

State of Franklin v. Ford

A step by step walk-through of your MPT method

The task: you work in the **Public Defender's Office** for **Sylvia Ford**, charged in one indictment with three felonies. You draft the **argument section of a persuasive brief** supporting her motion to sever the three counts into separate trials.

THE THREE COUNTS (ALL IN ONE INDICTMENT)

- 1 **Sale of cocaine**, April 17, 2021, at a brother's apartment.
- 2 **Possession of marijuana with intent to sell**, October 24, 2021, from a car.
- 3 **Felon in possession of a firearm**, October 24, 2021, same car (predicate = a 2015 assault-with-intent-to-murder conviction).

The key + format: a two-step severance argument. First, **Rule 8(a)**: Count 1 is misjoined. Then, in the alternative, **Rule 14**: sever all three for prejudice (three prongs from *Ritter*). Persuasive brief, full-sentence argument headings that apply a rule to the facts, cite and distinguish the three cases; no table of contents.

YOUR METHOD The six moves, applied to this file

Structure first, rules second, facts last, matched to the rules, then write the argument.

- 1 **Read the task memo twice:** you write only the ARGUMENT section of the sever brief, following the office's brief guidelines.
- 2 **Work the Library and pull the rules:** Rules 8(a) + 14 (crim pro) and Rules 403 + 404(b) (evidence); then Saylers, Ritter, Pierce. Tag each with a color.
- 3 **Anchor your client and matter:** Sylvia Ford, three counts, two dates (April cocaine; October marijuana + firearm); a prior felony she fears the jury will hear.
- 4 **Jot the case parties:** Saylers (misjoinder = win), Ritter (common plan = the loser you distinguish), Pierce (prior-order prejudice = win).
- 5 **Work the File and match facts to each rule:** the indictment + the two affidavits show the counts are distinct in drug, place, and date.
- 6 **Outline, then write:** two major components (Rule 8(a), then Rule 14's three prongs), each under a persuasive heading.

STEP 1 Read the task memo twice for the structure

One work product with a clear two-part spine. Lock this first:

WHO YOU ARE a public defender representing Sylvia Ford on a motion to sever.

WORK PRODUCT the ARGUMENT section only of a persuasive trial brief; no statement of facts, no table of contents.

ARGUMENT 1 Rule 8(a): Count 1 (cocaine) is improperly joined with the October counts.

ARGUMENT 2 Rule 14 (in the alternative): sever all three because a joint trial prejudices Ford.

STEP 2 Work the Library: pull the rules

Four rules and three cases. Read for the black letter, then color-tag; reuse the colors in Step 5.

The rules

- › **Rule 8(a) (joinder)**: offenses may be joined only if of the same or similar character, based on the same act or transaction, or part of a common scheme or plan.
- › **Rule 14 (severance)**: even if joined, the court may sever if the joinder appears to prejudice a defendant.
- › **Rules 404(b) + 403 (evidence)**: no other-acts evidence to show propensity (though allowed for motive, intent, plan, etc.); and exclude even relevant evidence when unfair prejudice substantially outweighs probative value.

The three cases (your yardsticks)

- › **State v. Saylers** (2013): joining two 'robberies' two years apart in different settings was IMPROPER under 8(a); a shared label is not enough. Courts may look past the indictment to the arrest affidavits.
- › **State v. Ritter** (2005): two heroin sales in the same area, same car, same period WERE a common plan, so cross-admissible; no severance. This is the case you must **distinguish**. It also lets a gun show intent to sell.
- › **State v. Pierce** (2011): a firearm count was severed because the predicate order was irrelevant to the other count and the jury's learning of it was too prejudicial. Your best analogy.

STEP 3 Anchor your client and jot the parties

YOUR CLIENT Sylvia Ford, charged with three felonies she says she is not guilty of; she wants to testify.

THE TWO EPISODES April 17 cocaine sale at an apartment; October 24 traffic stop yielding marijuana + a gun in the car.

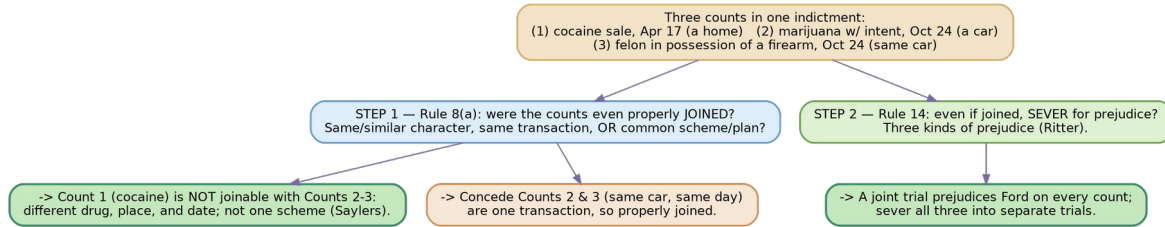
THE DANGER the firearm count requires the jury to hear her 2015 conviction for assault with intent to commit murder.

