

Stages of a criminal trial



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Stages of A Criminal Trial Nancy Jane Strayer University One stages of a criminal trial is the presentation of evidence, first the state is given the opportunity to present evidence intended to improve the defendant's guilt. After prosecutors have rested their case, the defense is afforded the opportunity to provide evidence favorable to the defendant. Types of Evidence Evidence can be either direct or circumstantial. Direct evidence believed, proves a fact without requiring the judge or jury to draw inferences. For example, direct evidence may consist of the information contained in a photograph or a videotape.

It might also consist of testimonial evidence provided by a witness on the stand. A straight forward statement by a witness (" I saw him do it! ") is a form of direct evidence. Circumstantial evidence is indirect. It requires the judge or jury to make inferences and to draw conclusions. At a murder trial, for example, a person who heard gunshots and moments later saw someone run by with a smoking gun in hand might testify to those facts. Even without an eyewitness to the actual homicide, the jury might conclude that the person seen with the gun was the one who pulled the trigger and committed the crime.

Circumstantial evidence is sufficient to produce a conviction in a criminal trial. In fact, some prosecuting attorneys prefer to work entirely with circumstantial evidence, weaving a tapestry of the criminal act into their arguments to the jury. Real evidence, which may be either direct or circumstantial, consists of physical material or traces of physical activity. Weapons, tire tracks, ransom notes, and ransom notes, and fingerprints all

fall into the category of real evidence. Real evidence, sometimes called physical evidence, is introduced in the trial by means of exhibits.

Exhibits are objects or displays that, after having been formally accepted as evidence by the judge, may be shown to members of the jury. Documentary evidence, one type of real evidence, includes written evidence like business records, journals, written confessions, and letters. Documentary evidence can extend beyond paper and link to include stored computer data and video and recordings. The Evaluation OF Evidence one of the most significant decisions a trial court judge makes is which evidence can be presented to the jury.

To make this determination, judges examine the relevance of the evidence to the case at hand. Relevant evidence has a bearing on the facts at issue. For example, decades ago, it was not unusual for a woman's sexual history to be brought out in rape trials. Under "rape shields statutes," most states today will not allow this practice, recognizing that these details have no bearing on the case. Rape shield statutes have been strengthened that these details have no bearing on the case. Rape shield statutes have been strengthened by recent U. S. Supreme Court decisions, including the 1991 case of Michigan v. Lucas. 65

Colorado's rape shield law played a prominent role in the 2004 case of Kobe Bryant, a basketball superstar who was accused of sexually assaulting a 19-year-old Vail- area resort employee. Bryant admitted to having a sexual encounter with the woman but claimed it was consensual. Defense attorneys sought to have the Colorado law declared unconstitutional in an effort to

show that injuries to the woman were the result of her having had sexual intercourse with multiple partners before and after her encounter with Bryant. The woman later dropped the criminal case against Bryant and settled a civil suit against him in 2005.

The terms of the suit were not disclosed. In evaluating evidence, judges must also weigh the probative value of an item of evidence against its potential inflammatory or prejudicial qualities. Evidence has probative value when it is useful and relevant, but even useful evidence may unduly bias a jury if it is exceptionally gruesome or is presented in such a way as to imply guilt. For example, gory color photographs may be withheld from the jury's eyes. In one recent case, a new trial was ordered when photos of the crime scene were projected on a wall over the head of the defendant as he sat in the courtroom.

An appellate court found the presentation to have prejudiced the jury. Sometimes evidence is found to have only limited admissibility. This means that the evidence can be used for a specific purpose but that it might not be accurate in other details. Photographs, for example, may be admitted as evidence for the narrow purpose of showing spatial relationships between objects under discussion, even if the photographs were taken under conditions that did not exist when the offense was committed (such as daylight).

When judges allow the use of evidence that may have been illegally or unconstitutionally gathered, there may be grounds for a later appeal if the trial concludes with a “ guilty” verdict. Even when evidence is improperly

introduced at trial, however, a number of Supreme Court decisions have held that there may be no grounds for an effective appeal unless such introduction “ had substantial and injurious effect or influence in determining the jury’s verdict.

