

Rule 404. Character Evidence Not Admissible to Prove Conduct; Exceptions; Other Crimes

(b) Other Crimes, Wrongs or Acts. Evidence of other crimes, wrongs or acts is not admissible to prove the character of a person in order to show action in conformity therewith. **It may, however, be admissible for other purposes**, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, or absence of mistake or accident, provided that upon timely request by the accused in a criminal case, reasonable notice is given in advance of trial of intent to introduce in the State's case-in-chief such evidence other than that arising in the same transaction.

OBJECTIONS TO 404(b)

**THE EVIDENCE IS BEING OFFERED TO PROVE
EXTRANEOUS, UNCHARGED, ACT NOT WITHIN THE
SCOPE OF R404(b) AND INSTEAD IS BEING OFFERED TO
PROVE THAT THE DEFENDANT IS A CRIMINAL
GENERALLY.** Camacho v. State 864 S.W.2d 524, 532-533

RELEVANCY ANALYSIS R104(b)/401/402

R104(b) JUDGE DECIDES PROOF BEYOND A REASONABLE DOUBT PRIOR TO JURY SEEING EVIDENCE, Harrell v. State 884 S.W.2d 154, 160

BALANCING TEST R403

LIMITING INSTRUCTION R105, Broussard v. State 710 S.W.2d 753, 755-756

“You are further instructed that if there is any evidence before you in this case regarding the defendant's committing an alleged offense other than the offense alleged against him in the indictment in this case, you cannot consider such evidence for any purpose unless you find and believe beyond a reasonable doubt that the defendant committed such other offense, if any, and even then you may only consider the same in determining the intent of the defendant, if any, in connection with the offense, if any, alleged against him in the indictment and for no other purpose.”