

A plaintiff sued a church for damages he suffered when he crashed his motorcycle in an attempt to avoid a cow that had escaped from its corral. The cow and corral belonged to a farm that had recently been left by will to the church.

At trial, the plaintiff seeks to ask the defendant's witness whether she is a member of that church.

Is the question proper?

- A. No, because evidence of a witness's religious beliefs is not admissible to impeach credibility.
- B. No, because it violates the First Amendment right to free exercise of religion.
- C. Yes, for the purpose of ascertaining partiality or bias.
- D. Yes, for the purpose of showing capacity to appreciate the nature and obligation of an oath.

Explanation:

Religious beliefs or opinions

(FRE 610)

Evidence of witness's religious beliefs or opinions is:

inadmissible to attack or support witness's character for truthfulness

admissible to show witness's bias (eg, relationship with party)

admissible to show witness's self-interest (ie, stake in case outcome)

FRE = Federal Rule of Evidence

Under Federal Rule of Evidence 610, evidence of a **witness's religious beliefs** is **not admissible** to attack the witness's **character for truthfulness**. But such evidence **may be admissible** to prove the **witness's bias or self-interest**, such as when the witness is affiliated with a church that is a party to a lawsuit (as seen here). Therefore, the plaintiff's question is proper for the purpose of ascertaining partiality or bias.

(Choice A) Evidence of a witness's religious beliefs *can* be used to impeach credibility by showing the witness's bias or self-interest. That is because evidence of bias or self-interest shows that the witness has a motive to lie, partiality to a party, or a stake in the outcome of the case.

(Choice B) The First Amendment free exercise clause restricts the *government's* ability to infringe on a person's sincerely held religious beliefs. But this restriction does not apply to the plaintiff here.

(Choice D) A witness is presumed competent to testify unless proven otherwise. Competence concerns, among other things, the ability to understand the nature and obligation of taking an oath. But a witness's religious belief or affiliation—once a basis for determining competence to testify—is no longer considered for this purpose.

Educational objective:

Evidence of a witness's religious beliefs is *not* admissible to attack the witness's character for truthfulness, but it *is* admissible to prove the witness's bias or self-interest.

References

Fed. R. Evid. 610 (religious beliefs or opinions).

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