



## **Legal Errors in the New York Prosecution of President Trump *Molineux Rule* Testimony**

The evidence presented in *People v. Trump* by the New York County District Attorney's Office violated the rules of evidence, specifically the *Molineux Rule*. Judge Merchan disregarded over 100 years of precedent and rules of evidence to allow testimony that portrayed Donald Trump in a bad light.

### **The Molineux Rule**

- The *Molineux Rule* bars the admission of testimony where such evidence is so prejudicial as to require exclusion to ensure that it does not create the inference that the person charged with criminal conduct is guilty of the charged crime or crimes solely because of his or her prior conduct.<sup>1</sup>
- For more than a century, New York Courts have followed a two-step analysis when applying the Molineux Rule.
  - First, the court considers whether the proffered evidence is probative of any element of the crime or defense in the case.<sup>2</sup>
  - Second, the court considers whether the probative value of the evidence outweighs its potential for prejudice.<sup>3</sup>

### **Most of the character evidence should have been excluded**

- Judge Merchan allowed the testimony of Ms. Daniels and Ms. McDougal—who testified about romantic encounters and the “Access Hollywood” tape.
- This testimony is the textbook definition of evidence that should have been excluded under Molineux, as Trump’s alleged encounters with both women were neither criminal nor charged as crimes in the present trial.
- It served only as smear evidence to prejudice the jury against him.

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<sup>1</sup> See generally *Guide to N.Y. Evidence Rule 4.21 (Evidence of Crimes and Wrongs (Molineux))* (citing *People v. Molineux*, 168 NY 264 (1901)) (available at <https://tinyurl.com/2ze9hm72>).

<sup>2</sup> *People v. Hodge*, 206 N.Y.S.3d 199, 206 (3d Dept. 2024).

<sup>3</sup> *Id.*