

The Care and Feeding of a Jury:
Jury Management

Hon. John Plegge
Circuit Judge Retired, Little Rock

I. EMPANELING A JURY

A. Selection of Panel

1. Selection of names
2. Notification of jury panel
3. Jury orientation

B. Jury Orientation Procedure

1. Film
2. Judge's Preliminary Instructions
 - a. Roll call
 - b. Introduce staff
 - c. Length of service
 - d. Number of times juror will be called
 - e. Average number of times juror will serve
 - f. Type of case
 - g. When and where to report
 - h. Parking facilities
 - i. Court hours
 - j. Eating facilities near courthouse
 - k. Compensation
 - l. Restroom facilities
 - m. Procedures and grounds for requesting an excuse (doctor appointment, vacation, emergency, etc.)
 - n. Number to call for reporting or to obtain additional information
 - o. Importance of wearing juror identification badge
 - p. Contact with attorneys or media after trial

C. Arkansas Code Annotated 16-32-101, et seq. Summons of Petit Jurors.

Act 892 of 1989 amended A.C.A. 16-32-106 as to the procedure to summon jurors for jury service. (See Exhibit "A").

2. Emphasize that excusal from service at that time is only a postponement of service.

F. Jury Panel

1. Individual questionnaires completed by each juror. Arkansas Rule of Criminal Procedure 32.1 states that circuit court shall require members of petit jury panels to complete written questionnaires setting forth the following information: age, marital status; extent of education; occupation of juror and spouse; and prior jury service. Upon request, such questionnaires shall be made available by the clerk of the court to the defendant or his counsel and the prosecuting attorney. Upon a showing of good cause, additional information may be furnished regarding jurors by order of the court. (See Exhibit "E" and "F").
2. The Court may compile and prepare a jury biography from the information received from the individual questionnaires. The Court should limit public dissemination of information concerning jurors as a security precaution. (See Exhibit "G").

II. VOIR DIRE

A. Purpose

1. To speak the truth
2. Eliciting information RELEVANT to exercise of challenges for cause
3. Eliciting information RELEVANT to exercise of peremptory challenges

B. Challenges

1. Peremptory - Limited number, usually given by statute of court rules, which can be exercised for any reason or cause which does not have to be stated.
 - a. Civil - 3 challenges for each party. A.C.A. 16-33-203 (See Exhibit "H").

C. Examination of Jury Panel

1. Examination by Judge

- a. Judge may conduct either all or part of the voir dire A.C.A. 16-33-101 (See Exhibit "P"); Arkansas Rules of Criminal Procedure 32.2 (See Exhibit "Q"); and Arkansas Rule of Civil Procedure 47 (See Exhibit "N").
- b. Judge should usually address the following areas:
 - Overview of the case
 - Identification of all participants, including witnesses
 - Relationship or acquaintance with any of the participants
 - Knowledge of the case
 - Length of the trial
- c. Judge will have the clerk call jurors to the box for the attorneys to conduct their individual voir dire (12 jurors in criminal cases and 18 jurors in a civil case).

2. Examination by the Attorney

D. Significant Cases

1. Chenowith v. State, 291 Ark. 372, 724 S.W. 2d 488 (1987). State shall examine jurors before the defendant conducts an examination. Similarly, the State exercises its peremptory challenges before the defendant.

Note, Criminal Procedure - Peremptory Challenges in Felony Prosecutions, 10 UALR L.J. 415 (1987-88).

2. Batson v. Kentucky, 476 U.S. 79 (1986)

- a. Purpose is to assure defendants that they will not be tried by a non-representative jury from which members of their race have been purposefully and discriminatorily removed.
- b. Prosecutors can be required to justify peremptory challenges of black jurors.

III. NOTE TAKING

- A. Arkansas Rule of Criminal Procedure 33.5 - Allows jurors to take notes during the trial and keep the notes with them when the jury retires to deliberate.
- B. Advantages
 - 1. Jurors will be better informed.
 - 2. Jurors will feel more involved in the trial process.
 - 3. Jurors might feel more confident about the jury's decision.
- C. Disadvantages
 - 1. It might be distracting.
 - 2. Some jurors may have an unfair advantage during deliberations.
 - 3. Notes may be an inaccurate or unfair record of the trial.
 - 4. Note taking might favor one side if juror tries to takes fewer notes later in trial.
 - 5. Jurors' notes might heighten disagreements that arise in deliberation.

IV. JURORS ASKING QUESTIONS

- A. During the trial
 - 1. Advantages
 - a. May alleviate doubts and uncertainties about issues and increase jurors' satisfaction that jury possessed all the information necessary to reach a verdict.
 - b. Might uncover important evidence and issues omitted by accident or design.
 - c. Involves the juror more in the trial process.
 - d. Might signal to attorneys what the jurors are thinking and what points need further clarification.

