

At trial in a criminal prosecution for theft, the defendant calls a witness to testify that he formerly knew the defendant as an army supply sergeant and that the defendant had turned down many opportunities for black-marketeering.

Is the witness's testimony admissible?

- A. No, because it is irrelevant to the present charge.
- B. No, because the defendant may not prove his good character by specific instances of good conduct.
- C. Yes, because a criminal defendant may prove his good character as a basis for inferring conduct.
- D. Yes, because, by accusing the defendant of being a thief, the prosecution has put his character in issue.

Explanation:

A **criminal defendant** may present evidence of a **pertinent character trait**—ie, a trait that is relevant to the charged crime—so that the jury can infer that the defendant acted in conformity with that trait on the occasion at issue **(Choice C)**. And since honesty is pertinent to theft (a crime of dishonesty), the defendant *can* provide evidence of this good-character trait **(Choice A)**. But he can only do so with **reputation or opinion testimony**—not a specific instance of **conduct** (eg, turning down opportunities for black-marketeering).

(Choice D) A person's character is "in issue" when that character is an **essential element** of a civil claim, criminal charge, or asserted defense. In these rare instances (none of which apply here), that character may be proved by specific instances of conduct.

Educational objective:

A criminal defendant may present reputation or opinion testimony—but not a specific instance of conduct—regarding his/her good character if that character trait is pertinent to the charged crime.

References

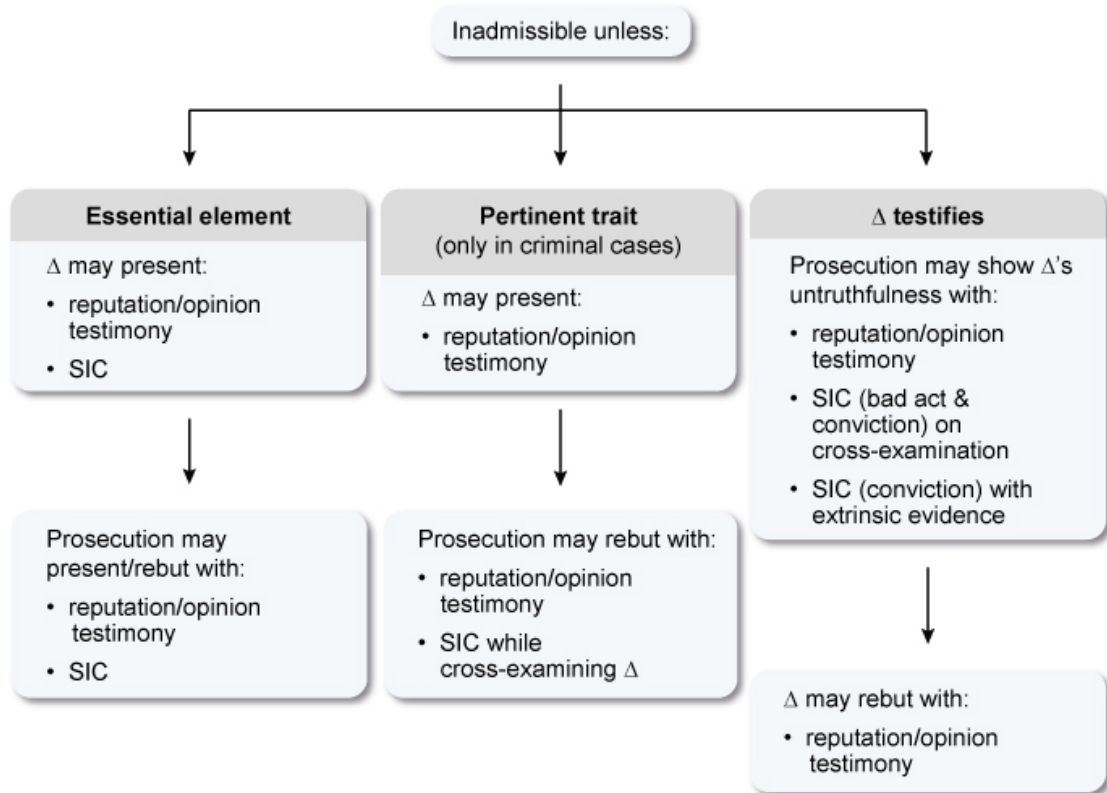
Fed. R. Evid. 404 (character evidence).

Fed. R. Evid. 405 (methods of proving character).

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Evidence on criminal defendant's character



Δ = defendant; **SIC** = specific instance of conduct

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