

**Intro to Evidence**

**Focus on Relevance and Rule 403**

***Clothing Store Robbery***

Joey was charged in federal court with the robbery of a clothing store. His defense: he didn't do it; someone else did. At trial, the prosecutor, Jenna, seeks to offer evidence that Joey was in the store the day before the robbery, and that he walked around the aisles without purchasing anything before he left.

Jenna asks the witness (a store employee), "Did you see the defendant in the store before the robbery?"

"Objection. Relevance."

What is your ruling? (circle one)

Sustained

Overruled

Why?

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***Eddie from Denton***

Eddie from Denton was accused of robbing the First City Bank of Pampa. Eddie is alleged to have used a "Saturday Night Special" revolver during the robbery.

*Which of the following items of evidence would be relevant to the prosecution's case? Why or why not?*

1. Eddie withdrew money at the same bank the day prior to the robbery after having a friendly 10-minute conversation with the teller (no one else was in line).

"Objection. Relevance." What is your ruling? (circle one)

Sustained

Overruled

Why? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Eddie was fired from his previous job as a clerk in a convenience store as a result of an unproven allegation that he stole money from the cash register.

“Objection. Relevance.” What is your ruling? (circle one)

Sustained

Overruled

Why? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Eddie has a dog named Charlie.

“Objection. Relevance.” What is your ruling? (circle one)

Sustained

Overruled

Why? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Eddie had participated in two barroom brawls the week before the bank robbery.

“Objection. Relevance.” What is your ruling? (circle one)

Sustained

Overruled

Why? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Eddie was divorced and delinquent in his payments of \$400 per month in child support.

“Objection. Relevance.” What is your ruling? (circle one)

Sustained

Overruled

Why? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Eddie was virtually broke. His only asset was a \$49 savings account at a different bank.

“Objection. Relevance.” What is your ruling? (circle one)

Sustained

Overruled

Why? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. Eddie prefers “rock” to Bach and gin without tonic.

“Objection. Relevance.” What is your ruling? (circle one)

Sustained

Overruled

Why? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***Infanticide***

The prosecution moves, pretrial, to admit photos of the deceased child in a hole in the ground. The defendant’s defense is that he accidentally killed the child.

The defense objects because “the probative value of the photos is substantially outweighed by the risk of unfair prejudice.”

What is your ruling? (circle one)

Sustained

Overruled

Why?

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***Crime Scene Photos***

Ernest and Samantha, the leaders of a radical political party, were found shot to death in their living room. The scene was gruesome, and the stench of death was everywhere. Franklyn, a known contract killer, was charged with the murders. At trial, the government offers testimony of a crime scene search officer, Jan, who testified that she visited the scene immediately following the murders and took color photographs of the bodies. The prosecutor then attempted to introduce in evidence the glossy 8 × 10 photographs taken by Jan. Franklyn's attorney objected.

(Assume the objection was based on Rule 403 (unfair prejudice))

What is your ruling? (circle one)

Sustained

Overruled

Why?

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Would your ruling change if the prosecutor stipulated that Ernest and Samantha died of gunshot wounds? If so, why? If not, why not?

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