2. A.C.A. 16-89-125, Deliberation of Jury (See Exhibit "S").
3. Sample form for question from jury during deliberations; (See Exhibit "T").

V. DEADLOCKED JURY

A. Instructions - "Dynamite"

1. Civil - AMI Civil 3rd, 3503; (See Exhibit "U").
2. Criminal - AMCI Criminal 2d, 8102; (See Exhibit "V").

B. Factors to consider in determining reasonableness in deliberation period

1. Length of trial
2. Nature or complexity of case
3. Volume and nature of evidence
4. Presence of multiple counts or defendants
5. Jurors statements concerning probability of agreement

VI. NOTORIOUS JURY TRIALS

A. Pre-trial issues

1. Voir dire
2. Press coverage (cameras in court, gag orders)
3. Pre-trial orders
4. Special training for court staff
5. Security
6. Normal court business (Don't ignore)
7. Assistance to the jury
8. Interpreters (Administrative Office of Courts)

B. Trial and post-trial issues

1. Security
2. Court records
3. Sequestration
4. Post-verdict contact
5. Escorting jury out of courtroom

16-32-106. Summons of petit jurors.

(a) The persons whose names have been selected under § 16-32-105 shall be summoned to appear on a date set by the court to answer questions concerning their qualifications and unless excused or disqualified, to serve the required number of days or for the maximum period during the calendar year for which selected unless sooner discharged.

(b) Jurors shall be summoned by the court or by the sheriff, as the court directs, by:

- (1) A notice dispatched by first-class mail;
- (2) Notice given personally on the telephone; or
- (3) Service of summons personally or by such other method as is permitted or prescribed by law.

(c)(1)(A) If a notice is dispatched by first-class mail, the prospective jurors shall be given a date certain to contact the sheriff or the court to confirm receipt of the notice.

(B) Not later than five (5) days before the prospective juror is to appear, the sheriff or the court shall contact the prospective juror if the prospective juror has failed to acknowledge receipt of the notice.

(C) The court shall have discretion to determine whether the sheriff or the court will be the prospective juror's primary contact.

(2) A notice dispatched by first-class mail shall be sent on a form approved by the Administrative Office of the Courts or it shall include the following language:

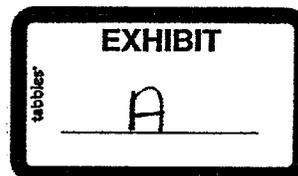
"You are hereby notified that you have been chosen as a prospective juror. You must notify the sheriff [or the court] on or before(date)to confirm that you have received this notice. If you do not notify the sheriff [or the court] to confirm this notice, the sheriff [or the court] will contact you and there will be added cost. Please call the sheriff [or the court] at(phone number)"

(d) Unless excused by the circuit judge, a juror who has been legally summoned and who shall fail to attend on any date when directed to do so may be fined in any sum not less than five dollars (\$5.00) nor more than five hundred dollars (\$500). However, nothing in this subsection shall be construed to limit the inherent power of the court to punish for contempt. All excuses granted by the circuit judge shall be noted in the jury book or the computer program described in § 16-32-103.

History. Acts 1969, No. 568, §§ 18, 19; A.S.A. 1947, §§ 39-210, 39-211; Acts 1989, No. 892, § 1; 2005, No. 87, § 5.

Amendments. The 2005 amendment substituted "selected under § 16-32-105" for "drawn and recorded in the petit jury book" in (a); substituted "by the court, or by the sheriff, as the court directs" for "by the sheriff" in (b); inserted the subdivision designations in (c)(1); substituted "contact the sheriff or the court" for "call the sher-

iff" in (c)(1)(A); substituted "or the court shall contact" for "shall call" in (c)(1)(B); added (c)(1)(C); in (c)(2), inserted "be sent on a form approved by the Administrative Office of the Courts or it shall" in the first paragraph, and in the second paragraph, substituted "notify" for "call" twice and inserted "[or the court]" four times; and inserted "or the computer program described in § 16-32-103" in (d).



inserted "or, in counties where...under
§ 27-16-805."

RESEARCH REFERENCES

ALR. Prejudicial effect of juror's inability to comprehend English. 117 A.L.R.5th 1.

16-31-102. Disqualifications.

