

EXPERTS

ADVANCED CRIMINAL PROCEDURE FOR SUPERIOR COURT JUDGES

APRIL 29, 2025

UNC SCHOOL OF GOVERNMENT



Battle of the Experts!



YOU ARE THE GATEKEEPER!





Every Box

▶ Relevant evidence?



▶ Witness qualified?



▶ **Reliable** evidence?



1) Based on sufficient facts or data?



2) Product of reliable principles and methods?



3) Principles and methods applied reliably to facts?



▶ 403?



Practice Pointers

- Pretrial talk about experts.
- Pretrial hearing?
- Muscle up as the gatekeeper.
- **NO** expert opinion until **ALL** boxes checked.



Scrambled Testimony



➤ **Fact Witness**

- Red sedan pulled into lot
- Relevant facts; W has personal knowledge
- ROE 401, 602

➤ **Lay Witness Opinion**

- Car was going way too fast; everyone was terrified
- Rationally based on perception; helpful to clear understanding of testimony or determination of fact in issue
- ROE 701

➤ **Expert Witness Opinion**

- Bullet entrance wound on chest, punctured lung...
- ROE 702(a)

Basis of Opinion



- Facts or data expert knows of at or before hearing. ROE 703
- Type reasonably relied on in field
- Disclosing basis ROE 705. Cf GS 15A-903
- Error not to allow cross on basis
- Limiting instruction if not substantive evidence
- Scholarly Treatise ROE 803(18)

Wait, was there an opinion?

- ▶ Possible cause of death
- ▶ 3/7 loci matched
- ▶ Indications of blood
- ▶ May have contributed



Group Work: Create a Manuscript

- ▶ Divide into 3 groups
 - ▶ Ideally, each group has someone with a computer to type notes
- ▶ Each group gets a handout with questions to answer and recent cases to consult
- ▶ Group work for about 20 minutes
- ▶ Then, each group will give 5-10 minute presentation
- ▶ Email me your notes and I will compile