

EXPERT TESTIMONY-A PRACTICAL APPROACH

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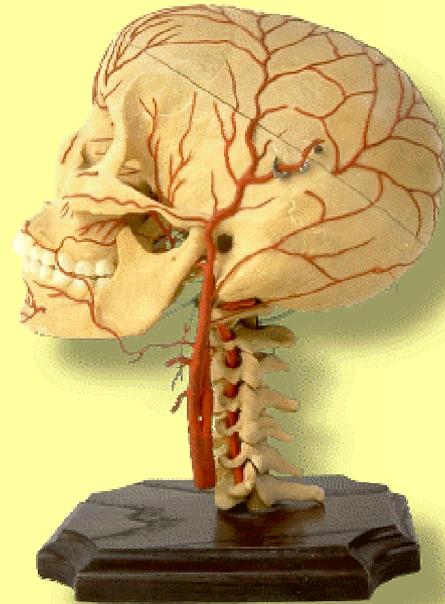
What is an Expert?

- **Qualifications**
- **Admissibility**
 - *Fry*
 - *Daubert/Kumho*



Civil Litigation

- **Pretrial Discovery**
 - **Testifying Experts**
 - **Consulting Experts**
- **Practical Consequences**

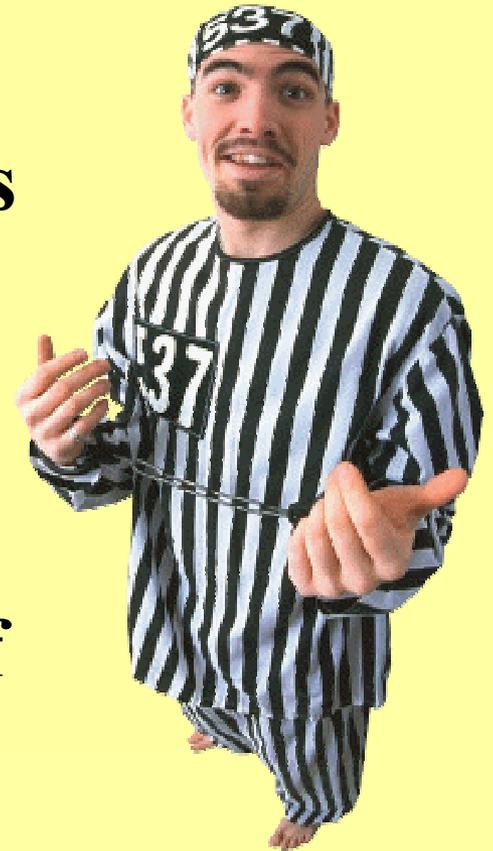


Criminal Cases

MRE 702: If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify thereto in the form of an opinion or otherwise; if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

Criminal Cases

- **MRE 703**
 - Requesting Expert Witnesses
 - Bases of Opinion Testimony by Experts
 - Personal Perception
 - Facts Made Known Out of Court



Criminal Cases

- **MRE 704 - Opinion on Ultimate Issue**
- **MRE 705 - Disclosure of Facts or Data Underlying Expert Opinion**
- **RCM 701 - Discovery**
 - Mental Exams
 - Identity of Witnesses



What You CAN Do

- **Provide Expert Opinions:**
 - **Based on Proper Facts**
 - **Applying Reliable Principles and Methods**



What You CANNOT Do

- **Unreliable Principles or Methods**
- **Legal Opinions**
- **Human Lie Detector**
- **Ultimate Issue**



Effective Written Materials

- Be Understandable
- Be Original
- State Basis for Assumptions
- Check for Errors



Effective Testimony

- **Take Care of Fundamentals**
- **Remember Why You're There**
- **Be Yourself**
- **Use Plain Language**



Effective Testimony

- **Direct Answers are Best**
- **Don't Hide the Ball**
- **Never Fight Rudeness
with Rudeness**
- **Practice**



“Treating” Mental Health Professional as Expert Witness

- **Treating
Therapist**

- Goal of Healing
- Narrative Truth
- Therapeutic Alliance

- **Forensic
Professional**

- Goal of Truth
- Investigative
- Neutral

“Treating” Expert Testimony

- **Confidentiality**
- **“First, Do No Harm”**
- **AAPL/APA Guidelines**





PROCRASTINATION

HARD WORK OFTEN PAYS OFF AFTER TIME,
BUT LAZINESS ALWAYS PAYS OFF NOW.

QUESTIONS?



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