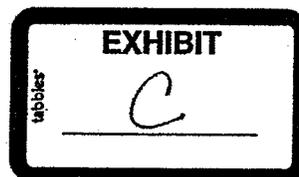
(a) The following persons are disqualified to act as grand or petit jurors:

- (1) Persons who do not meet the qualifications of § 16-31-101;
- (2) Persons who are unable to speak or understand the English language;
- (3) Persons who are unable to read or write the English language, except that the circuit judge, in the exercise of his discretion, may waive these requirements when the persons are otherwise found to be capable of performing the duties of jurors;
- (4) Persons who have been convicted of a felony and have not been pardoned;
- (5) Persons who are:
 - (A) Not of good character or approved integrity;
 - (B) Lacking in sound judgment or reasonable information;
 - (C) Intemperate; or
 - (D) Not of good behavior;
- (6) Persons who, by reason of a physical or mental disability, are unable to render satisfactory jury service, except that no person shall be disqualified solely on the basis of loss of hearing or sight in any degree; and
- (7) Persons who are less than eighteen (18) years of age at the time they are required to appear.

(b) Except by the consent of all the parties, no person shall serve as a petit juror in any case who:

- (1) Is related to any party or attorney in the cause within the fourth degree of consanguinity or affinity;
- (2) Is expected to appear as a witness or has been summoned to appear as a witness in the cause;
- (3) Has formed or expressed an opinion concerning the matter in controversy which may influence his judgment;
- (4) May have a material interest in the outcome of the case;
- (5) Is biased or prejudiced for or against any party to the cause or is prevented by any relationship or circumstance from acting impartially; or
- (6) Was a petit juror in a former trial of the cause or of another case involving any of the same questions of fact.

(c) Nothing in this section shall limit a court's discretion and obligation to strike jurors for cause for any reason other than solely because of sight or hearing impairment.



JUROR INFORMATION SHEET

The following information is required by Rule 32.1 of the Rules of Criminal Procedure as amended and promulgated by the December 22, 1975, per curium order of the Arkansas Supreme Court.

Name _____ Age _____

Home Address _____ City _____ Zip _____

Home Phone (____) _____ Business Phone (____) _____

Marital Status _____ Extent of Education _____

Number of Children _____ Ages of Children _____

Your Occupation & Employer _____

If you are unemployed, give last occupation and employer: _____

If married, given name and occupation of spouse: _____

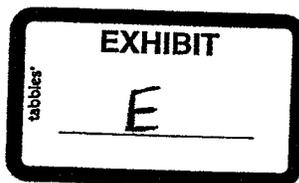
Have you ever served as a juror before? ____ If so, when and where? _____

Has a claim for personal injury ever been made against you or any member of your immediate family? _____

Have you or a member of your immediate family ever made claim for personal injuries? _____

I am a registered voter in PULASKI County, a citizen of the United States and a resident of Pulaski County, Arkansas. I can speak, write and understand the English language. I have not been convicted of a felony for which I have not been pardoned. I am of good character, approved integrity and not lacking in sound judgment or reasonable information. I am of good behavior and not intemperate.

I have not served as a Grand or Petit Juror in this county for a period of two (2) years dating from the time I was excused by the Court or by operation of law.



RULE 31.5. Discretionary Withdrawal of Waiver.

A defendant may not withdraw his voluntary and knowing waiver of trial by jury as a matter of right, but the court, in its discretion, may permit withdrawal of the waiver prior to the commencement of trial.

RULE 32. SELECTION OF JURORS* **RULE 32.1. List of Prospective Jurors.**

The circuit court shall require members of petit jury panels to complete written questionnaires setting forth the following information:

- (i) age;
- (ii) marital status;
- (iii) extent of education;
- (iv) occupation of juror and spouse; and
- (v) prior jury service.

Upon request, such questionnaires shall be made available by the clerk of the court to the defendant or his counsel and the prosecuting attorney. Upon a showing of good cause, additional information may be furnished regarding jurors by order of the court.

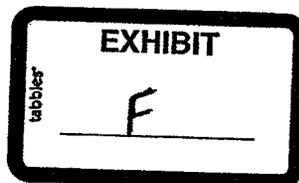
RESEARCH REFERENCES

UALR L.J. Sullivan, An Overview of the Law of Jury Selection for Arkansas Criminal Trial Lawyers, 15 UALR L.J. 37.

CASE NOTES**Questionnaires.**

The decision to allow the use of expanded juror questionnaires lies within the sound discretion of the trial court. *Danzie v. State*, 326 Ark. 34, 930 S.W.2d 310 (1996); *Danzie v. State*, 326 Ark. 34, 930 S.W.2d 310 (1996).

The concept of expanded juror questionnaires is merely a written form of voir dire examination. *Danzie v. State*, 326 Ark. 34, 930 S.W.2d 310 (1996); *Danzie v. State*, 326 Ark. 34, 930 S.W.2d 310 (1996).

