

EXPERTS GROUP WORK

GROUP I: Qualifications

- 1) What are the holdings in *McGrady*, *Cooper*, and *Turner* regarding whether the witnesses were qualified to offer expert opinions? How would you reconcile them?
- 2) What guidance does *Turner* offer on how closely the testimony needs to match the expert's subject matter expertise? Would you place more restraints on the expert testimony?
- 3) What are the holdings in *Ford* and *Vann*? What guidance do they offer on distinguishing between common sense conclusions and conclusions that are proper for an expert to make?
- 4) What is the ultimate issue? Why did the proffered opinion in *Ford* not run afoul of Rule 704?
- 5) Anything else you found instructive.

State v. McGrady, 368 NC 880

State v. Cooper, 229 NC App 442

State v. Turner, 273 NC App 701

State v. Ford, 245 NC App 510

State v. Vann, 261 NC App 721

GROUP II: Sufficient Facts or Data; Reliable Principles and Methods

- 1) *Corbett & Martens*: Why did the Court hold that even though the expert was "unquestionably qualified," the expert's testimony was based on insufficient facts or data? Does the case suggest that the trial judge should consider the impact the proffered expert testimony is likely to have on the jury as part of the 702(a) analysis?
- 2) *Phillips and Fernanders*: What do the cases tell us regarding how internal policies (eg, of the State Crime Lab) play into the determination of whether expert testimony passes muster under Rule 702?
- 3) What does *McGrady* tell us about error rates? When should a trial judge require evidence of them?
- 4) What does *McGrady* tell us about the importance of making findings? Should we be doing this habitually? In writing? Compare/contrast *Abrams*.
- 5) Anything else you found instructive.

State v. Corbett & Martens, 269 NC App 509

State v. Phillips, 268 NC App 623

State v. Fernanders, 293 NC App 695

State v. McGrady, 368 NC 880

State v. Abrams, 248 NC App 639

GROUP III: Reliable Application of Methodology

- 1) Are *Figueroa*, *Sasek*, and *Koian* cautionary tales? What did the expert need to say in each case to satisfy Rule 702(a)(3) that the expert failed to say?
- 2) If nobody is objecting during the expert's testimony, can the trial judge relax because the appellate courts will not find plain error?
- 3) Summarize how the expert satisfied each prong of Rule 702(a) in *Coffey*. Is *Coffey* the gold standard for Rule 702(a)(3)?
- 4) Why do you think reliable application of methodology is often at issue in appellate cases on expert testimony?
- 5) Anything else you found instructive.

State v. Figueroa, 291 NC App 610

State v. Sasek, 271 NC App 568

State v. Koian, 270 NC App 792

State v. Coffey, 275 NC App 199