

Criminal Trial Procedures

Department 44

Judge Jason Holloway

Schedule/Witnesses

Counsel will be in trial from 9:00 AM to 12:00 PM and 1:30 PM to 4:00 PM, unless the court has indicated otherwise. During the morning and afternoon sessions, there will be one 15 minutes break. There are no trial proceedings on Fridays. Any party having a potential conflict or scheduling issue should inform the court as soon as possible.

- Plan for your witnesses to fill the entire day. Counsel should arrange to have back-up witnesses available so that there are no unnecessary delays between the testimony.
- Advise your witnesses of all rulings on motions in limine and instruct the witnesses not to testify in violation of the court's prior orders. Please do this prior to their testimony to avoid the discussions outside the courtroom that delay court proceedings.

General

- Be on time for court.
- Please speak loudly and clearly.
- Make objections briefly and on legal grounds (no testifying objections or speeches)
- Please stand to address the court.
- It is not necessary to request permission to approach the bench or witnesses.
- Do not respond to opposing counsel's objection, unless asked by the Court to do so.
- Do not talk at the same time as the Court, opposing counsel, or a witness. The audio equipment can only accurately and concisely record one voice at a time.

Before Voir Dire

- The bailiff will provide the parties with a list of the court's general voir dire questions.
- On the first day of trial, the parties must provide a current witness list to the bailiff so it can be incorporated into the juror questionnaire.
- On the first day of trial, the parties must provide any additional general voir dire questions they wish to have included in the questionnaire on the first day of trial.
- At the start of trial, the parties and the court will determine

- the date when electronic questionnaires will be disseminated;
- when responses are due;
- when parties will receive a copy of the responses;
- when voir dire will begin;
- and the trial schedule, including an accurate end date for trial testimony, which will be communicated to all prospective jurors.
- After the parties receive the questionnaire responses, Judge Holloway will determine which jurors will be excused based on hardship and those jurors will be released. Judge Holloway will provide the parties and read into the record which jurors have been released.
- The bailiff will create two panels per day of 20 individual jurors each beginning at 9:00 AM and 1:30PM. Parties will be provided with the zoom link.
- At the beginning of the panel, Judge Holloway will read his introductory remarks to all the jurors and the Clerk will swear in the jurors.
- The bailiff will provide a screenshot of each panel and provide to the parties.
- If any jurors need to be individually questioned, this will be done following voir dire.

Unless the Court rules otherwise, each party may inquire of the entire panel for the predetermined length of time, typically 2 rounds of 20 minutes each segment. Each party is normally allowed two segments, but if anyone feels additional time is necessary, the court will consider a request for an additional segment.

Voir Dire

- The parties shall follow these general rules on voir dire:
 - Ask open ended questions.
 - Do not ask impossible hypotheticals. Hypothetical questions that are consistent with the applicable law are permissible; however, do not ask questions that anticipate specific facts or claims at issue in the trial.
 - Don't cross examine the jurors.
 - Avoid asking the same question in a different way when juror has provided an answer.
 - Avoid speeches or statement that result in ingratiating yourself to the jurors, its improper and wastes previous time.

- A party should raise a challenge for cause at the close of the voir dire session outside the presence of the jury. These challenges will be handled while the jurors are in a breakout/waiting room.
- If you are raising a GR 37 issue or Batson challenge to the opposing party's preemptory challenges, that should be made outside the presence of the jury.
- When asking questions of a juror during voir dire, please state their number so the record is clear.
- The alternates will be randomly picked after voir dire and prior to jury selection.
- After each preemptory, the court will announce the next juror to take that seat. Each party will receive 6 preemptory challenges plus an additional 1 for each alternate.
- Do not directly interact with or speak to the jury during the course of the trial, except during voir dire, opening statement, and closing argument. Advise your witnesses of this instruction. Counsel and the parties shall avoid any direct or indirect contact with the jurors at all times during the course of the trial. For example, counsel and the parties should not enter the same elevator as a juror. If waiting for the courtroom to open and jurors are also outside the courtroom, go to the other side of the hall. Do not greet jurors if you see them in the hallway.
- Do not show or ask your witness to show anything to the jury; whether a document, demonstrative piece of evidence, or other object, unless it has been admitted as an exhibit.

Testimony

- Address witnesses as "Mr.," "Mrs.," "Dr.," "Ms.," or other gender-neutral title if the witness prefers. No first names, except for children.
- Do not make editorial comments after a witness's answer.
- Do not ask repetitive questions.
- Limit bench conferences to only unavoidable circumstances. Jurors do not like them.
- The Court must be notified in advance of any firearms in the courtroom, for evidentiary purposes or otherwise. Firearms must be secured and unloaded at all times. Never point firearms in the direction of witnesses, jurors, parties, counsel or any other person in the courtroom.
- At the end of each court day, be prepared to advise the Court and opposing counsel the witnesses you plan on calling the following day.

Court Orders

- If you believe that the door has been opened on a subject that has previously been excluded, you must first raise the issue outside the presence of the jury and obtain the court's permission to inquire about the matter. You may not make your own independent determination that the order is no longer in effect.

Form of Objection

- If you have an objection, state the basis for your objection very briefly (for example: hearsay, pretrial order, irrelevant, mischaracterizes prior testimony, or cite the evidence rule). Do not make "speaking" objections and argument in the presence of the jury.
- Wait for a ruling on the objection, but if you agree with the objection, state that you will rephrase your question BEFORE doing so.
- Do not speak over opposing counsel, witnesses, or the court. Advise your witnesses of these instructions.