

A defendant's house was destroyed by fire, and she was charged with arson. To prove that the defendant had a motive to burn down her house, the government offered evidence that the defendant had fully insured the house and its contents.

Should the court admit this evidence?

- A. No, because evidence of insurance is not admissible on the issue of whether the insured acted wrongfully.
- B. No, because the probative value of the evidence of insurance on the issue of whether the defendant intentionally burned her house down is substantially outweighed by the dangers of unfair prejudice and confusion of the jury.
- C. Yes, because any conduct of a party to the case is admissible when offered against the party.
- D. Yes, because evidence of insurance on the house has a tendency to show that the defendant had a motive to burn down the house.

Explanation:

All relevant evidence is **admissible** unless excluded by a rule, law, or constitutional provision. Under Federal Rule of Evidence (FRE) 401, evidence is **relevant** if:

it has **any tendency** to make a **fact more or less probable** than it would be without that evidence (ie, **probative**) *and*

the **fact is of consequence** in determining the action (ie, **material**).

Here, evidence that the defendant had fully insured the house and its contents does not conclusively show that she committed the arson. But to be relevant, evidence need only have a *slight* tendency to make a material fact more or less probable. The insurance tends to show that the defendant had a financial motive to burn down the house. And since none of the grounds for exclusion raised in this question apply, this evidence should be admitted.

(Choice A) Under FRE 411, evidence of **liability insurance** or the lack thereof is inadmissible to prove negligence or wrongdoing. But such evidence is admissible for other purposes, including proof of motive.

(Choice B) A court may exclude relevant evidence if its probative value is substantially outweighed by certain **dangers**, including unfair prejudice and confusing the jury. But here, evidence of insurance poses no such danger.

(Choice C) There is no broad rule that any conduct of a party can be admitted against that party.

Educational objective:

Evidence is relevant if it has even the slightest tendency to make a material fact more or less probable than it would be without that evidence.

References

Fed. R. Evid. 401 (test for relevancy).

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Legal bases for excluding relevant evidence (FRE 402)

U.S. Constitution
(eg, obtained illegally)



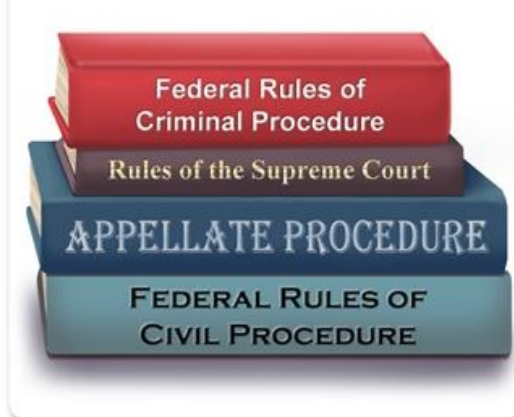
Federal statute
(eg, prohibited disclosure)



Federal Rules of Evidence
(eg, hearsay)



Other rules promulgated by
U.S. Supreme Court



FRE = Federal Rules of Evidence