

**COLORADO SUPREME COURT
ADVISORY COMMITTEE ON THE RULES OF EVIDENCE**

February 26, 2021 Meeting Minutes

A quorum being present, the Colorado Supreme Court’s Advisory Committee on the Rules of Evidence was called to order by Judge Rebecca R. Freyre at 1:30 pm via WebEx. Members and guests present or excused from the meeting were:

Name	Present	Excused
Judge Rebecca R. Freyre, Chair	X	
Scott Bauer	X	
Chief Judge Steven Bernard	X	
Harlan Bockman	X	
Prof. John Campbell		X
Johanna G. Coats	X	
David DeMuro	X	
Judge Stephanie Dunn	X	
Judge Marcelo Kopcow	X	
Jud Lohnes		X
Luke McConnell	X	
Professor Christopher Mueller	X	
Norman Mueller	X	
Magistrate Kelley R. Southerland	X	
Judge Juan G. Villaseñor	X	
Judge Shay Whitaker	X	

I. Attachments & Handouts

- February 26, 2021 Agenda
- December 4, 2020 Minutes
- *People v. Williams*
- FRE 404 / Draft Changes to CRE 404
- FRE 803 / CRE 803
- 2016-05-07 Report to the Advisory Committee on Evidence

II. Minutes

- The December 4, 2020 minutes were adopted as submitted.

III. Announcements from the Chair

- Judge Freyre had no announcements for the committee.

IV. Old Business

a. FRE 803(16) – Ancient Documents Exception to Hearsay

Regarding the newly adopted federal rule change, Professor Mueller reported that very few cases cite to the ancient documents exception and that the federal change has not had a remarkable effect. He further noted that generally, this committee and the Colorado Supreme Court favor tracking the Federal Rules of Evidence. A motion was made and seconded to adopt the amendment. It was unanimously approved.

b. SB20-088 – Evidentiary Rules When Interference with Witness

Judge Freyre noted that this item of business relates to the committee considering formulating a rule of evidence consistent with SB20-088. This committee had lengthy discussions about this in the past and decided not to act. This will be discussed at a future meeting.

c. FRE 404 – Character Evidence; Other Crimes; Wrongs, or Acts

Subcommittee Chair Norm Mueller reported that the changes proposed today are nearly identical to those made to the federal rule and are consistent with how the court has been interpreting this rule. Mr. Mueller also informed the committee that Arizona recently adopted a version of these changes. After the committee discussed the proposal, a motion was made and seconded to approve the changes as presented. The proposal was unanimously approved.

d. Restyling Evidence Rules to be Consistent with Federal Evidence Rules

Judge Freyre reported that this is not something that the supreme court is interested in at this time.

V. New Business

VI. Future Meeting date

The committee adjourned at 3:00 pm.