

1 **14-5026. Traits of character of defendant.**

2 Evidence has been introduced in this case to prove that the defendant, prior to the time of
3 the alleged commission of the crime, was a person of good character. The law presumes that a
4 person of good character is less likely to commit a crime and therefore you shall consider such
5 evidence in connection with all the other evidence in the case. If after considering all the evidence
6 in the case, including that touching upon the good character of the defendant, you find and believe
7 beyond a reasonable doubt that [~~he~~] the defendant is guilty of the crime charged, you should not
8 acquit [~~him~~] the defendant solely upon the ground of such good character.

9 USE NOTES

10 No instruction on this subject shall be given.

11 [As amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending
12 or filed on or after December 31, 2025.]

13 **Committee commentary.** — Under Rule [~~11-404A(1)~~] 11-404(A)(1) NMRA, the defendant may
14 introduce pertinent evidence of good character and the prosecution may rebut with evidence of
15 bad character. The defendant may introduce such evidence by: testimony as to reputation; opinion
16 testimony; specific instances of [~~his~~] conduct in cases where character or trait of character is an
17 essential element of the charge, claim or defense. *See also* Rule 11-405 NMRA.

18 It has apparently been a common practice to instruct the jury on the [~~defendant's~~] defendant's good
19 character. *See, e.g., State v. Burkett*[~~7~~], 1925-NMSC-010, 30 N.M. 382, 234 P. 681 [~~(1925)~~]. *See*
20 *generally* [~~Annot.~~] Annotation, Propriety of Instructions as to the Significance of Evidence
21 Concerning the Defendant's Good Character as an Element Bearing Upon the Question of
22 Reasonable Doubt, 68 A.L.R. 1068 (1930). The [~~committee~~] Committee, however, believed that
23 this instruction invaded the province of the jury and was a prohibited comment on the evidence.

- 1 See Rule 11-107 NMRA; ~~[and]~~ *State v. Myers*[~~7~~], 1975-NMCA-055, 88 N.M. 16, 536 P.2d 280
- 2 [~~(Ct. App. 1975)~~].
- 3 [As amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending
- 4 or filed on or after December 31, 2025.]