable to bear the weight as an explanatory device that it had confidently assumed. The upshot of the criticism is that we should abandon the notion entirely. If this is correct, then either the judicial decisions thought to be based upon conditional relevance must be rejected as mistakes, or alternative explanatory vehicles must be found. This article reflects a mixed evaluation. It will be argued that many judicial decisions exemplifying conditional relevance, including decisions that have come to be explained in such terms even though they were not decided in such terms, have been following, however inartfully, distinguishable principles and policies. Moreover, there is an identifiable core of good sense in these principles and policies, a residual force to the conditional relevance idea. A reinterpretation of the doctrine will be offered to account for this residue. This is an important project. Several long-accepted and practically important rules of evidence -- notably, the requirements that documents be authenticated, that out-of-court speakers be identified, and that testimony reflect personal knowledge -- are now said to be based upon the notion of conditional relevance. Again, if that notion is not serviceable, viable substitutes are needed, or a major revision of evidence law may be in order. Here, too, this article will take a mixed course, suggesting a modified interpretive stance based upon the residual force of conditional relevance. A major thesis of this article is that the "best evidence principle" -- the principle that parties should present to the tribunal the best reasonably available evidence on a disputed factual issue n4 -- is the vehicle that explains the residual force of conditional relevance. In the end, we must be prepared to acknowledge some mistakes in this area, especially since the apparent plausibility of conditional relevance has led to its general acceptance. This thesis has wide-ranging implications, since conditional relevance problems, as conventionally understood, are ubiquitous. In a recent federal criminal case, for example, the United States Supreme Court resolved a conflict among the circuits concerning the admissibility of evidence of alleged prior similar acts by the defendant. If the theory presented here is correct, it has significant ramifications for the propriety of a decision that portends substantially increased practical importance for that concept. Part I of the article will present the basic idea of conditional relevance and lay out in simple yet improved terms the criticism that has cast severe doubt upon it. Part II will reexamine the principal authorities relied upon to support the doctrine, in order to discover what they are really about. Part III will test the suggested reconstruction by looking at those well-established doctrines that have come to be assimilated into the concept of conditional relevance and by examining certain problems of statutory interpretation that are raised by the theory advocated here. This examination will lead to consideration of the Supreme Court decision mentioned above. The Conclusion will recapitulate the practical and theoretical significance of a "best evidence" interpretation of conditional relevance. Unavoidably, evidence as to one must be introduced first, so administration of the trial requires the flexibility of allowing the proponent to "connect up" later with evidence of the other. Rule b of the Federal Rules of Evidence thus