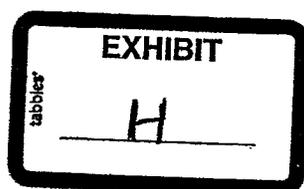


16-33-203. Peremptory challenges — Panel.

(a) Each party shall have three (3) peremptory challenges, which may be made orally.

(b)(1) However, if either party desires a panel, the court shall cause the names of twenty-four (24) competent jurors, written upon separate slips of paper, to be placed in a box to be kept for that purpose, from which the names of eighteen (18) shall be drawn and entered on a list in the order in which they were drawn, and numbered.

(2) Each party shall be furnished with a copy of the list, from which each may strike the names of three (3) jurors and return the list so struck to the judge, who shall strike from the original list the names so stricken from the copies, and the first twelve (12) names remaining on the original list shall constitute the jury.



16-33-202. Challenge for cause.

(a) A challenge for cause shall be decided by the court, and, in order to determine the challenge, the particular juror challenged may be sworn, or, at the instance of either party, all of the jurors may be sworn to make true and perfect answers to such questions as may be demanded of them, touching their qualifications as jurors.

(b) The court may allow other testimony in regard to the qualifications of any juror.

History. Civil Code, § 346; C. & M. Dig., § 6380; Pope's Dig., § 8342; A.S.A. 1947, § 39-228.



STATE OF ARKANSAS V. _____
CASE NO. CR - _____
7TH DIVISION CIRCUIT COURT
JUDGE JOHN B. PLEGG

JURY SELECTION - CRIMINAL TRIAL

(Prosecutor)

(Defense Attorney)

Strikes allowed:	Capital Murder:	State - 10	Defense - 12
	Felony:	State - 6	Defense - 8
	Misdemeanor:	State - 3	Defense - 3
	Alternate:	State - 1	Defense - 1

Strikes made:

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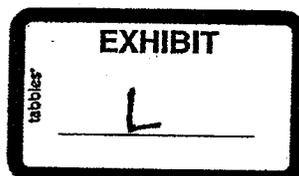
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Alternate:

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alty Co., 2 Ark. App. 128, 620 S.W.2d 947 (1981).

Waiver.

Where, at a hearing concerning a city's denial of a petition for the creation of a street improvement district, both the trial judge and the city's attorney orally agreed that mandamus was the proper remedy, and the intervening property owner failed to raise an objection, the

property owner in effect agreed that mandamus was the proper procedure and he thereby waived his right to make an objection at a later time. *Powell v. Bishop*, 279 Ark. 365, 652 S.W.2d 9 (1983).

Cited: *Henry v. Cline*, 275 Ark. 44, 626 S.W.2d 958 (1982); *Howard Bldg. Centre v. Thornton*, 282 Ark. 1, 665 S.W.2d 870 (1984).

Rule 47.

JURORS

(a) **Examination of Jurors.** The Court shall either permit the parties or their attorneys to conduct the examination of prospective jurors or itself conduct the examination. In the latter event, the court shall permit the parties or their attorneys to supplement the examination by such further inquiry as it deems proper.

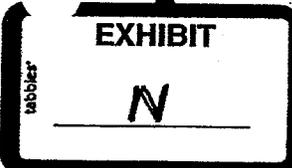
(b) **Alternate Jurors.** The court may direct that not more than two jurors in addition to the regular jury be called and impanelled to sit as alternate jurors. Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury retires to consider its verdict, become or are found to be unable or disqualified to perform their duties. Alternate jurors shall be drawn in the same manner, shall have the qualifications, shall take the same oath, and shall have the same functions, powers, facilities, and privileges as the regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury retires to consider its verdict. Each side is entitled to one peremptory challenge in addition to those otherwise allowed by law if one or two alternate jurors are to be impanelled. The additional peremptory challenge may be used against an alternate juror only and the other peremptory challenges allowed by law shall not be used against an alternate juror.

Reporter's Notes to Rule 47: 1. Section of this rule is identical to FRCP 47(a) and confers upon the trial court broad discretion in the examination of prospective jurors. *Labbee v. Roadway Express, Inc.*, 469 F. 2d 169 (C.C.A. 8th, 1972), *Kiernan v. Van Schaik*, 347 F. 2d 775 (C.C.A. 3rd, 1965). Prior Arkansas law was governed by superseded *Ark. Stat. Ann.* 39-226 (Repl. 1962), which likewise left the mode and manner of voir dire to the discretion of the trial court. This discretion did not, however, vest the trial court with arbitrary authority to prohibit voir dire by counsel.

Missouri Pacific Transp. Co. v. Johnson, 197 Ark. 1129, 126 S.W.2d 931 (1939). In drafting this rule, the Committee intended to vest the trial court with sufficient authority to limit voir dire to a reasonable inquiry, but not to prohibit reasonable voir dire by counsel.

