

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals, continued and held at Charleston, Kanawha County, on June 25, 2014, the following order was made and entered:

**RE: NOTICE OF CORRECTION
TO RULE 608(a) OF THE
WEST VIRGINIA RULES OF EVIDENCE**

By order issued June 2, 2014, the Court approved revisions to the West Virginia Rules of Evidence, to become effective September 2, 2014. Due to an error derived from the 2014 Michie's West Virginia Code Annotated, Federal Court Rules Volume (at p. 718), the text of Rule 608(a) and the comment to Rule 608 have been corrected as noted in this Order.

Originally Published Rule

(a) Reputation or Opinion Evidence. The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

Corrected Rule

(a) Reputation or Opinion Evidence. A witness's credibility may be attacked or supported by testimony about the witness's reputation for having a character for truthfulness or untruthfulness, or by testimony in the form of an opinion about that character. But evidence of truthful character is admissible only after the witness's character for truthfulness has been attacked.

Corrected Comment (deletions shown in strikethrough)

Rule 608 was taken verbatim from the federal counterpart with only one substantive change: the use of the phrase "other than the accused" in Rule 608(b), which is contained in the existing state rule. ~~The term credibility in 608(b) has been replaced by the term "character for truthfulness" in the last sentence of subdivision (b). However, the term "credibility" is also used in subdivision (a). It is unnecessary to substitute "character for truthfulness" for "credibility" in Rule 608(a), because subdivision (a)(1) already serves to limit impeachment to proof of such character. Rules 609(a) and 610 also use the term "credibility" when the intent of those rules is to regulate impeachment of a witness's character for truthfulness. No inference should be derived from the fact that Rule 608(b) differs from the federal rule, but Rules 609 and 610 do not.~~

The Rules attached to the Court's June 2, 2014 order and posted to the Court's website have been updated to reflect this correction. The Clerk is directed to provide a copy of this order to all publishers who normally receive notice of rule changes.

A True Copy

Attest: /s/ Rory L. Perry II
Clerk of Court

