

L.J. 1325, 1329-30 (1979). The authors point out that the use of affirmative defenses may relieve the state of its duty to prove a sufficient factual basis for punishment, *id.* at 1357, and argue that the reasonable doubt standard should not be limited to those facts formally identified as elements of the offense charged, *id.* at 1327.

² *E.g.*, State v. Caryl, 543 P.2d 389, 390 (Mont. 1975); State v. Hinson, 172 S.E.2d 548, 551 (S.C. 1970).

³ *See, e.g.*, Quillen v. State, 110 A.2d 445, 449 (Del. 1955); State v. Skinner, 104 P. 223, 224 (Nev. 1909). *See generally* WAYNE R. LAFAVE & AUSTIN W. SCOTT, JR., HANDBOOK ON CRIMINAL LAW § 8.1, at 704-06 (2d ed. 1986) (discussing the origin of embezzlement and false pretense).

⁴ *See, e.g.*, Chandle v. State, 198 S.E.2d 289, 290 (Ga. 1973); State v. Enlow, 536 S.W.2d 533, 541 (Mo. Ct. App. 1976).

1.2 Introductory Signals

(a) Signals that indicate support.

[no signal] Cited authority (i) directly states the proposition, (ii) identifies the source of a quotation, or (iii) identifies an authority referred to in the text. Use "[no signal]," for example, when directly quoting an authority or when restating numerical data from an authority.

E.g., Cited authority states the proposition; other authorities also state the proposition, but citation to them would not be helpful or is not necessary. "*E.g.*" may also be used in combination with other signals, preceded by a comma:

See, e.g.,
But see, e.g.,

Accord "*Accord*" is commonly used when two or more sources state or clearly support the proposition, but the text quotes or refers to only one; the other sources are then introduced by "*accord*." Similarly, the law of one jurisdiction may be cited as being in accord with the law of another.

See Cited authority clearly supports the proposition. "*See*" is used instead of "[no signal]" when the proposition is not directly stated by the cited authority but obviously follows from it; there is an inferential step between the authority cited and the proposition it supports.

See also Cited authority constitutes additional source material that supports the proposition. "*See also*" is commonly used to cite an authority supporting a proposition when authorities that state or directly support the proposition already have been cited or discussed. The use of a parenthetical explanation of the source's relevance (rule 1.5) following a citation introduced by "*see also*" is encouraged.

Cf. Cited authority supports a proposition different from the main proposition but sufficiently analogous to lend support. Literally, "*cf.*" means "compare." The citation's relevance will usually be clear to the reader only if it is explained. Parenthetical explanations (rule 1.5), however brief, are therefore strongly recommended.

(b) Signal that suggests a useful comparison.

Compare... [and]... with... [and]... Comparison of the authorities cited will offer support for or illustrate the proposition. The relevance of the comparison will usually be clear to the reader only if it is explained. Parenthetical explanations (rule 1.5) following each authority are therefore strongly recommended.

► *Compare* Michael H. v. Gerald D., 491 U.S. 110, 121 (1989) (rejecting the claim by a putative natural father of the right to visit his child conceived by a married woman), *and* CATHARINE A. MACKINNON, FEMINISM UNMODIFIED 49 (1987) (contending that what connects all women is their oppression in a sexual hierarchy), *with* Loving v. Virginia, 388 U.S. 1, 12 (1967) (naturalizing language about marriage), Doe v. McConn, 489 F. Supp. 76, 80 (S.D. Tex. 1980) (holding a cross-dressing ordinance unconstitutional as applied to individuals undergoing therapy for sex-reassignment surgery), *and* Kenneth L. Karst, *The Freedom of Intimate Association*, 89 YALE L.J. 624, 631 (1980) ("The denial of the society of an intimate may be partial, as in the case of a parent who loses a contest over child custody but is allowed visitation rights, or virtually total, as when a noncustodial parent is denied visitation rights.").

(c) Signals that indicate contradiction.

Contra Cited authority directly states the contrary of the proposition. "*Contra*" is used where "[no signal]" would be used for support.

But see Cited authority clearly supports a proposition contrary to the main proposition. "*But see*" is used where "*see*" would be used for support.

But cf. Cited authority supports a proposition analogous to the contrary of the main proposition. The use of a parenthetical explanation of the source's relevance (rule 1.5) following a citation introduced by "*but cf.*" is strongly recommended.

"*But*" should be omitted from "*but see*" and "*but cf.*" whenever one of these signals follows another negative signal:

► *Contra* Blake v. Kline, 612 F.2d 718, 723-24 (3d Cir. 1979); *see* CHARLES ALAN WRIGHT, LAW OF FEDERAL COURTS § 48 (4th ed. 1983).

(d) Signal that indicates background material.

See generally Cited authority presents helpful background material related to the proposition. The use of a parenthetical explanation of the source material's relevance (rule 1.5) following each authority introduced by "*see generally*" is encouraged.

(e) *Signals as verbs.* In footnotes, signals may be used as the verbs of textual sentences. When using signals in this way, include material that would otherwise be included in a parenthetical explanation as part of the sentence

The Blue book
A guide for
writing a
citation
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