Called the harmless error rule, this standard places the burden on the prosecution to show that the jury’s decision would most likely have been the same even in the absence of the inappropriate evidence. The rule is not applicable when a defendant’s constitutional guarantees are violated by “ structural defects in the constitution of the trial mechanism” itself –as when a judge gives constitutionally improper instructions to a jury. The Testimony OF Witness Witness testimony is generally the chief means by which evidence is introduced a trial.

Witnesses may include victims, police officers, the defendant, specialists in recognized fields, and others with useful information to provide. Some of these witnesses may have been present during the commission of the offense, while most will have had only a later opportunity to investigate the situation or to analyze evidence. Before a witness is allowed to testify to any fact, the questioning attorney must establish the person’s competence. Competence to testify requires that witnesses have personal knowledge of the information they will discuss and that they understand their duty to tell the truth.

One of the defense attorney’s most critical decisions is whether to put the defendant on the stand. Defendants have a Fifth Amendment right to remain silent and to refuse to testify. In the precedent-setting case of Griffin v.

California (1965), the U. S. Supreme Court declared that if a defendant refuses to testify, prosecutors and judges are enjoined from even commenting on this fact, although the judge should instruct the jury that such a failure cannot be held to indicate guilt. In the 2001 case of *Ohio v. Reiner*, the U. S.

Supreme Court extended Fifth Amendment protections to witnesses who deny any and all guilt in association with a crime for which another person is being prosecuted. Direct examination of a witness takes place when a witness is first called to the stand. If the prosecutor calls the witness, the witness is referred to as a witness for the prosecution. If the direct examiner may ask questions that require a “ yes” or “ no” answer or may ask narrative questions that allow the witness to tell a story in his own words. During direct examination, courts generally prohibit the use of leading questions or those that suggest answers to the witness.

Most states and federal government restrict the scope of cross-examination to material covered during direct examination. Questions about other matters, even though they may relate to the case before the court, are not allowed in most states, although a few states allow the cross-examiner to raise any issue as long as the court deems it relevant. Leading questions, generally disallowed in direct examination, are regarded as the mainstay of cross-examination. Such questions allow for a concise restatement of testimony that has already been offered and serve to focus efficiently on potential problems that the cross-examiner seeks to address.

Some witness commit perjury----that is, they make statements that they know are untrue. Reasons for perjured testimony vary, but most witness who lie on the stand do so in an effort to help friends accused of crimes.

Witnesses who perjure themselves are subject to impeachment, in which either the defense or the prosecution demonstrates that a witness has intentionally offered false testimony. For example, previous statements made by the witness may be shown to be at odds with more recent declarations. When it can be demonstrated that a witness has offered inaccurate or false testimony, the witness has been effectively impeached.

Perjury is a serious offense in its own right, and dishonest witnesses may face fines or jail time. At the conclusion of the cross-examination, the direct examiner may again question the witness. This procedure is called redirect examination and may be followed by a recross-examination and so on, until both sides are satisfied that they have exhausted fruitful lines of questioning.

CHILDREN AS WITNESSES An area of special concern is the use of children as witnesses in a criminal trial, especially when the children are victims.

Currently, in an effort to avoid what may be traumatizing direct confrontations between child witness and the accused, 37 states allow the use of videotaped testimony in criminal courtrooms, and 32 permit the use of closed-circuit television, which allows the child to testify out of the presence of the defendant. In 1988, however, in the case of *Coy v. Iowa*, the U. S. Supreme Court ruled that a courtroom screen, used to shield child witnesses from visual confrontation with a defendant in a child sex-abuse case, had violated the confrontation clause of the Constitution.

On the other hand, in the 1990 case of *Maryland v. Craig*, the court upheld the use of closed-circuit television to shield children who testify in criminal courts. The Court's decision was partially based on the realization that a significant majority of the States have enacted statutes to protect child witnesses from the trauma of giving testimony in child-abuse cases...[which] attests to the widespread belief in the importance of such a policy.