2. Section (b) is substantially the same as FRCP 47(b) as it existed prior to the 1966 amendments. Prior thereto, the Federal Rule limited alternate jurors to one or two in number, whereas the present Federal Rule permits the court to seat as many as six alternates. The Committee doubted the need for more

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to exceed two, shall be placed in the jury box along with the regular jurors. Any alternate jurors in addition to these two shall be dismissed. The trial will proceed with the penalty phase. When the jury retires to deliberate the penalty, the remaining alternate juror or jurors will again remain at the courthouse during deliberation.

(1) If at any time after a verdict of guilty, but before a verdict fixing punishment, a juror who participated in the guilt phase of a capital murder trial or other trial described above dies, becomes ill, or is otherwise found to be unable or disqualified to perform his or her duties, such juror shall be discharged. The court may in its discretion, as an alternative to mistrial or any other option available by statute or these rules, replace such juror with the next alternate. However, in such event, the court may first give the defendant, with the agreement of the prosecution, the option to waive jury sentencing, in which case the court shall impose sentence, or to accept a verdict by the remaining jurors. If the defendant does not waive jury sentencing, or agree to accept a verdict by the remaining jurors, the trial will continue with the alternate participating in the penalty phase. In such event, the court shall instruct the jury to commence deliberation anew as to the sentencing phase only.

(2) Notwithstanding Ark. Code Ann. § 5-4-602 (3), which requires that the same jury sit in the sentencing phase of a capital murder trial, the court may in its discretion proceed pursuant to this rule and seat an alternate juror.

Proposed Reporter's Notes: In *Johnson v. State*, 328 Ark. 526 (1997), the Supreme Court held that Ark. Code Ann. § 5-4-103(b)(3) authorized the trial court to fix punishment when the twelfth juror became disqualified in the sentencing phase. "[T]he court was authorized to fix punishment when the jury was unable to agree upon the punishment because only eleven jurors remained after one was disqualified".

Publisher's Notes. This proposed rule was not adopted or effective as of March 1, 1998.

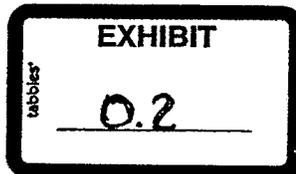
By Per Curiam dated Jan. 22, 1998, the Supreme Court provided: "The Arkansas Supreme Court Committee on Criminal Practice recommended the adoption of a new Rule of Criminal Procedure to govern the use of alternate jurors in criminal trials when a regular

juror is unable to serve or is disqualified. We previously published the proposed rule for comment.

"Based upon comments received and other considerations, the committee and the Court subsequently made revisions to the proposed rule. Because of these changes, we again publish the proposed rule for comment. Comments from the bench and bar on the proposed rule should be filed with the Clerk of the Supreme Court by May 15, 1998. They should be addressed to:

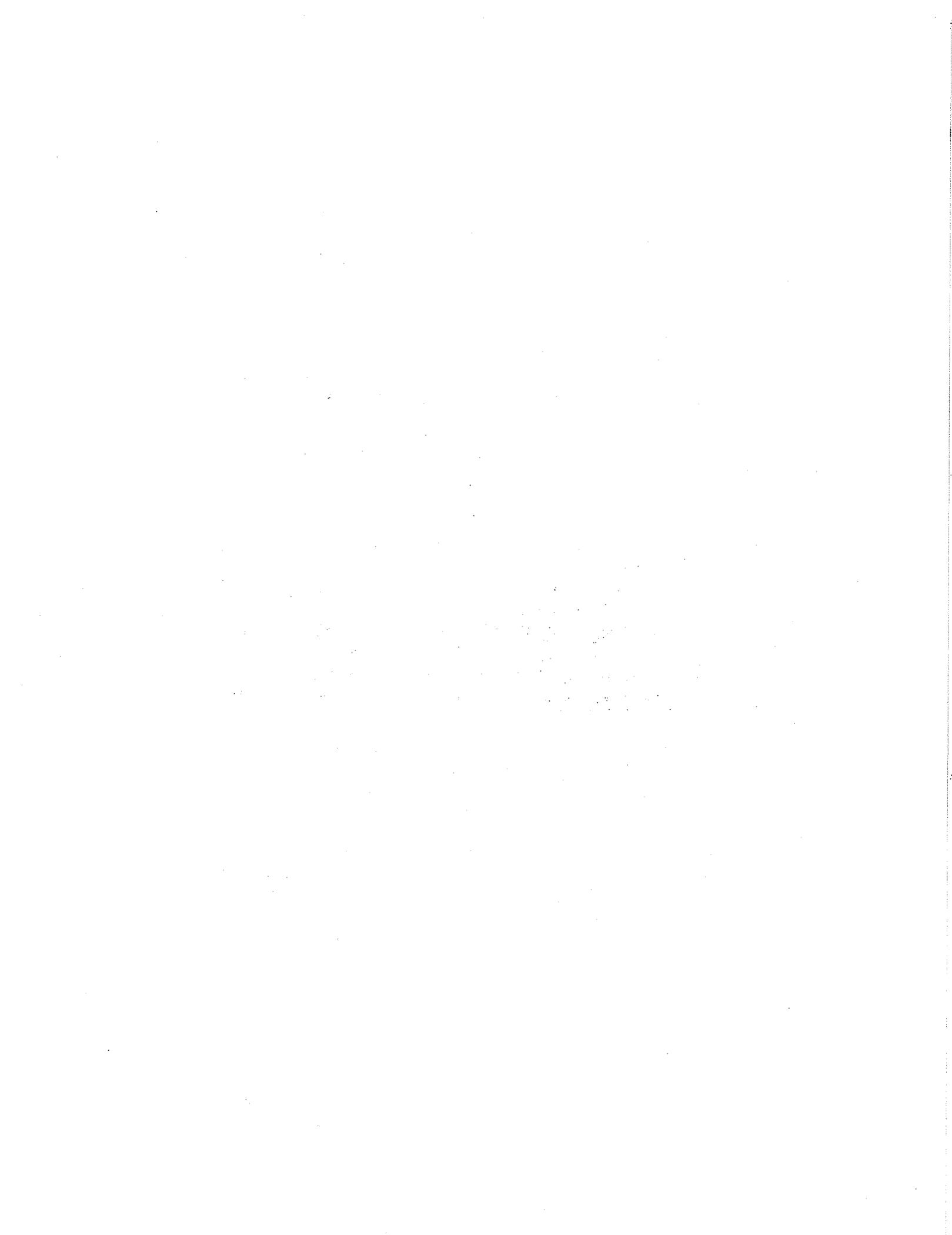
Leslie Steen, Clerk
Arkansas Supreme Court
Justice Building
625 Marshall Street
Little Rock, AR 72201"

Cross references. Alternate jurors. § 16-30-102.



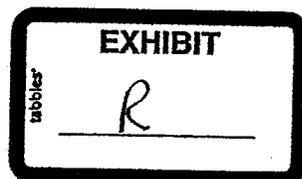
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1. Among their general instructions for criminal cases in federal courts, Devitt and Blackmar, apparently anticipating that some judges will permit oral questions by jurors, include the following:

This court does not have a rule against the asking of questions by jurors, but in my experience, there should be careful rules about the asking of such questions. Please withhold any questions until after a witness has completed his testimony. Do not interrupt the examination of a witness in order to ask a question. When a witness has finished his testimony them if there is some substantial question in your mind, you may address an inquiry to the court. Please do not address either the witness or any lawyer, but confine your inquiry to the court. On the other hand, if you have difficulty hearing a witness or a lawyer, please raise your hand immediately and the court will take corrective action.



STAGE ONE: JURY TO REACH AGREEMENT IF POSSIBLE —
DEADLOCKED JURY

It is in the interest of the State of Arkansas and of the defendant(s) for you to reach an agreement in this case, if at all possible. A hung jury means a continuation of the case and a delay in the administration of justice.

You should consider that this case will have to be decided by some jury and, in all probability, upon the same testimony and evidence. It is unlikely that the case will ever be submitted to 12 people more intelligent, more impartial, or more competent to decide it.

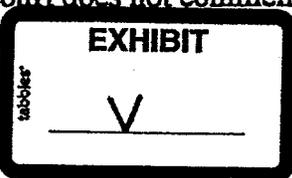
Under your oath as jurors, you have obligated yourselves to render verdicts in accordance with the law and the evidence. In your deliberations you should weigh and discuss the evidence and make every reasonable effort to harmonize your individual views on the merits of the case. Each of you should give due consideration to the views and opinions of other jurors who disagree with your views and opinions. No juror should surrender his sincere beliefs in order to reach a verdict; to the contrary, the verdict should be the result of each juror's free and voluntary opinion. By what I have said as to the importance of the jury reaching a verdict, I do not intend to suggest or require that you surrender your conscientious conviction, only that each of you make every sincere effort to reach a proper verdict. Therefore, I request the jury to retire for further deliberation for a reasonable time in an attempt to reach a verdict.

NOTE ON USE

This instruction should not be given until the jury, after prolonged deliberation, has not reached a verdict. The trial judge may wish to give this type of instruction in his own words. The above is submitted as a guide to avoid errors sometimes made.