THE YARDSTICKS Saylers (misjoinder = win), Ritter (common plan = distinguish), Pierce (prior-order prejudice = win).

STEP 4 Two steps: misjoinder, then prejudice

Argue Rule 8(a) first, then Rule 14 in the alternative. Make the good-faith concession the office guidelines reward: **Counts 2 and 3 (same car, same day) are properly joined.**

- › **RULE 8(a)**: Count 1 (cocaine, April, a home) is not similar to, part of, or a common plan with the October car offenses (Saylers). → Count 1 misjoined.
- › **RULE 14**: even if joined, a joint trial prejudices Ford three ways (Ritter). → sever all three.
- › **THE HINGE**: the firearm count drags in the 2015 assault-with-intent-to-murder conviction, which is inadmissible and devastating in the drug trials.



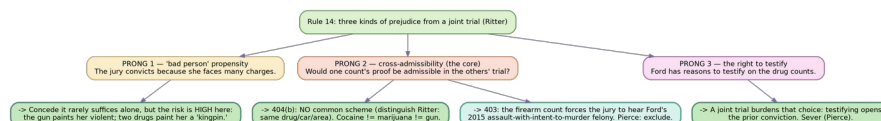
Step 1 attacks the joinder itself; Step 2 severs for prejudice even if the joinder was proper.

STEP 5 Match law to Ford's argument

Snap each rule to the facts and the cases. Same color = one thread.

Rule 8(a) joinder
Rule 14 severance
prong 1 propensity
prong 2: 404(b)
403 + prior felony
prong 3: testify
the cases
State's arguments

ISSUE + GOVERNING LAW (LIBRARY)	THE ARGUMENT FOR FORD (THE FACTS)
■ Rule 8(a) (<i>Saylers</i>): join only if same/similar character, same transaction, or common scheme/plan.	■ Count 1 is a different drug, place, and date from the October counts, and a sale not a possession. Like <i>Saylers</i>' two robberies: misjoined.
■ Prong 2 (<i>Ritter</i>; 404(b)): would one count's proof be admissible in the others' trial?	■ No common scheme here (unlike <i>Ritter</i>'s same drug/car/area); intent, knowledge, and motive are not shared. Rebut the gun-shows-intent-to-sell argument.
■ Rule 403 (<i>Pierce</i>): exclude if unfair prejudice substantially outweighs probative value.	■ The firearm count forces the jury to hear the 2015 assault-with-intent-to-murder felony, irrelevant and devastating in the drug trials. Just like <i>Pierce</i>'s Stein Order.
■ Prong 3 (<i>Pierce</i>): a joint trial burdens the right to testify.	■ Ford has reasons to testify on the drug counts; a joint trial means testifying could open the prior conviction. (Don't promise she will or won't.)
■ Prong 1 (<i>Ritter</i>): the multiple-charge 'bad person' inference.	■ Concede it rarely suffices alone, but note the heightened risk: the gun paints Ford violent; two drugs paint her a 'kingpin.'



Rule 14's three prongs: propensity, cross-admissibility (the core), and the right to testify.

STEP 6 Outline, then write the argument

Two major **components**, each with persuasive **full-sentence headings** that apply a rule to Ford's facts.

HEADING (EXAMPLE) *Because the Cocaine Sale Shares No Common Character, Transaction, or Plan with the October Offenses, Count 1 Is Improperly Joined Under Rule 8(a).*

RULE State the rule (8(a) / 14 / 404(b) / 403), then the case.

ARGUE Apply Ford's facts: different drug, place, date; **no common plan**; the **prior felony** would poison the drug trials.

ADDRESS + CONCEDE Distinguish Ritter, analogize Pierce/Saylers, and concede Counts 2 and 3 are properly joined (credibility).

BEFORE YOU HAND IT IN Point-losers on this file

- › Skipping **Rule 8(a)** and jumping straight to prejudice. Argue misjoinder of Count 1 FIRST, then Rule 14 in the alternative.
- › Failing to **distinguish Ritter**. Ford's drugs are different and unconnected; there is **no common plan** like the same-drug/same-car sales in Ritter.
- › Overreaching. **Concede Counts 2 and 3 are properly joined** (same car, same day); the guidelines warn against exaggerated arguments.
- › Burying the **prior conviction**. The 2015 assault-with-intent-to-murder felony is the strongest prejudice point (Rule 403 + Pierce).
- › On prong 3, **promising Ford will (or won't) testify**. Argue only that a joint trial burdens her choice.
- › Forgetting to **cite AND distinguish contrary authority** (Ritter). The office guidelines require addressing it head-on.