Although a face-to-face confrontation with a child victim may not be necessary in the courtroom, until 1992 the Supreme Court had been reluctant to allow into evidence descriptions of abuse and other statements made by children, even to child-care professionals, when those statements were made outside the courtroom. In *Idaho v. Wright* (1990), the Court reasoned that such “ statements [are] fraught with the dangers of unreliability which the Confrontation Clause is designed to highlight and obviate. However, in *White v.*

Illinois(1992), the Court reversed its stance, ruling that in-court testimony provided by a medical provider and the child's babysitter, which repeated what the child had said to them concerning White's sexually abusive behavior, was permissible. The Court rejected White's claim that out-of-court statements should be admissible only when the witness is unavailable to testify at trial, saying instead, “ A finding of unavailability of an out-of-court declarant is necessary only if the out-of-court statement was made at a prior judicial proceedings. A statement that has been offered in a moment of excitement—without the opportunity to reflect on the consequences of one's exclamation may justifiably carry more weight with a trier of fact than a similar statement offered in the relative calm of the courtroom. Similarly, a

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statement made in the course of procuring medical services, where the declarant knows that a false statement may cause misdiagnosis or mistreatment, carries special guarantees of credibility that a trier of fact may not think replicated by courtroom testimony. THE HEARSAY RULE Hearsay is anything not based on the personal knowledge of a witness.

A witness may say, for example, “ John told me that Fred did it! ” Such a witness becomes a hearsay declarant, and following a likely objection by counsel, the trial judge will have to decide whether the witness’s statement will be allowed to stand as evidence. In most cases, the judge will instruct the jury to disregard the witness’s comment, thereby enforcing the hearsay rule, which prohibits the use of “ secondhand evidence. ” Exceptions to the hearsay rule have been established by both precedent and tradition. One exception is the declaration.

A dying declaration is a statement made by a person who is about to die. When heard by a second party, it may usually be repeated in a court, provided that certain conditions have been met. A dying declaration is generally a valid exception to the hearsay rule when it is made by someone who knows that he or she is about to die and when the statement made relates to the cause and circumstances of the impending death.

Spontaneous statements provide another exception to the hearsay rule. A statement is considered spontaneous when it is made in the heat of excitement before the person has had time to make it up.

For example, a defendant who was injured and is just regaining consciousness following a crime may say something that could later be

repeated in court by those who heard it. Out-of-court statements, especially if they were recorded during a time of great excitement or while a person was under considerable stress, may also become exceptions to the hearsay rule. Many states, for example, permit juries to hear 9-1-1 tape recordings or to read police transcripts of victim interviews without requiring that the people who made them appear in court.

In two recent cases, however, the U. S. Supreme Court barred admission of tape-recorded 9-1-1 calls when the people making them were alive and in good health but not available for cross-examination. In *Crawford v. Washington*, a 2004 case, the Court disallowed a woman's tape-recorded eyewitness account of a fight in which her husband stabbed another man, holding that the Constitution bars admission of testimonial statements of a witness who did not appear at trial unless he was unable to testify and the defendant had a prior opportunity for cross-examination.

In *Davis v. Washington*, decided in 2006, the Court held that a 9-1-1 call made by a woman who said that her former boyfriend was beating her had been improperly introduced as testimonial evidence. The woman had been subpoenaed but failed to appear in court. The keyword in both cases is testimonial, and the Court indicated that " statements are nontestimonial when made in the course of police interrogation under circumstances objectively indicating that the primary purpose of interrogation is to enable police assistance to meet an ongoing emergency.

The use of other out-of-court statements, such as writings or routine video or audio recordings, usually requires the witness to testify that the statements

or depictions were accurate at the time they were made. Witness who so testify may be subject to cross-examination by the defendant's attorney. Nonetheless, this "past recollection recorded" exception to the hearsay rule is especially useful in drawn-out court proceedings that occur long after the crime. Under such circumstances, witness may no longer remember the details of an event.

Their earlier statements to authorities, however, can be introduced into evidence as past recollection recorded. Here is a criminal case about my uncle Eugene Somersall that I briefly discuss in class. Eugene Somersall was a 20 year veteran of the Virgin Island Police Department, was charged with Embezzlement, obtaining Money under false pretence and grand larceny based on the investigation by the VIPD insular Investigation Unit of stolen bail bonds money that occurred on 3 separate occasions from the Richard Callwood Command.

On each occasion Officer Somersall produced evidence with a receipt to the individual posting the bail money, but the money was never received by the Virgin Islands Superior Court. Officer Somersall bail was set in the amount of 10, 000, 00 by the order of the Judge. References Works Cited Schmallegger, F. (2011). Stages Of a Criminal Trial. Upper Sadle River: N Pearson/Prentice Hall. Schmallegger, F. S. (2011). Criminal justice today. Upper Saddle River: N Pearson/Prentice Hall.