expresses the requirement in these terms: When the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition. Significantly, Rule b does not specify when relevance is conditional, but only what to do with a conditional relevance issue once it arises. For clues to the identification of such problems, one must look to the examples provided in the notes of the advisory committee that drafted the rules. One standard example hereinafter the "notice hypothetical" is presented as follows: If so, the item is admitted. If after all the evidence on the issue is in, pro and con, the jury could reasonably conclude that fulfillment of the condition is not [sic] established, the issue is for them. If the evidence is not such as to allow a finding, the judge withdraws the matter from their consideration. The clear, if poorly articulated, intention is that a "finding" by the appropriate standard of proof such as a preponderance of the evidence of "fulfillment of the condition" means, in the context of the example, a finding that X heard the spoken statement. If so, this seemingly sensible doctrine is mistaken. The reason, stated in terms of the example, is that the trier of fact need not make, and ought not be required to make, a "finding" on the question of whether the utterance was heard unless evidence of the utterance is the only evidence of notice presented. This follows directly from the liberally inclusive concept of relevance now employed. Specifically, Federal Rule provides: Suppose, for example, there were a hundred such utterances, independently made. More realistically, and more generally, there could be evidence of a variety of events, different in nature and weakly probative taken severally, that taken in combination make the existence of notice very likely but do not make it likely that the particular utterance was heard. If notice is merely an evidentiary proposition, rather than an ultimate proposition in the case, then the ultimate proposition toward which evidence of notice is directed may be found to be true notwithstanding insufficient evidence to warrant a finding of notice. In such a case, the evidence of notice must be considered together with other evidence that pertains to the ultimate proposition. Anyitem of evidence is vulnerable to such hypothesized conditions. This is not to say that hypothesized conditions are always useless constructs. Quite the contrary, it is often helpful to ask whether evidence is relevant given certain assumed factual propositions, propositions about which the trier of fact will have to make judgments in the course of its decision-making. For example, one might ask whether the evidence of the utterance made to X in the notice hypothetical would be relevant on the favorable assumption that X heard it. That is, did the content of the utterance have anything to do with the matter about which X is claimed to have had notice? Here, the point is that the evidence of the utterance may be irrelevant, and therefore inadmissible, even if the utterance was heard. As suggested above, one can also ask whether the utterance would be relevant on the assumption that its content appropriately concerns the underlying matter being litigated. This assumption, implicit in the notice hypothetical as given, points one to the question of whether the utterance was heard and understood. Either way, this analytical device must not be confused with the conventional notion of conditional relevance. The probabilistic character of the tests of relevance generated thereby remains fundamentally at odds with the conventional theory. One is moved to conclude that the concept of conditional relevance either simply confuses the standards for sufficiency with those for admissibility or else serves some function distinct from spelling out the logical implications of the basic requirement of relevance. This conclusion is confirmed by another standard hypothetical hereinafter the "agency hypothetical" , presented by the drafters of the California Evidence Code: Unlike the notice hypothetical, here the conditioning fact is one upon which a finding must be made by the trier of fact. The adequacy of proof as to the others is of no consequence in making that determination. Conditioning the admissibility of evidence of one of these propositions upon prior or subsequent presentation of evidence sufficient to support a finding of the other makes no more sense than conditioning the presentation of evidence of one element of a negligence cause of action such as negligent conduct upon the prior or subsequent introduction of sufficient evidence to support findings on the other elements such as cause in fact and compensable injury. The conflation of admissibility and sufficiency is blatant in this and similar hypotheticals. It is perhaps understandable that evidence pointless in this sense would be excluded as "irrelevant. Thus, the only apparent justification for such a rule of conditional

admissibility is to save the tribunal from the consideration of a frivolous claim by insisting that counsel assure that sufficient evidence on the other ultimate issues will be presented in due course. The foregoing criticism of the standard examples of conditional relevance is fully generalizable. Before concluding, however, that conditional relevance is simply a mistaken idea, one ought to reexamine how it came to be. In fact, the doctrine in its modern form, attributable largely to the work of Edmund Morgan, is more liberal in the admission of evidence than the doctrine sporadically invoked prior to its existence. In older cases raising the kinds of problems posed by the previous hypotheticals, some courts would employ a standard that required the judge to determine the existence of the conditioning fact. In our notice hypothetical, for example, the trial judge would have had to determine whether or not X heard the spoken statement. Professor Morgan offered the insight that employment of such a standard unwisely extended the procedure properly employed for determinations of preliminary facts affecting the application of other exclusionary rules, like the hearsay prohibition and its exceptions. Recognizing the loss of valuable evidence that such a standard entails, without the concomitant advantages that attend the judicial administration of the more technical "competency" rules, he argued successfully for a liberal standard like that of the Federal Rules. Thus, for example, to admit evidence of the statement, the court need only determine that there is evidence "sufficient to support a finding" that X heard the statement. In terms of the notice hypothetical, this would mean that the evidence should be excluded if the judge does not believe that a reasonable jury could find there to be a non-zero probability that X heard the statement. This construction would convert the doctrine into what was described above as one of "conditional irrelevance. This is just a special case of the general class of situations in which the probative value of the original evidence is unknown. Such a reading of Rule b would reduce the frequency of exclusions under the conditional relevance idea. Indeed, it would render the doctrine virtually a dead letter. This is the purpose of the next Part.

Chapter 3 : Article IV: Relevancy and its limits | theinnatdunvilla.com

Evidence of other crimes is admissible if there is a "special relevance" beyond demonstrating criminal propensity and the evidence is more probative than prejudicial. (similarity of bomb) FRE - Routes AROUND The Propensity Box - Proof of Identity - U.S. v. Stevens.

