



PASSIVE VOICE: HOW TO SPOT IT AND FIX IT

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What is passive voice?

- “Voice” means the way an action verb relates to its subject (the person or thing doing the action in the verb).

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- In **active voice**, the subject of the sentence does the action in the verb.
 - The batter hit the ball.



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- In **passive voice**, the subject is acted upon by the verb.
 - The ball was hit by the batter. (the real subject of the verb, the batter, comes after the verb)
 - The ball was hit. (“truncated” passive voice, which leaves it to the reader to figure out who hit the ball)



Voice is not the same as “tense.”

- “Tense” refers to time—when did the action happen?
- Passive voice can occur in any tense.
- The subpoena was delivered.
- The subpoena is delivered.
- The subpoena will be delivered.



Why should you favor the active voice?

- It is usually more concise.
- It was intended by Congress that the statute be interpreted broadly by the courts. (14 words)
- Congress intended that the courts interpret the statute broadly. (9 words)




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- It is easier to understand. The reader doesn't have to wait until the end of the sentence to understand "who did what to whom."
 - In "truncated" passive voice, the reader has to decide who's doing the action in the verb since the writer doesn't say.
 - The plaintiff's rights were violated. (violated by whom?)
 - Mr. Jones violated the plaintiff's rights.



Should you ever use passive voice?

- As a general rule, prefer the active voice. But there are several circumstances in which it makes sense to use passive voice.

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- When the action is more important than the actor.
 - A new surgery was performed at Mayo Clinic yesterday. (passive)
 - Compare: Dr. Samuel Jones, renowned heart surgeon, performed a new surgery at Mayo Clinic yesterday. (active)



- When the writer doesn't know who the actor is (or it isn't important for the reader to know).
- The governor was told this morning that three prisoners had escaped from the city jail.



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- In persuasive writing, when the writer wants to distance the actor from an unfavorable action. Who might prefer the passive version of the following?
 - The well was polluted. (passive)
 - ABC Company polluted the well. (active)



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- To be tactful.
 - The motion for summary judgment should be granted.



How do you spot passive voice?

- Look for some form of the verb “to be” (such as **is, are, was, were, has been**), usually in front of another verb.
- A copy of the manual was transmitted by the computer. (passive)
- The computer transmitted a copy of the manual. (active)



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- You may also see the preposition “by” when you are in passive voice.
 - A decision was reached by the jury.
(passive)
 - The jury reached a decision. (active)



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- But remember that “truncated” passive voice does not require use of the preposition “by.”
 - A decision was reached. (Who reached a decision?)



- Grammar check will help you spot some passive voice. Check your settings to see whether there is a box for “passive voice” or a setting for “formal” v. “standard” English.



How do you fix passive voice?

- Place the subject doing the action in the verb before the verb instead of after it.



Examples

- The company fired Mr. Jones in retaliation for his wife filing a discrimination claim. (active)
- Not: Mr. Jones was fired by the company in retaliation for his wife filing a discrimination claim. (passive)
- Not: Mr. Jones was fired in retaliation for his wife filing a discrimination claim. (passive—who fired him?)



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- The company took reasonable precautions to protect the information. (active)
 - Not: Reasonable precautions were taken by the company to protect the information. (passive)
 - Not: Reasonable precautions were taken to protect the information.
(passive-who took the precautions?)



PRACTICE (exercises from Richard C. Wydick, Plain English for Lawyers 31,121 (4th ed. 1998))

- The admissibility of post-hypnotic testimony was questioned by the Fourth Circuit in the Forbush case.
- The Fourth Circuit questioned the admissibility of post-hypnotic testimony in the Forbush case.



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- The prosecutor has petitioned for certiorari, but the petition will probably be denied by the Supreme Court.
 - The prosecutor has petitioned for certiorari, but the Supreme Court will probably deny the petition.



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- If certiorari had been granted by the Supreme Court in one of the earlier cases, we would not now face a split among the circuits.
 - If the Supreme Court had granted certiorari in one of the earlier cases, we would not now face a split among the circuits.



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- The split among the circuits has existed for nearly a decade.
 - The split among the circuits has existed for nearly a decade. (correct as is)



- The liberal approach, which the Ninth Circuit pioneered eight years ago, has been rejected in the Second and Fifth Circuits.
- The Second and Fifth Circuits have rejected the liberal approach, which the Ninth Circuit pioneered eight years ago.



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- The conservative approach suggests that in Forbush the testimony should not have been admitted by the trial court.
 - The conservative approach suggests that in Forbush the trial court should not have admitted the testimony.



Other resources

- Richard C. Wydick, Plain English for Lawyers (4th ed. 1998).
- Anne Enquist & Laurel Currie Oates, Just Writing (3d ed. 2009).