A man was charged with armed robbery of a store and denied that he was the person who had robbed the store. In presenting the state's case, the prosecutor seeks to introduce evidence that the man had robbed two other stores in the past year.

Is this evidence admissible?

A. No, because character must be proved by reputation or opinion and may not be proved by specific acts.

B. No, because its probative value is substantially outweighed by the danger of unfair prejudice.

C. Yes, to prove a pertinent trait of the man's character and the man's action in conformity therewith.

D. Yes, to prove the man's identity.

Explanation:

The prosecution cannot introduce evidence that a **criminal defendant** previously committed similar **crimes or bad acts** to prove that the defendant had the propensity or inclination to commit the charged crime. That is because the **probative value** (ie, degree of relevance) of such evidence is **substantially outweighed by** the **danger of unfair prejudice** when it is offered for this purpose. In other words, the danger that the jury may convict the defendant for having a bad character—not for committing the charged crime—is too high.

As a result, evidence that the man had robbed two other stores in the past year is **inadmissible unless** it is offered for **relevant, noncharacter purposes** (ie, **MIMIC**). This includes proving the perpetrator's *identity*—eg, showing that a defendant's prior crimes or bad acts are so distinctive, and so similar in method to the charged crime, that they all bear the same criminal "signature." But since there is no indication that the man's prior robberies have the same "signature" as the charged one, the prior robberies are inadmissible for this purpose **(Choice D)**.

(Choice A) Character *may* be proved by specific acts in some instances—eg, when character is an essential element of a claim, charge, or defense.

(Choice C) The prosecution can only introduce evidence to prove a defendant's pertinent (ie, relevant) character trait *after* the defendant has opened the door by presenting good-character evidence on that trait. So had the man first introduced evidence of his peaceful character—a trait pertinent to violent crimes like armed robbery—the prosecutor could have introduced the prior robberies to rebut that evidence.

Educational objective:

Evidence of a criminal defendant's prior crimes or bad acts is inadmissible if it is offered to show the defendant's propensity to commit the charged crime. But it may be admissible for noncharacter purposes (ie, MIMIC).

References

Fed. R. Evid. 404(a) (character evidence).

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

Criminal defendant's previous crimes or bad acts
(MIMIC)

Prosecution seeks to offer evidence of Δ's previous crime or bad act?

Yes ↓

Evidence intended to show Δ's propensity to commit charged crime? → Yes → **Inadmissible**

No ↓

Evidence relevant for a noncharacter purpose—eg:

- **M**otive/opportunity
- **I**ntent
- **M**istake/accident (absence of)
- **I**dentity
- **C**ommon scheme/plan

→ No → **Inadmissible**

Yes ↓

Admissible

Δ = defendant