

# JUSTICE<sup>®</sup>

Monthly Journal of American Justice Foundation<sup>®</sup>

© 2014 by Jurisdiction<sup>®</sup> ... ALL RIGHTS RESERVED



## Abuse of Circumstantial Evidence

You read about it nearly every day.

Someone sent to prison on circumstantial evidence found innocent years later.

Then those you don't read about, innocent people convicted on circumstantial evidence *and kept in prison hopelessly!*

Or put to death!

Is circumstantial evidence misused? Yes!

It is frequently misused by prosecutors and lawyers fighting to win civil cases, and too many judges allow the abuse because of their own ignorance of what circumstantial evidence is supposed to be!

You and your children should be concerned.

### What Is Circumstantial Evidence?

In the first place, circumstantial evidence isn't "proof".

It's *never* "proof".

Circumstantial evidence never "proves" *anything!*

It's nothing more than just another piece of "evidence" that may be weighed in the judicial balance with all the other evidence admitted to the record in a case.

It "proves" nothing!

It's just a "guess".

It's supposed to be an "educated guess".

By "educated guess" we mean a guess that follows a special rule.

Circumstantial evidence in court is supposed to obey a rule that is too seldom understood and too frequently ignored.

### Inferences

Guesses permitted by the rule of circumstantial evidence are called inferences.

An inference is "a conclusion drawn from other facts".

For example, if a young man speaks with a strong New York accent, one might properly *infer* he spent some time in New York.

You don't know for *certain!* You *infer* it from his accent.

You could not *properly* infer he is from Georgia.

A "proper" inference must be based *only* on "known facts".

In court the *only* "known facts" from which inferences can be made is evidence presented to the court *and admitted to the record.*

Inadmissible evidence cannot give rise to a "proper" inference.

Circumstantial evidence should *never* be anything more than an *inference* drawn *directly* from admitted evidence without reference to anything else!

It's a *reasonable* guess based *solely* on evidence admitted.

The rule forbids guesses based on other guesses.

Too often the rule is violated and innocent people suffer!

### How Is It Misused?

Battles in court are not supposed to be like family arguments at home where "anything goes", where the loudest or angriest too often wins. In family arguments, *there are no rules.*

In court there are ... or, at least, there are *supposed* to be!

Rules that protect *you!*

When the court rules are abused, innocent people lose.

Yet, rules are not taught in many law schools, so judges and lawyers miss the mark, and the innocent people suffer wrongfully.

*Especially when it comes to circumstantial evidence.*

The public has no idea what *any* of the rules of court are!

The prosecutor approaches the jury, pointing an accusing finger at the defendant, "He's the only one who had keys to the house when his wife was brutally stabbed to death in her sleep. He *must* be the murderer!"

See the "jump"?

And, it happens all too frequently, because the public doesn't know *anything* about the rules *that are supposed to protect them!*

"She said she would destroy him. She said it again and again. His brakes failed. He was killed when his car plunged into the wall and exploded in a ball of fire. The jury can reach its own conclusion. We need no further evidence!"

Think it doesn't happen?

Spend an afternoon at your local courthouse and *see for yourself.*

"He was wearing a hood when he entered the convenience store. The jury saw the closed-circuit video. He's been in trouble before. The only possible verdict is *guilty as charged.*"

And off the innocent go ... to jail or lethal injection.

All because the rules of court are unknown by the public.

### The Circumstantial Jump

Do you see the "jump"?

Circumstantial evidence too often *jumps* away from known facts.

The legitimate purpose for circumstantial evidence is to reach a *conclusion* based on "facts in evidence", not guesswork.

When courts "jump" to conclusions justice is denied.

If judges and lawyers were better educated they'd know that the "jump" is forbidden by the rules, and justice would prevail.

If you the public knew the rules, judges would have to obey them!

The failure of your tax-supported public schools to make *any* effort whatsoever to teach the rules of court results in untold suffering and unnecessary sorrow ... threatening your children's future.

### The Rule Against Stacking Inferences

If an unknown fact cannot be proven from evidence admitted, and only *one* inference (guess) can be made from evidence admitted, and if that inference is *reasonable*, this rule allows the inference to be "considered" along with *all the evidence admitted.*

No inference is "proof".

It can never be anything more than a "guess".

It is allowed *only* if it complies with this rule.

The rule forbids conclusions based on wild hunches.

The rule is essentially the same in all jurisdictions state and federal.

The jury may consider a guess as "circumstantial evidence" if:

- ✓ Guess is based on facts established by admitted evidence
- ✓ Guess is reasonable
- ✓ Guess is not based on a guess (see exception below)
- ✓ No *other* reasonable conclusion can be reached from the admitted evidence *without* an inference based on facts.

If any reasonable conclusion can be taken from evidence admitted *without* guesses, neither party is allowed to offer an inference.

