

A defendant is on trial for arson. In its case-in-chief, the prosecution offers evidence that the defendant had secretly obtained duplicate insurance from two companies on the property that burned and that the defendant had threatened to kill his ex-wife if she testified for the prosecution.

What evidence should the court admit?

- A. Neither the defendant's obtaining duplicate insurance nor threatening to kill his ex-wife.
- B. The defendant's obtaining duplicate insurance only.
- C. The defendant's threatening to kill his ex-wife only.
- D. Both the defendant's obtaining duplicate insurance and threatening to kill his ex-wife.

## Explanation:

### Noncharacter purposes for admitting crime or bad act

(MIMIC)

|                                     |  |
|-------------------------------------|--|
| <b><u>M</u>otive</b>                | To show purpose for committing charged crime   |
| <b><u>I</u>ntent</b>                | To establish guilty mind or negate good faith  |
| <b>Absence of <u>M</u>istake</b>    | To negate mistake or accident & prove deliberate act                                   |
| <b><u>I</u>dentity</b>              | To connect defendant to crime with unique pattern of behavior (ie, criminal signature) |
| <b><u>C</u>ommon plan or scheme</b> | To show preparation or planning  |
| <b>Other</b>                        | To show knowledge of crime, opportunity to commit crime, consciousness of guilt, etc.  |

The prosecution cannot introduce evidence of a **criminal defendant's** prior **crimes or bad acts** to prove that the defendant has a criminal disposition (ie, bad character) and likely committed the charged crime as a result. But evidence of prior crimes or bad acts may be **admissible** for **relevant, noncharacter purposes** (ie, **MIMIC**). This includes proving the defendant's **motive** for committing the charged crime or **consciousness of guilt**.

Here, evidence that the defendant obtained duplicate insurance policies on the property before it burned down can be used to show his motive for committing arson—to collect insurance proceeds. And evidence that he threatened to kill his ex-wife to dissuade her from testifying against him can be used to show that he was aware of his guilt. Therefore, evidence of both should be admitted (**Choices A, B & C**).

### Educational objective:

The prosecution may offer evidence of a criminal defendant's prior crimes or bad acts for a relevant, *noncharacter* purpose—eg, to prove the defendant's motive or consciousness of guilt.

### References

Fed. R. Evid. 404(b) (crimes, wrongs, other acts).

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