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CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

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STATE OF IOWA,	)	
Plaintiff-Appellee,	)	
vs.	)	
VENTURA RAMOS-RUIZ,	)	8-424 87-1271
Defendant-Appellant.	)	

Appeal from the Iowa District Court for Muscatine County (No. 1746-487), Max R. Werling, Judge.

Defendant appeals his jury conviction for assault with intent to commit sexual abuse. **AFFIRMED.**

Raymond Rogers, Acting Chief Appellate Defender, and B. John Burns, Assistant Appellate Defender, for defendant-appellant.

Thomas J. Miller, Attorney General; Bruce Kempkes, Assistant Attorney General; and Stephen J. Petersen, Muscatine County Attorney, for plaintiff-appellee.

Heard by Oxberger, C.J., and Donielson and Sackett, JJ.

DONIELSON, J.

The defendant appeals from his conviction, following a jury trial, of assault with intent to commit sexual abuse. He contends that the trial court abused its discretion in allowing the State to cross-examine him on whether he was an illegal alien and a bigamist.

The defendant was charged with two counts of second-degree sexual abuse for incidents involving his wife's eight-year-old son. Overruling his motion in limine, the trial court allowed the State to cross-examine him on whether he was an undocumented alien and had another wife and family in Mexico. The jury acquitted him on one count and on the other count returned a verdict of guilty on the lesser-included offense of assault with intent to commit sexual abuse.

The defendant contends the district court abused its discretion in allowing the State to cross-examine Ramos-Ruiz about the fact that he was an illegal alien and that he was married to two women simultaneously. The State argues that no abuse occurred when the district court exercised its discretion, permitting cross-examination of the defendant about his illegal entries into this country to show his character for untruthfulness.

In ruling on the State's request to cross-examine Ramos-Ruiz, the trial court indicated that the State is entitled to test the witness's credibility. Specific

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instances of conduct of a witness, for the purpose of attacking or supporting his credibility, may, at the discretion of the court, be inquired into on cross-examination of the witness concerning his character for truthfulness or untruthfulness. Iowa R. Evid. 608(b). We will disturb the trial court's ruling only when it has obviously abused its discretion. State v. Martin, 385 N.W.2d 549, 552 (Iowa 1986). An abuse will be found only when the court exercises its discretion on grounds or for reasons clearly untenable or to an extent clearly unreasonable. Id. We find no abuse of discretion by the trial court.

Pertinent cross-examination is a valuable right essential to a fair trial and is to be jealously guarded. State v. Crawford, 202 N.W.2d 99, 104 (Iowa 1972). To determine what is pertinent, an analysis of the relevant facts of each case is necessary to determine where the line lies which separates evidence which in an important and material way bears directly on the veracity of the witness from that evidence which has little bearing on veracity but excites prejudice against the witness. State v. Chambers, 370 N.W.2d 600, 602 (Iowa App. 1985), citing State v. Crawford, 202 N.W.2d 99, 103 (Iowa 1972).

First we will consider the claim regarding defendant's cross-examination about having two wives simultaneously. Defendant testified about his wife in the United States and

her role in filling out residency papers for him. His residency request was denied. He was then asked if he has a wife in Mexico. He said through an interpreter, "Yes, I had." He also said he has three daughters in Mexico.

The other instances of conduct complained about involved Ramos-Ruiz being smuggled into the United States, his unsuccessful attempts to attain residency, and the fact that he stayed in the United States longer than permitted. These instances of conduct are permissible under rule 608(b) of the Iowa Rules of Evidence. See U.S. v. Morales-Quinones, 812 F.2d 604, 614 (10th Cir. 1987) (The court said, "While the admission of testimony regarding the witness's illegal entries not resulting in convictions would have been proper under Rule 608(b)" of the Federal Rules of Evidence, no abuse was found for instructing the jury to disregard that testimony).

We find the trial court did not abuse its discretion by admitting the testimony in question for purposes of credibility. In a case such as this where the outcome is dependent upon whether the jury believes the victim or the defendant, the issue of credibility is crucial to a fair trial. Furthermore, defendant has not proven how his testimony resulted in unfair prejudice against him. Therefore we affirm the conviction of the district court.

AFFIRMED.