No "jumps" allowed if the evidence supports a reasonable verdict *without* an inference ... yet this rule is frequently ignored.

Circumstantial evidence may be offered *only* if no other reasonable conclusion (*none whatsoever*) can be reached from "known facts".

No inferences based on other inferences.

Is this the practice in today's courts?

No!

Abuse of the rule denies justice to good people.

# JUSTICE<sup>®</sup>

Remember the old saying? Innocent until *proven* guilty.

## An Example

A wife is strangled to death in her bed.

The wife was found by her brother (a prominent religious leader) who testified that he stopped by to discuss some family business with his sister. He said the house was locked, so he used his own key. The husband was not at home.

None but the husband, wife, brother, and the handsome locksmith who lived next door were known to have keys.

Neighbors testified hearing husband shouting angrily at his wife over the past several months.

The owner of a nearby tavern testified the husband frequently sat at the bar complaining bitterly about his wife's unreasonable shoe-buying habits. He further testified when the husband had a few too many he said things like, "I wish the old bag would drop dead!"

Several of the husband's fellow salesmen down at the dealership testified to the man's having a quick-fuse temper. One testified the husband took a swing at him over a disputed parking spot.

The husband is convicted and executed by lethal injection.

On what evidence?

## Analysis

Not all convictions result in lethal injection. But, so many innocent people are convicted of crime or lose all they own in civil court on "circumstantial evidence" that it's time for a change!

What did the jury hear?

- House was locked.
- Husband had key.
- Husband was a "bad man".

What did the jury do?

- Jumped to a conclusion.
- Convicted on circumstantial evidence.

What did the judge do?

- Violated an established rule of American Justice.
- Allowed jury to convict based on improper inferences.

There are *many* other "reasonable conclusions" that could be reached from the evidence admitted here.

How many complain about wives to a bartender? Only *this* man?

How many have short-fuse tempers? Only *this* man?

How many shout at their wives on occasion? Only *this* man?

Was this husband's guilt the *only* "reasonable conclusion" one can reach from the evidence admitted? Of course not!

The husband was painted with guilt.

Perhaps the husband had a tattoo or a long beard or a scar on his cheek or an ugly sneer of contempt on his face.

Juries have imaginations that run wild like everyone.

How many jail cells are filled with innocent men and women that were convicted by overreaching prosecutors, egomaniacal judges, and stupid defense attorneys that didn't know what this issue of Justice<sup>®</sup> explains?

How many have been hanged, electrocuted, gassed with cyanide, or injected with lethal doses of who knows what ... all because our law schools don't teach traditional principles of American Justice and our tax-supported schools teach *nothing* about the rules?

It isn't right!

But, it *will* continue until the public is taught the rules of court.

Public Legal Education is a moral imperative we dare not ignore!

## Conclusion

Court battles aren't like family squabbles where "anything goes".

In court there are rules ... rules *you* do not know because nothing has ever been done to promote Public Legal Education in this or any other nation.

The symbol of justice is two pans balanced on a fulcrum hanging from blindfolded Lady Justice's hand.

The rules are that fulcrum on which the pans are balanced.

Without rules, justice fails.

When the rules of court are unknown or abused, *justice is denied, and innocent people suffer!*

You can help!

## American Justice Foundation<sup>®</sup>

In 2008 the Foundation that publishes Justice<sup>®</sup> was formed for the critically important purpose of promoting Public Legal Education.

Our goal is to teach you and your children the rules of court that make justice possible and the fixed foundations of common law that should control every court in a "free" society.

At present *nothing* is being done to educate you or your children.

Yet, billions of *your* tax dollars are spent in every state to teach the children *everything but* the rules of court and the principles of common law. Public schools waste money teaching subjects your children will never use as adults, denying them the knowledge they *must* have to succeed in court, in business, and in life generally.

Promote our PLEA<sup>®</sup> ... the "Public Legal Education Agenda".

Sign up on our website as a supporter, even if you can't afford to support us financially. [www.AmericanJusticeFoundation.com](http://www.AmericanJusticeFoundation.com)

Pray for our mission and your children's future.



**Exception to Stacking Rule**

The *only* exception is if 1<sup>st</sup> inference is so reliable that there can be no contrary conclusion reached from "known facts", then *some* courts (not all) allow a 2<sup>nd</sup> inference to be drawn from the 1<sup>st</sup> "reliable" inference.

The 2<sup>nd</sup> is *only* allowed if the first approaches certainty.

No 3<sup>rd</sup> inference anywhere, and in most, no 2<sup>nd</sup> on 1<sup>st</sup>.

And, not even a 1<sup>st</sup> guess if a conclusion can be reached from the evidence admitted without any inferences.



**American Justice Foundation<sup>®</sup>**  
( A Non-Profit Common Law Trust )

Toll Free: 866-Law-Easy  
[www.AmericanJusticeFoundation.com](http://www.AmericanJusticeFoundation.com)