Irrelevant evidence is not admissible. Unless relevant, evidence will not be admitted because it does not make a fact in dispute more or less probable than it would be without the evidence. But the converse is not true, which is to say that not all relevant evidence will be admitted. Relevant evidence may be excluded for any number of reasons. There may be circumstances where portions of documentary evidence should be excluded or redacted to protect personal privacy. For an illustration of the rule barring the admission of irrelevant evidence, see Commonwealth v. Hampton , 91 Mass. Excluding relevant evidence for prejudice, confusion, waste of time, or other reasons The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: In balancing probative value against risk of prejudice, the fact that the evidence goes to a central issue in the case weighs in favor of admission. Martinez , Mass. Unfair prejudice does not mean that the evidence sought to be excluded is particularly probative evidence harmful to the opponent of the evidence. An illustrative weighing of probative value against unfair prejudice arises regarding the admissibility of photographs of the victim especially autopsy or the crime scene. The effectiveness of limiting instructions in minimizing the risk of unfair prejudice should be considered in the balance. Crimes, Wrongs, or Other Acts. Confusion of Issues and Misleading the Jury. The trial judge has discretion to exclude relevant evidence if it has potential for confusing and misleading the fact finder. The trial judge has discretion to exclude evidence if it is unduly time consuming. Courtroom Experiments and Demonstrations. Evidence of Similar Occurrences. Evidence of similar occurrences may be admitted if there is substantial identity between the occurrences and there is minimal danger of unfairness, jury confusion, or wasted time. Netoco Community Theatre of N. The nonoccurrence of an event may be admissible to rebut an allegation that a dangerous condition existed at a particular time. Tom Ski Area, Inc. Evidence of similar occurrences may be admissible to show the following: Glendale Elastic Fabrics Co. Such testimony was relevant to show knowledge of the defect. Rebuttal of Claim of Impossibility. Absence of Dangerous Condition. Exclusion as a Sanction. In a criminal case, the defendant has a constitutional right to present a complete defense; however, this right does not deprive the trial judge of discretion to exclude evidence that is repetitive, only marginally relevant, or that creates an undue risk of unfair prejudice or confusion of the issues. Evidence that the defendant possessed a weapon that could have been used to commit the crime is admissible to show that the defendant had the means to commit the crime. Barbosa , Mass. Ashman , Mass. Toro , Mass. See also Commonwealth v. Vazquez , Mass. The evidence need not establish that the defendant possessed the weapon at the time the crime was committed. Corliss , Mass. McLaughlin , Mass. Holley , Mass. Brown , Mass. By contrast, evidence of a type of weapon unconnected to the crime is generally inadmissible. Veiovis , Mass. Valentin , Mass. Evidence of a firearm not connected to the crime may be admissible for the limited purpose of demonstrating that the defendant had access to, and knowledge of, firearms. However, the evidence should be excluded if its probative value is outweighed by the danger of unfair prejudice to the defendant. McGee , Mass. A limiting instruction to the jury as to the proper use of evidence that the defendant possessed a weapon that could have been used in the commission of the crime is not required. However, evidence of other bad acts is inadmissible where its probative value is outweighed by the risk of unfair prejudice to the defendant, even if not substantially outweighed by that risk. Evidence of such an act is not admissible in a criminal case against a defendant who was prosecuted for that act and acquitted. There is a distinction between criminal profile evidence evidence of whether the defendant shares characteristics common to individuals who commit a particular crime and character evidence traits personal to the defendant. The prosecution may not offer in its case-in-chief evidence that the defendant is a violent or dishonest person in order to demonstrate