COMMENT

The trial court may detail to the jury the ills attendant upon disagreement, the expense and length of time a case has been pending, the length of time it has taken to try the case, and that the case will have to be decided by some jury at some future time. *Stepp v. State*, 170 Ark. 1061, 282 S.W. 684 (1926); *McGaha v. State*, 216 Ark. 165, 224 S.W.2d 534 (1949). It is proper for the trial court to warn the jury to lay aside pride of opinion and consult with each other for the purpose of harmonizing their views, if possible, and that it is their duty to apply the law as given by the court to the facts and deal with each other in a spirit of candor in order to arrive at a verdict, so long as the court does not comment on the evidence and makes it clear that no juror should surrender his sincere beliefs in order to reach a verdict. *Evans v. State*, 252 Ark. 335, 477 S.W.2d 111 (1955); *Bens* *Hardin v. State*, 225 Ark. 602, 284 S.W.2d 533, 233 S.W. 758 (1921).



Ex. "V"

CIVIL JURY TRIAL

1. Bailiff opens court: "All rise _____ Circuit Court is now in session to handle all business brought before it pursuant to adjournment, the Honorable _____ presiding. Be seated."
2. Judge asks the following questions:
 - a. Is the plaintiff ready for trial?
Is the defendant ready for trial?
 - b. Clerk please call the roll of the jury.
Are there any jurors present whose names were not called?
 - c. Ladies and Gentlemen of the jury, please stand and raise your right hands to receive your oath. (Clerk administers oath.)
3. Judge reads a short statement of the case. The statement should contain the general facts, what, when, where, etc. Ask:

Members of the jury, do any of you know anything about the facts of this case?
Is any one employed by or associated with either party involved? (If so, ask juror what they know, and if that would in any way influence their sitting as a juror and if they know of any reason they could not be a fair and impartial juror.)
4. Introduce the attorneys and their respective clients to the jury. Ask of jury:

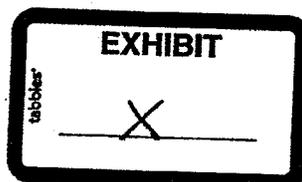
Have any of you been represented by either attorney or their associates?

Do you know any of these parties, or have you had any social or business contacts with them?

Have any of you been involved in litigation where these attorneys or their associates were in opposition to you or anyone close to you?

If a juror does know a party, have the juror identify himself and ask:

Would knowing this person make any difference to you in the trial of this matter?
If you saw this person, would you feel that you would owe them an explanation of why you made any decision you may make in this matter?
Could you be a fair and impartial juror?
5. Bring all witnesses into courtroom and have them identify themselves to the jury. Have attorneys name any other witnesses they expect to testify who are not present in the courtroom.



about the case until it is submitted to you on the whole.”

12. Judge asks if the attorneys want the Rule. If so, have the witnesses follow the bailiff to the witness room.

13. Trial

Opening statements by the plaintiff and defendant.

Testimony. (Swear each witness, if they haven't already been sworn).

Read the above admonition before any breaks are taken.

14. At the conclusion of testimony and after any rebuttal, take a recess for the court and parties to retire to chambers for any motions and decide on instructions, if not previously addressed.

15. Read instructions to jury.

Closing Arguments by plaintiff and defendant.

Jury retires to deliberate.

16. When the jury returns, ask:

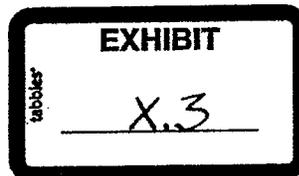
Will the foreperson please stand? Has the jury reached its decision foreperson? Please hand it to the Bailiff.

State: I have been handed a verdict that reads: (read verdict), and signed by (the foreman or _____ number of jurors).

Is this the decision of the jury?

17. Ask if anyone wants the jury polled. If so, poll the jury.

18. Judge thanks the jury for their service and excuses the jury panel.



- Would you tend to believe or not believe this witness any more or any less than any other person who may testify in this matter?
- If you later saw this witness, would you feel that it was necessary to explain to them any decisions you may make during this trial?
- Will you feel uncomfortable sitting as a juror on this trial with this person testifying?
- Do you know of any reason why you could not be a fair and impartial juror?

Introduction can also be done when the lawyers conduct their individual voir dire. Have the lawyers either list and describe their witnesses or have them come into the courtroom for identification.

6. If the case is one where there has been excessive media attention, ask the jurors the following:

- Have you read, seen or heard anything in the media about this matter?
- If so: Have you formed any opinions about the guilt or innocence of this defendant?
- If so, consider excusing.
- If not, ask: If, during the trial you realize that you have formed some opinion from what you have read, can you promise or assure me that you can set those opinions aside and decide this case solely on the facts and evidence produced in this trial?

