



Risk Manager

Convicted Felons Can Be Impeached with Fact of Conviction, Even After Restoration of Civil Rights

By: Erin McNeill. *This was posted Thursday, June 24th, 2010*

[Under Virginia statute](#), an ex-felon is competent to testify as a witness, but his credibility can be impeached on cross-examination with the fact of his conviction. Virginia's statute differs from the [Federal Rules of Evidence](#) in this regard, because there is no time limitation on when a felony can be used to impeach a witness's credibility.^[1]

A recent ruling only enforces Virginia's commitment to impeachment by prior felony conviction when [Judge Roush](#) of the [Fairfax County Circuit Court](#) held in [Sulton v. FedEx Ground Package System, Inc.](#) that a restoration of civil rights does not include a "right" to testify without being impeached with the fact of a former felony conviction.

The Virginia Lawyers Weekly, a periodical targeted to Virginia lawyers and legal professionals, featured the holding in a recent article about the opinion and its implications. The article quoted [Sands Anderson attorney Robert "Chip" Delano](#), who represented the successful defendant in the case. Read the entire story, by Peter Vieth, on Virginia Lawyers Weekly's website here:

<http://valawyersweekly.com/blog/2010/06/24/rights-restored-man-still-can-be-impeached/>

[1] Under [Fed.R.Evid. 609](#), a witness generally can only be impeached with a felony if it has been less than ten years from the date of the conviction or the date of release from jail, whichever is later.

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