that the defendant has a propensity to commit the crime charged. According to long-standing practice, the defendant may introduce evidence of his or her own good characterâ€”in reputation form onlyâ€”to show that he or she is not the type of person to commit the crime charged. The defendant is limited to introducing reputation evidence of traits that are involved in the charged crime. The rule announced in Commonwealth v. Judicial discretion to admit evidence of specific acts of violence on the question of who was the first aggressor extends to third parties acting in concert with or to assist the victim. In such cases, as in traditional Adjutant-type cases, the judge must exercise discretion and determine whether the probative value of the proposed testimony about who was the first to use deadly force is substantially outweighed by its prejudicial effect. Rutherford , Mass. Rakes , Mass. Oberle , Mass. Prior bad acts involving someone other than the victim may be admissible if connected in time, place, or other relevant circumstances. For cases involving the defense of entrapment, compare Commonwealth v. Buswell , Mass. Denton , Mass. It is not a foundational requirement for the admissibility of other bad act evidence under Section b that the Commonwealth show either that the evidence is necessary or that there is no alternative way to prove its case. Relevance That Depends on a Fact â€”the judge is satisfied that a reasonable jury could find that the event took place. The evidence must be probative of a subsidiary fact at issue and not be too remote in time. The same standards govern the admission of subsequent bad acts. Woollam , Mass. The prohibition against propensity evidence in specific act form stems from the belief that not only does such evidence have low probative value and carry the distinct risk of undue prejudice, it will also inevitably lead to proliferation of issues and distract the attention of the fact finder from the main event. See generally Peter W.

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Chapter 4 : Materiality, Relevance, and Admissibility of Evidence - Criminal Defense Wiki

The court must decide any preliminary question about whether a witness is qualified, a privilege exists, or evidence is admissible. In so deciding, the court is not bound by evidence rules, except those on privilege.

Preliminary Questions Rule Preliminary Questions a In General. The court must decide any preliminary question about whether a witness is qualified, a privilege exists, or evidence is admissible. In so deciding, the court is not bound by evidence rules, except those on privilege. When the relevance of evidence depends on whether a fact exists, proof must be introduced sufficient to support a finding that the fact does exist. The court may admit the proposed evidence on the condition that the proof be introduced later. The court must conduct any hearing on a preliminary question so that the jury cannot hear it if: By testifying on a preliminary question, a defendant in a criminal case does not become subject to cross-examination on other issues in the case. The applicability of a particular rule of evidence often depends upon the existence of a condition. Is the alleged expert a qualified physician? Is a witness whose former testimony is offered unavailable? Was a stranger present during a conversation between attorney and client? In each instance the admissibility of evidence will turn upon the answer to the question of the existence of the condition. Accepted practice, incorporated in the rule, places on the judge the responsibility for these determinations. To the extent that these inquiries are factual, the judge acts as a trier of fact. Often, however, rulings on evidence call for an evaluation in terms of a legally set standard. Thus when a hearsay statement is offered as a declaration against interest, a decision must be made whether it possesses the required against-interest characteristics. These decisions, too, are made by the judge. This subdivision is of general application. If the question is factual in nature, the judge will of necessity receive evidence pro and con on the issue. The rule provides that the rules of evidence in general do not apply to this process. Sound sense backs the view that it should not, and that the judge should be empowered to hear any relevant evidence, such as affidavits or other reliable hearsay. An item, offered and objected to, may itself be considered in ruling on admissibility, though not yet admitted in evidence. Thus the content of an asserted declaration against interest must be considered in ruling whether it is against interest. Again, common practice calls for considering the testimony of a witness, particularly a child, in determining competency. Another example is the requirement of Rule dealing with personal knowledge. If concern is felt over the use of affidavits by the judge in preliminary hearings on admissibility, attention is directed to the many important judicial determinations made on the basis of affidavits. Rule 47 of the Federal Rules of Criminal Procedure provides: Rule 43 e , dealing with motions generally, provides: Rule 56 provides in detail for the entry of summary judgment based on affidavits. Affidavits may supply the foundation for temporary restraining orders under Rule 65 b. The proposal was not adopted in the California Evidence Code. The Uniform Rules are likewise silent on the subject. However, New Jersey Evidence Rule 8 1 , dealing with preliminary inquiry by the judge, provides: In some situations, the relevancy of an item of evidence, in the large sense, depends upon the existence of a particular preliminary fact. Thus when a spoken statement is relied upon to prove notice to X, it is without probative value unless X heard it. Or if a letter purporting to be from Y is relied upon to establish an admission by him, it has no probative value unless Y wrote or authorized it. Problems arising in connection with it are to be distinguished from problems of logical relevancy, e. If preliminary questions of conditional relevancy were determined solely by the judge, as provided in subdivision a , the functioning of the jury as a trier of fact would be greatly restricted and in some cases virtually destroyed. These are appropriate questions for juries. Accepted treatment, as provided in the rule, is consistent with that given fact questions generally. The judge makes a preliminary determination whether the foundation evidence is sufficient to support a finding of fulfillment of the condition. If so, the item is admitted. If after all the evidence on the issue is in, pro and con, the jury could reasonably conclude that fulfillment of the condition is not established, the issue is for them. If the evidence is not such as to allow a finding, the judge withdraws the matter from their consideration. See also Uniform Rules 19 and The order of proof here,

