

JURY INSTRUCTIONS BEFORE VOIR DIRE EXAMINATION-CRIMINAL

I.

Ladies and Gentlemen of the Jury Panel:

Thank you for being here. We are here to select a jury. Six of you will be chosen for the jury. Even if you are not chosen for the jury, you are performing a valuable service that is your right and duty as a citizen of a free country.

Before we begin: Turn off all cell phones and other electronic devices. While you are in the courtroom, do not communicate with anyone through any electronic device. For example, do not communicate by phone, text message, email message, chat room, blog or social networking websites such as Facebook, Twitter, or My Space. The telephone number for this court is 361-575-4550, you may give this to your employer and family members as a contact number for emergencies. Do not record or photograph any part of these court proceedings because it is prohibited by law.

Introduce courtroom staff and attorneys

Here is some background about this case. This is a criminal case. The parties are as follows: Representing the State is _____, representing the defendant is _____ and the Defendant is _____. They will ask you some questions during jury selection. But before their questions begin, I must give you some instructions for jury selection.

Every juror must obey these instructions. You may be called into court to testify about any violations of these instructions. If you do not follow these instructions, you will be guilty of juror misconduct, and I might have to order a new trial and start this process over again. This would waste your time and the parties' money, and would require the taxpayers of this county to pay for another trial.

These are the instructions:

1. To avoid looking like you are friendly with one side of the case, do not mingle or talk with the lawyers, witnesses, parties, or anyone else

- involved in the case. You may exchange casual greetings like “hello” and “good morning”. Other than that, do not talk with them at all. They have to follow these instructions too, so you should not be offended when they follow the instructions.
2. Do not accept any favors from the lawyers, witnesses, parties, or anyone else involved in the case, and do not do any favors for them. This includes favors such as giving rides and food.
 3. Do not discuss this case with anyone, even your spouse or a friend, either in person or by any other means including by phone, text message, email message, chat room, blog, or social networking websites such as Facebook, Twitter or Myspace. Do not allow anyone to discuss the case with you or in your hearing. If anyone tries to discuss the case with you or in your hearing, tell me immediately. We do not want you to be influenced by something other than the evidence admitted in court.
 4. The parties, through their attorneys, have the right to ask you questions about your background, experiences, and attitudes. They are not trying to meddle in your affairs. They are just being thorough and trying to choose fair jurors who do not have any bias or prejudice in this particular case.
 5. Remember that you took an oath that you will tell the truth, so be truthful when the lawyers ask you questions, and always give complete answers. If you do not answer a question that applies to you, that violates your oath. Sometimes a lawyer will ask a question of the whole panel instead of just one person. If the question applies to you, raise your hand and keep it raised until you are called on.

Do you understand these instructions? If you do not, please tell me now.

Let the record reflect that all members of the jury panel by their answer of yes, or their silence have indicated that they understand the court’s instructions.

We shall try this case as quickly as possible consistent with the rules of law and the ends of justice. I anticipate the trial of this case will take approximately ___ days. Please remember this is a prediction and not a promise. If you are selected to serve on this jury, you will be permitted to separate at recess and for meals and in the evening.

Principles of Law

I think that jurors can and will perform their duties more effectively if they are informed and understand the nature of their duties and the manner in which these proceedings will be conducted. So let me go over with you some of the principles of law that govern the conduct of this trial.

In the trial certain functions and duties are imposed upon the judge. It is my job to conduct the trial, control the procedure and advise the jury on matters of law and rule on matters of law. In most instances the parties' position on matters of law must be raised and preserved by objections which are made a part of the record. In the absence of objections, should this case need to be reviewed by an appellate court, there would be nothing for them to review. Therefore, it may become necessary for the attorneys on either side to make objections and for me to rule upon those objections. This is one example of a matter of law. Please do not hold the fact that objection is made against the attorney making the objection or the party that he or she represents.

It is the function of the jury in this trial to determine the facts. The jury is the sole and exclusive judge of the credibility of the witnesses and the weight to be given their testimony. Under Texas law the judge is not permitted to influence you or comment upon the evidence in any way. I point this out to you because sometimes during jury deliberation, the jury sends out questions to the judge. Sometimes because of this restriction, the best answer I will be able to give is "Please consider all of the evidence admitted during the course of this trial."

Our Code of Criminal Procedure provides for a bifurcated or two part trial. In the first stage the jury is called upon to decide whether the defendant is not guilty or guilty of the charge brought against him. During this stage, that is the only issue the jury should be concerned with.

If the Defendant is found not guilty then the second stage of the trial is not reached. If the Defendant is found guilty, then the second stage or punishment phase of the trial is held.

In this case the Judge will decide punishment, if necessary so the only issue before this jury will be whether the Defendant is not guilty or guilty of the charge brought against him/her.

The burden of proof in all criminal cases rests upon the State throughout the trial and never shifts to the defendant. If the jury has a reasonable doubt as to the Defendant's guilt after considering all of the evidence brought before them, the Court's instructions and the attorneys' arguments, it will be the duty of that jury to find the Defendant "not guilty".

Conversely, after considering all of the evidence, the Court's instructions and the attorneys' arguments, if the jury is convinced beyond a reasonable doubt that the Defendant is guilty of the offense as charged, it would be the duty of the jury to return a verdict of "guilty".

There is no legal definition of reasonable doubt. It will be up to you to decide if you have a doubt and whether that doubt is reasonable.

The type of jury that the State and the Defendant are entitled to have and which our system of justice requires that we have is a fair jury. A fair jury is one which goes into the jury box unbiased and unprejudiced and free from any opinion as the outcome of the trial. A fair jury is one, not having heard any evidence as yet, who is not committed to either side and has not prejudged this case. A fair jury is one who is impartial to both sides, the State and the Defendant, and who can and will follow the law as given it in the court's instructions.

We come now to the portion of the trial called voir dire examination. Voir dire is a French word that means "to speak the truth." It is the only interactive part of the trial. It is the only time you will be able to have a conversation with the attorneys. The attorneys may ask some questions to you as a row or as an entire group. This does not mean these questions are any less important than if they took the time to ask each of you individually. So please consider those questions just as carefully as if you were the only one being asked.

If you do not hear a question or do not understand a question, please raise your hand and let the attorney know so that he or she can repeat or rephrase the question for you.

I will remind you again that COURT REPORTER must take down everything that is said, so please answer out loud and not by nodding or shaking your head.

The State may proceed.

The lawyers will now begin to ask their questions.