7. Have the clerk call twelve jurors to the box in the order that their names are called.

8. The State voir dire. The defense voir dire. Preemptory challenges are made. Continue the above steps of selecting jurors until twelve jurors are seated.

9. After the jury is seated, ask the State and the defense if the jury is satisfactory. If so, the clerk swears the jury. Have the jurors pin the juror badges on.

10. Excuse balance of jury panel. Recess for approximately fifteen minutes so jurors can notify employers, family, etc. It is extremely important to read the following admonition now and before each recess:

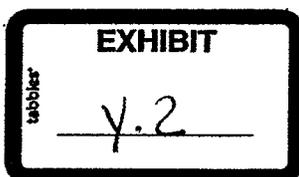
"Do not discuss this case among yourselves or with anyone else. If anyone else attempts to discuss the case with you, report it to the Court immediately. Do not form an opinion about the case until it is submitted to you on the whole."

11. Trial

Opening statements by the State and defense.

Testimony. (Swear each witness).

12. After the State and the defense have rested and after any rebuttal, take a recess for the court, defendant and counsel for State and defense to retire to chambers for any motions



17. Have defense counsel and the defendant come to the podium, ask:

Does either counsel or defendant have anything to say before sentencing?

Anything from the State?

Counsel, do you know of any legal reason why sentence should not be imposed at this time?

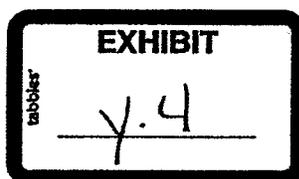
18. Read the sentence:

Mr./Ms. _____, it is the judgment and sentence of this Court that you be taken by the Sheriff of _____ County and delivered to the Department of Correction to serve at hard labor for a period of _____ years for the crime of _____.

(If defendant was convicted of multiples crimes, sentence as above on each crime.)

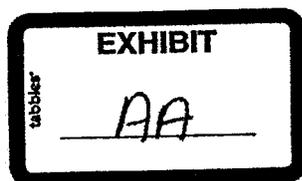
19. Notify defendant of his right to appeal, state to the defendant:

You have 30 days to appeal this matter to a higher court. Your attorney can advise you on how to perfect this appeal.



NOW I SIT ME DOWN TO JUDGE
I PRAY THE LORD I SHALL NOT BUDGE
FROM MY RESOLVE TO SHUT MY FACE
AND LET THE LAWYERS TRY THE CASE

John J. McNaught



2.	Do you understand that your plea of guilty is a waiver of your right to a trial by jury and of your right to appeal to the Arkansas Supreme court?	Yes	No	Initial
3.	Do you fully understand what you are charged with having done?	Yes	No	Initial
4.	Have you discussed your case fully with your attorney and are you satisfied with his/her service?	Yes	No	Initial
5.	Are you certain that your plea of guilty has not been induced by any force, threat, or promise apart from a plea agreement?	Yes	No	Initial
6.	Do you realize that the Judge is not required to carry out any understanding between you, your attorney, and the prosecuting attorney, and that the power of sentence is with the Court only?	Yes	No	Initial

If your answer is "yes" to each of the proceeding questions and if you fully understand every detail of your guilty plea, then carefully read the following statement and sign in the appropriate space with your lawyer witnessing your signature.

I am aware of every thing in this document. I fully understand what my rights are, and I voluntarily plead guilty because I am guilty as charged.

Defendant

I have carefully explained this document to the accused. To the best of my knowledge, he/she fully understands all of the his/her charges. His/her plead of guilty is consistent with the facts he has recited to me and my own investigation of this case.

Date

Attorney

I hereby waive my right to a trial by jury and elect to be tried by the Court and have the Judge determine both the facts and the law.

I HAVE READ EVERYTHING ON THIS PAPER AND HAVE GONE OVER ALL OF IT WITH MY LAWYER, I UNDERSTAND WHAT MY RIGHTS ARE, I KNOW WHAT I AM DOING, AND AM VOLUNTARILY WAIVING MY RIGHT TO A TRIAL BY JURY.

Defendant

I have carefully gone over this paper with the accused. To the best of my knowledge he understands all of it and the defendant's waiver of a trial by jury is an informed and voluntary decision.

Date

Attorney

FINAL ARGUMENT

1. Summarize evidence
2. Explaining law
3. Reasonable Deductions from evidence
4. Answering opposing counsel's arguments
5. Please for law enforcement

Quotes: People v. Love 366 P.2d 33

MATTERS THAT ARE NOT IN EVIDENCE THAT ARE:

1. Common knowledge
2. Illustrations from common knowledge
3. History
4. Literature
(Supreme Court says State quoting Bible in death cases reversible)