as generally, is subject to the control of the judge. Preliminary hearings on the admissibility of confessions must be conducted outside the hearing of the jury. Otherwise, detailed treatment of when preliminary matters should be heard outside the hearing of the jury is not feasible. The procedure is time consuming. Not infrequently the same evidence which is relevant to the issue of establishment of fulfillment of a condition precedent to admissibility is also relevant to weight or credibility, and time is saved by taking foundation proof in the presence of the jury. Much evidence on preliminary questions, though not relevant to jury issues, may be heard by the jury with no adverse effect. A great deal must be left to the discretion of the judge who will act as the interests of justice require. The limitation upon cross-examination is designed to encourage participation by the accused in the determination of preliminary matters. He may testify concerning them without exposing himself to cross-examination generally. The provision is necessary because of the breadth of cross-examination under Rule b. The rule does not address itself to questions of the subsequent use of testimony given by an accused at a hearing on a preliminary matter. United States, U. New York, U. Although recognizing that in some cases duplication of evidence would occur and that the procedure could be subject to abuse, the Committee believed that a proper regard for the right of an accused not to testify generally in the case dictates that he be given an option to testify out of the presence of the jury on preliminary matters. The Committee construes the second sentence of subdivision c as applying to civil actions and proceedings as well as to criminal cases, and on this assumption has left the sentence unamended. Should an accused testify in such a hearing, waiving his privilege against self-incrimination as to the preliminary issue, rule d provides that he will not generally be subject to cross-examination as to any other issue. This rule is not, however, intended to immunize the accused from cross-examination where, in testifying about a preliminary issue, he injects other issues into the hearing. If he could not be cross-examined about any issues gratuitously raised by him beyond the scope of the preliminary matters, injustice result. Accordingly, in order to prevent any such unjust result, the committee intends the rule to be construed to provide that the accused may subject himself to cross-examination as to issues raised by his own testimony upon a preliminary matter before a jury. No substantive change is intended. Committee Notes on Rulesâ€" Amendment The language of Rule has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

Chapter 5 : Relevance And Conditional Relevance | Oxbridge Notes United States

Conditional Admissibility is the evidentiary rule that when a piece of evidence is not itself admissible, but is admissible if certain other facts make it relevant. Such evidence becomes admissible on condition that counsel later introduce the connecting facts.

Thus, evidence is material if it relates to one of the particular elements necessary for proving or disproving a case. If evidence is not material, it the defense or prosecution may object to the use of the evidence on grounds that it would mislead the trier of fact, result in inefficient trials, and prove a distraction to the substantive issues. The exclusion of immaterial evidence is sometimes called the collateral facts rule. Some evidence may be admissible even if it does not bear directly on an issue of fact as long as it has a relationship to the weight or credibility of evidence this is the collateral facts rule. Thus, when a witness testifies their credibility, perception, memory and narration or communication are all material even though they are not directly related to an issue of fact. The issue of credibility arises especially with oral evidence, because of perception, memory, narration or communication. Relevance Evidence is relevant if it indicates a relationship between facts that increases the probability of the existence of the other. A trier of fact judge or jury determines the sufficiency or weight of the given evidence. In other words, the trier of law decides whether the evidence is relevant enough to be admitted, but the trier of fact decides how much ot counts i. In order for evidence to meet the relevance threshold, there must be merely some probative value. It is for the trier of fact to decide whether there is sufficient probative value to convict. Even marginally probative evidence is admissible. Prejudicial Value Although relevant and material, evidence MAY be inadmissible if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. Photos of the murder victim are generally NOT relevant in the United States to prove death because their prejudicial value outweighs the probative value. Conditional Relevance In many cases, a given piece of evidence will only be relevant if another fact is established. This is called conditional relevance. When the relevancy of evidence depends upon the fulfillment of a condition of fact, the court shall admit it upon, or subject to, the introduction of evidence sufficient to support a finding of the fulfillment of the condition. In order to determine conditional relevance, the judge must first make a determination their is evidence "sufficient to prove by preponderance. Foundation for admissibility of physical evidence or expert opinions Example: The evidence is conditionally relevant based on whether the expert opinion is based on reliable methods. Proving personal knowledge for witnesses Example: Prosecution calls witness to say defendant fired a weapon into a crowded bus. Prosecution wants to introduce evidence that defendant robbed store in the past and had knowledge of how to do it. The evidence is only relevant if the defendant actually committed the crime in the past.

