

Rule 702 – Testimony by Experts

(a) 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 all of the following apply:

- (1) The testimony is based upon sufficient facts or data.
- (2) The testimony is the product of reliable principles and methods.
- (3) The witness has applied the principles and methods reliably to the facts of the case.

Cases:

- *State v. McGrady*, 368 N.C. 880 (2016) – 2011 amendment to Rule 702(a) adopts the federal standard for admission of expert testimony articulated in Daubert line of cases. The trial court is not required “to admit opinion evidence that is connected to existing data only by the *ipse dixit* of the expert.” Trial court did not abuse discretion by excluding defense expert use of force expert testimony for various reasons, including expert qualifications.
- *State v. Daughtridge*, 789 S.E.2d 667 (2016) - ME’s testimony on homicide vs suicide that was based on non-medical evidence failed to meet standards of new 702. ME was not in a better position than jurors to evaluate whether homicide or suicide, but not plain error.
- *State v. Babich*, 797 S.E.2d. 359 (2017) - admission of state’s expert’s testimony on retrograde extrapolation was abuse of discretion – failed “fit” test – expert’s analysis was not properly tied to the facts of the case because she made assumptions, but error not prejudicial.
- *State v. Phillips*, 836 S.E.2d 866 (2019) - Prosecutor had DNA analyst testify about an inconclusive mixture. Such testimony was not “based on sufficient facts or data” nor “the product of reliable principles and methods.”
- *State v. McPhaul*, 808 S.E.2d 294 (2017), *review improvidently allowed*, 371 N.C. 467 (2018) - admission of state’s expert’s fingerprint comparison testimony was abuse of discretion because she failed to demonstrate the methods were reliably applied in the case at hand.