

A factory worker is charged with criminal assault on his manager after losing money to the manager during a game of poker. The factory worker testified that he struck the manager while acting in self-defense. The state now seeks to call a witness to testify that, on two prior occasions, the witness saw the factory worker assault someone without provocation after a poker game and thereafter falsely claim self-defense.

Is the witness's testimony admissible?

- A. No, because it is improper character evidence.
- B. No, because it is not relevant.
- C. Yes, as evidence of the factory worker's violent nature.
- D. Yes, as evidence that the factory worker did not act in self-defense on this occasion.

Explanation:

Noncharacter purposes for admitting crime or bad act

(MIMIC)

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

Evidence of prior **crimes or bad acts** is not admissible to prove a person's character by showing that the person acted in accordance with that character on a particular occasion **(Choice A)**. However, evidence of a prior crime or bad act is **admissible** for relevant, **noncharacter purposes**—eg, to establish a **pattern of operation or scheme**. Therefore, the witness's testimony that the factory worker had a pattern of assaulting people and then falsely claiming self-defense is admissible to show that he did not act in self-defense on this occasion.

(Choice B) The witness's testimony *is* relevant because it tends to make a material fact—ie, that the factory worker did not act in self-defense—more probable.

(Choice C) Evidence of a defendant's bad character (eg, violent nature) is not admissible to show that the defendant acted in accordance with that character on the occasion at issue. Therefore, the witness's testimony is *not* admissible to show the factory worker's violent nature—but it *is* admissible for the relevant, noncharacter purpose of establishing a pattern of operation or scheme.

Educational objective:

Evidence of prior crimes or bad acts is admissible for relevant, *noncharacter* purposes—eg, to show a pattern of operation or scheme.

References

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

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