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Chapter 6 : Relevance logic - Wikipedia

The problem is one of fact, and the only rules needed are for the purpose of determining the respective functions of judge and jury. See Rules (b) and The discussion which follows in the present note is concerned with relevancy generally, not with any particular problem of conditional relevancy.

Test for Relevant Evidence Evidence is relevant if: Notes of Advisory Committee on Proposed Rules Problems of relevancy call for an answer to the question whether an item of evidence, when tested by the processes of legal reasoning, possesses sufficient probative value to justify receiving it in evidence. Thus, assessment of the probative value of evidence that a person purchased a revolver shortly prior to a fatal shooting with which he is charged is a matter of analysis and reasoning. The variety of relevancy problems is coextensive with the ingenuity of counsel in using circumstantial evidence as a means of proof. An enormous number of cases fall in no set pattern, and this rule is designed as a guide for handling them. On the other hand, some situations recur with sufficient frequency to create patterns susceptible of treatment by specific rules. Rule and those following it are of that variety; they also serve as illustrations of the application of the present rule as limited by the exclusionary principles of Rule Morgan, Basic Problems of Evidence 45â€”46 In this situation, probative value depends not only upon satisfying the basic requirement of relevancy as described above but also upon the existence of some matter of fact. For example, if evidence of a spoken statement is relied upon to prove notice, probative value is lacking unless the person sought to be charged heard the statement. The problem is one of fact, and the only rules needed are for the purpose of determining the respective functions of judge and jury. See Rules b and The discussion which follows in the present note is concerned with relevancy generally, not with any particular problem of conditional relevancy. Relevancy is not an inherent characteristic of any item of evidence but exists only as a relation between an item of evidence and a matter properly provable in the case. Does the item of evidence tend to prove the matter sought to be proved? Whether the relationship exists depends upon principles evolved by experience or science, applied logically to the situation at hand. James, Relevancy, Probability and the Law, 29 Calif. General Provisions , Cal. The fact to be proved may be ultimate, intermediate, or evidentiary; it matters not, so long as it is of consequence in the determination of the action. The fact to which the evidence is directed need not be in dispute. While situations will arise which call for the exclusion of evidence offered to prove a point conceded by the opponent, the ruling should be made on the basis of such considerations as waste of time and undue prejudice see Rule , rather than under any general requirement that evidence is admissible only if directed to matters in dispute. Evidence which is essentially background in nature can scarcely be said to involve disputed matter, yet it is universally offered and admitted as an aid to understanding. Charts, photographs, views of real estate, murder weapons, and many other items of evidence fall in this category. A rule limiting admissibility to evidence directed to a controversial point would invite the exclusion of this helpful evidence, or at least the raising of endless questions over its admission. Committee Notes on Rulesâ€” Amendment The language of Rule has been amended as part of the restyling of the Evidence Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only. There is no intent to change any result in any ruling on evidence admissibility.

Chapter 7 : Â» CONDITIONAL RELEVANCE LawServer

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Chapter 8 : CONDITIONAL RELEVANCE REINTERPRETED

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One is moved to conclude that the concept of conditional relevance either simply confuses the standards for sufficiency with those for admissibility or else serves some function distinct from spelling out the logical implications of the basic requirement of relevance.

Chapter 9 : CONDITIONAL RELEVANCE REINTERPRETED - Green, Nesson & Murray: Evidence - Harva

preliminary questions relating to admissibility. In a conditional relevance situation, the role of the Crime scene photos are generally admissible. b) Evidence.