

A plaintiff has sued the government for injuries she received when her car was allegedly forced off the road by a military convoy. At trial, an eyewitness testifies for the plaintiff and then is asked on cross-examination whether he belongs to a religious group that refuses on principle to file federal tax returns, because the revenues are used to build weapons of war.

Is the question proper?

- A. No, because evidence of the witness's religious beliefs cannot be used for impeachment in this case.
- B. No, because the witness's character cannot be impeached by evidence of criminal acts, but only by convictions.
- C. Yes, because a person's willingness to violate tax laws indicates possible willingness to testify falsely.
- D. Yes, because the witness's beliefs are relevant to the possibility of bias.

Explanation:

Evidence of a **witness's religious beliefs** is **inadmissible** to attack the witness's **character for truthfulness**, but it is **admissible** to prove a witness's **bias or self-interest (Choice A)**. Evidence of bias or self-interest attacks a witness's credibility by showing the witness's motive to lie, partiality to a party, or stake in the outcome of the case. Therefore, this impeachment evidence is always relevant.

Here, the government seeks to discredit the eyewitness's unfavorable testimony about the military convoy on cross-examination. The government's question—whether the witness belongs to a religious group that refuses to file federal tax returns because the revenues are used to build weapons of war—goes to the witness's possible anti-military bias. Since evidence of bias is always relevant, it can be used to impeach the witness.

(Choice B) A witness's **character for truthfulness** *may* be impeached with evidence of a prior criminal act that did not result in a conviction. But here, the government is not asserting that the witness willfully failed to file a tax return (a misdemeanor)—only that he belongs to a religious group that does. And his *character* may not be impeached with such evidence, but it is admissible to show his *bias*.

(Choice C) Evidence of a witness's willingness to break the law—eg, a conviction for a felony or crime of dishonesty—*can* be used to show the witness's willingness to give false testimony. However, the eyewitness's *affiliation* with a group that is willing to break the law is not admissible for that purpose.

Educational objective:

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

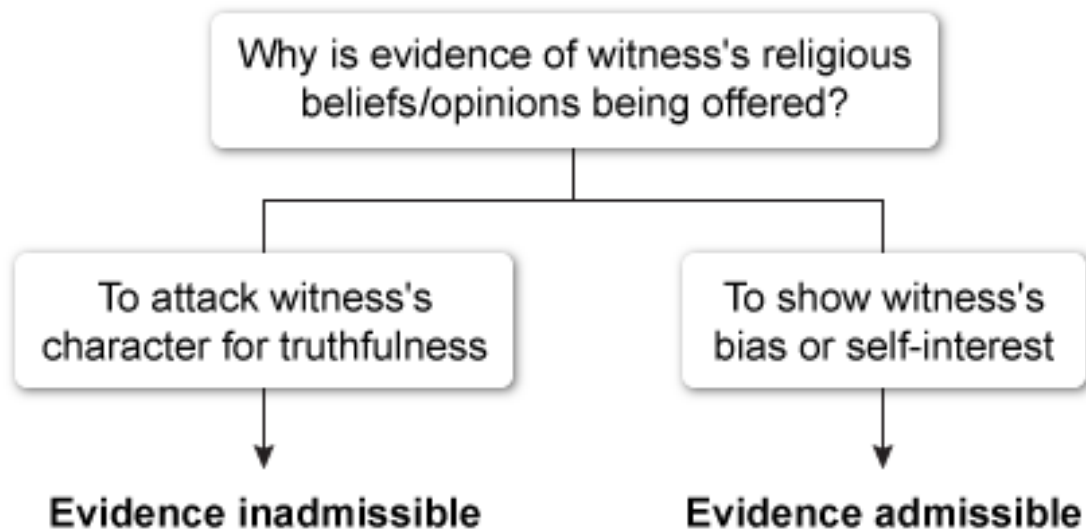
References

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

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Witness's religious beliefs (FRE 610)



FRE = Federal Rule of Evidence

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