

At the close of a two-week federal jury trial, the court asked the parties to submit proposed jury instructions. The court selected some of the proposed instructions, reformulated others, and charged the jury accordingly. The parties made no objections. The jury returned a verdict for the plaintiff, and the court entered judgment on the verdict.

The defendant appealed, arguing that several of the court's instructions were plain error.

What is the plaintiff's best argument in response?

- A. Any errors in the instructions did not affect the defendant's substantial rights. (34%)
- B. The defendant waived the appeal by failing to first move for a new trial. (1%)
- C. The court has discretion as to what instructions to give and can be reversed on appeal only for abuse of that discretion. (7%)
- D. The defendant waived the errors in the instructions by not objecting to them at trial. (56%)

Correct

34% Answered correctly

48 secs Time Spent

2023 Version

Explanation:

To **challenge** an error in **jury instructions on appeal** (ie, to preserve error), a party generally must **object at trial**. If a party **fails to do so**, the challenged error can only be **reviewed for plain error**. Under a plain-error review, an appeal will be heard if the appellant shows that an **obvious error affected a substantial right** and the fairness of judicial proceedings.

Here, the defendant challenged several of the court's jury instructions on appeal by arguing they were plain error. Since the defendant failed to object to these instructions at trial, the defendant's appeal will only be heard if the defendant shows that an obvious error affected the defendant's substantial rights. Therefore, the plaintiff's best argument in response to the defendant's appeal is that any errors in the instructions did not affect the defendant's substantial rights.

(Choice B) There is no requirement that a party file a motion for a new trial before challenging jury instructions on appeal. Therefore, the defendant did not waive the appeal by failing to first move for a new trial.

(Choice C) A district court does have discretion as to what instructions to give and can generally be *reversed* on appeal only for abuse of discretion. But the plaintiff's best argument is that the defendant's appeal of the erroneous jury instructions cannot be *heard* because they did not affect the defendant's substantial rights.

(Choice D) Although the defendant failed to object to the errors at trial, plain-error review would allow the appeal if the errors constituted plain error. Therefore, the plaintiff must argue that the errors did not affect the defendant's substantial rights.

Educational objective:

To challenge an error in jury instructions on appeal, a party generally must have objected to that error at trial. But if a party failed to do so, the challenged error can still be reviewed on appeal for plain error—ie, an obvious error that affected a substantial right and the fairness of judicial proceedings.

References

Fed. R. Civ. P. 51 (explaining that jury-instruction errors not preserved for appeal can be reviewed for plain error if the error affects a party's substantial rights).

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Appeal (based on jury-instruction error)

