

JURY SELECTION

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Purpose of Voir Dire

- 1. To enable counsel to intelligently exercise peremptory challenges.
- 2. To convene competent, fair, impartial and unprejudiced jurors.
- 3. To expose bias or interest of potential jurors.
- 4. To develop rapport between officers of the court and jurors.

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Roles of the Parties

- **Counsel** – to provide legal assistance to client
- **Jury panel members** – to answer questions they are asked – not to divine intent of the questioner.
- **Trial court** – to protect the right of each party to intelligent exercise of peremptory challenges

Regulation of Voir Dire

- 1. Trial court afforded much latitude.
- 2. Further interrogation is permissible if juror's answer is equivocal or qualified.
- 3. Conduct of voir dire rests within sound discretion of judge.
- 4. Judge may impose *reasonable* restrictions.

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Unreasonable Restrictions?

- 1. Cannot impede right to question jurors on permissible questions.
- 2. Can intervene for the purpose of clarification or instruction to expedite.
- 3. Can restrict confusing or misleading questions.

PROPER QUESTION

- 1. Must be in the proper form.
- 2. Must be about a proper area of inquiry.
- 3. It's purpose must be to detect juror's views on an issue applicable to the case.

Proper Form

Proper Area of Inquiry

Proper Purpose

Proper Questions

- 1. Could they conceive of possibility that police might lie?
- 2. Does anyone know parties or family members ?
- 3. Strong religious views which would keep juror from following oath.

Improper Questions

- 1. inquiring into personal habits rather than personal prejudices and moral beliefs
- 2. attempting to commit jurors to how they would resolve factual issues in the case
- 3. global fishing expedition
- 4. Automatically predisposed to find someone guilty simply because he refused to take the breath test.
(commitment q.)
- 5. Justification, mistake of fact, when not entitled to submission of those issues.

Relevant Questions

- 1. If they involve issues in the case
- 2. Are necessary to intelligent use of peremptory challenges
- 3. Can make introductory remarks about your status as retained attorney, rational for criminal defense work – to establish rapport – but only if does not improperly prolong voir dire

Time Limit

- 1. Court may set reasonable time limits.
- 2. Depends on type of case.
- 3. To show abuse of discretion –
 - A. Object to the time limit
 - B. Submit a list of written permissible questions
 - C. Ask for more time
 - D. Point out jurors selected which needed further interrogation

Objections

- 1. “As defendant sits there he is innocent.”
(Presumed)
- 2.

Appeal

- 1. Objection
- 2. Question that was not allowed to be asked.
- 3. Objectionable juror

Same jury panel for all cases that day

- Art. 45.027,
 - The jurors so summoned shall remain in attendance as jurors in all cases that may come up for hearing until discharged by the court.
 - GO WATCH OTHER TRIALS.

Wappler v. State

183 S.W.3d 765

- 1. “Probably” would believe policeman and doctors more than other witnesses. (not challengeable)