

A driver sued her insurance company on an accident insurance policy covering personal injuries to the driver. The insurance company defended on the ground that the driver's injuries were intentionally self-inflicted and therefore excluded from the policy's coverage.

The driver testified at trial that she had inflicted the injuries, as her negligence had caused the crash in which she was injured, but that she had not done so intentionally. She then called as a witness her treating psychiatrist to give his opinion that the driver had been mentally unbalanced, but not self-destructive, at the time of the crash.

Should the court admit the witness's opinion?

- A. No, because it is a statement about the driver's credibility.
- B. No, because it is an opinion about a mental state that constitutes an element of the defense.
- C. No, because the witness did not first state the basis for his opinion.
- D. Yes, because it is a helpful opinion by a qualified expert.

## Explanation:

A **qualified expert witness** is one with specialized knowledge, skill, experience, training, or education on a subject that pertains to an issue being litigated. To be **admissible**, the expert's testimony must be both:

**relevant** – the testimony will help the trier of fact (1) understand the evidence OR (2) determine a fact in issue *and*

**reliable** – the testimony is (1) based on sufficient facts or data AND (2) the product of reliable principles and methods that the expert has reliably applied to the facts of the case.

Here, it can be presumed that the witness, as the driver's treating psychiatrist, has *specialized knowledge* pertinent to the driver's mental state at the time of the crash that was *reliably* applied to the facts of the case. His opinion that the driver had been mentally unbalanced but not self-destructive is *relevant* because it will help the jury determine whether her injuries were intentionally self-inflicted. Therefore, the court should admit this testimony.

**(Choice A)** The witness is offering to testify to the driver's pertinent mental state—not the driver's credibility. If the witness were to do so, the testimony would be inadmissible because credibility is a question for the jury to decide.

**(Choice B)** An expert may *not* state an opinion about whether a criminal defendant had the requisite mental state for any element of a charged crime or asserted defense. But all other expert testimony on a party's mental state—including the witness's proffered testimony here—is admissible.

**(Choice C)** An expert may state an opinion without first testifying to the underlying facts or data. But the expert may be required to disclose the basis for that opinion on cross-examination.

## Educational objective:

A qualified expert's testimony is admissible if it (1) will help the trier of fact understand the evidence OR determine a fact in issue and (2) is based on sufficient facts or data AND the product of reliable principles and methods that the expert has reliably applied to the facts of the case.

## References

Fed. R. Evid. 702 (expert testimony).

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## Admissibility of expert testimony

