

404(b)–Deft not testifying and 404(b) evidence is not a conviction.

INSTRUCTION NO.____

Evidence has been presented that the defendant [list specific “wrong or bad act” that the defendant committed]. You may consider this evidence for relevant purposes such as _____ . [Judge to specify]. However, you must not simply conclude from that evidence that the defendant is guilty of the crime(s) charged because he/she is a “bad person.”

Readability: 9.83

Note: If 404(b) evidence against a non-testifying defendant is a prior conviction, use instruction Cr____.

The list of proper non-character purposes under Rule 404(b) is illustrative and not exhaustive. The Committee recommends that this instruction be tailored to identify the specific purpose(s) for which the 404(b) evidence has been received, rather than merely listing the various purposes expressly referenced under the Rule.

Rule 404(b) evidence is admissible when relevant to prove any material fact, except criminal disposition as the basis for an inference that the defendant committed the crime charged. *State v. Forsyth*, 641 P.2d 1172 (Utah 1982).