

direct that such stipulations or requests be in writing, signed by counsel. Any such stipulation or request not made in open court must be in writing, signed by counsel.

### **Rule 17. Voir Dire**

**1. Method of selection.** The court shall summon the number of the jurors who are to try the cause, plus such an additional number as will allow for any alternates, for all peremptory challenges permitted by law and for all challenges for cause granted. Jurors summoned will form the venire.

At the direction of the judge, the clerk shall call jurors in random order to form the panel. The number of prospective jurors called to form the panel shall be equal to the sum of regular jurors, alternate jurors, and the number of peremptory challenges allowed. The judge shall hear and determine challenges for cause during the course of questioning. The judge may hear and determine challenges for cause outside the hearing of prospective jurors. At the request of any party, the judge shall hear and determine challenges for cause outside the hearing and presence of prospective jurors. After each challenge for cause sustained, another juror shall be called to fill the vacancy, and any such new juror may be challenged for cause.

After both sides have passed the panel for cause, the clerk shall provide a list of the prospective jurors remaining, and each side, beginning with the prosecution, shall indicate thereon its peremptory challenge to one juror at a time in regular turn, as the court may direct, until all peremptory challenges are exhausted or waived. Peremptory challenges shall be made outside the hearing of the prospective jurors.

The clerk shall then call the remaining jurors, or so many of them as shall be necessary to constitute the jury, including any alternate jurors, and

the persons whose names are called shall constitute the jury. If alternate jurors have been selected, the last jurors called shall be the alternates, unless otherwise ordered by the court.

2. **Voir dire.** Examination of prospective jurors. Before persons whose names have been drawn are examined as to their qualifications to serve as jurors, the judge or the judge's clerk shall administer an oath or affirmation to them in substantially the following form:

*Do you, and each of you, solemnly swear or affirm under the pains and penalties of perjury that you will well and truly answer all questions put to you touching upon your qualifications to serve as jurors in the case now pending before this court (so help you God)?*

The judge shall conduct the initial examination of prospective jurors, and the defendant or the defendant's attorney and the prosecuting attorney are entitled to supplemental examination, which must not be unreasonably restricted. Prior to examining the prospective jurors, the court shall have the clerk read the charging document. The court shall state that every person charged with the commission of a crime is presumed innocent. Use of written questionnaires to prospective jurors or the examination of individual prospective jurors outside the presence of the other prospective jurors is within the court's discretion.

The purpose of voir dire examination is to determine whether a prospective juror can and will render a fair and impartial verdict on the evidence presented and apply the facts, as the prospective juror finds them, to the law given. Questioning must be designed to elicit information relevant to

possible challenges for cause or enabling the defendant or the defendant's attorney and the prosecuting attorney to intelligently exercise peremptory challenges. The judge may in the exercise of discretion halt cumulative or abusive questioning of prospective jurors, assist in the narrative content of particular questions, preclude counsel from interrogating on issues of law or case-specific facts, or preclude any questioning if the judge finds such questioning to be outside the purpose of voir dire examination.

**3. Challenges to venire.** A challenge may be made to the venire. The venire is a list of prospective jurors called to serve at a particular court or for the trial of a particular action. A challenge to the venire is an objection made to all prospective jurors summoned and may be made by either party.

(A) The challenge to the venire, including a contest to the venire's composition that the venire does not represent a fair cross section of the community under the Sixth and Fourteenth Amendments of the United States Constitution, must be made before the jury is sworn and made upon the record. It shall specifically set out the facts constituting the ground for the challenge.

(B) If a challenge to the venire is opposed by the adverse party, a hearing may be held to try any question of fact upon which the challenge is based. The jurors challenged, and any other persons, may be called as witnesses at the hearing.

(C) The court shall decide the challenge. If the challenge to the venire is sustained, the court shall discharge the venire so far as the trial in question is concerned. If the challenge is denied, the court shall direct the selection of jurors to proceed.

(D) If written questionnaires to prospective jurors are being used, a challenge to the venire must be made no later than the trial confirmation

hearing, or if additional time is permitted by the court, no later than the day prior to the day on which trial is set to commence.

**4. Challenges to individual jurors.** A challenge may be made to an individual juror.

(A) A challenge to an individual juror may be either peremptory or for cause. A challenge to an individual juror must be made before the jury is sworn to try the case, except the court may, for good cause, permit it to be made after the juror is sworn but before any of the evidence is presented. Challenges for cause must be completed before any peremptory challenges.

(B) A *Batson* challenge made during a peremptory strike must follow this three-step process: First, the opponent of the peremptory strike must make a prima facie showing that a peremptory challenge has been made on the basis of race or other recognized suspect classification. Second, if that showing has been made, the proponent of the peremptory strike must present a classification-neutral explanation for the strike. Third, the court must hear argument and determine whether the opponent of the peremptory challenge has proven purposeful discrimination. The court shall clearly state the reasons supporting its determination regarding the peremptory strike.

**5. Peremptory challenges.** A peremptory challenge is an objection to a juror for which no reason need be given. If the offense charged is punishable by death or by life imprisonment, each side is entitled to eight peremptory challenges. If the offense is punishable by imprisonment for any other term or by fine or by both fine and imprisonment, each side is entitled to four peremptory challenges. The State and the defendant shall exercise their challenges alternatively, in that order. Any challenge not exercised in its proper order is deemed waived. When several defendants are tried together, they cannot sever their peremptory challenges but must join therein.

**6. Challenges for cause.** A challenge for cause is an objection to a particular juror and shall be heard and determined by the court. Either side may challenge any individual juror for disqualification or for any cause or favor that would prevent the juror from adjudicating the facts fairly. The juror challenged and any other person may be examined as a witness on the hearing of such challenge. A challenge for cause may be taken on one or more of the following grounds. On its own motion, the court may remove a juror upon the same grounds.

(A) Want of any of the qualifications prescribed by law to render a person competent as a juror.

(B) Any mental or physical infirmity that renders one incapable of performing the duties of a juror.

(C) Consanguinity or affinity within the third degree to the person alleged to be injured by the offense charged, or on whose complaint the prosecution was instituted, or the defendant.

(D) The existence of any social, legal, business, fiduciary, or other relationship between the prospective juror and any party, witness, or person alleged to have been victimized or injured by the defendant, which relationship when viewed objectively, would suggest to reasonable minds that the prospective juror would be unable or unwilling to return a verdict that would be free of favoritism. A prospective juror shall not be disqualified solely because the juror is indebted to or employed by the state or a political subdivision thereof.

(E) Having been or being the party adverse to the defendant in a civil action or having complained against or having been accused by the defendant in a criminal prosecution.

(F) Having served on the grand jury that found the indictment.

(G) Having served on a trial jury that has tried another person for a criminal charge arising out of the same facts or circumstances alleged in the case being tried.

(H) Having been one of a jury formally sworn to try the same charge, and whose verdict was set aside, or which was discharged without a verdict after the case was submitted to it.

(I) Having served as a juror in a civil action brought against the defendant for the act charged as an offense.

(J) If the offense charged is punishable with death, the juror's views on capital punishment would prevent or substantially impair the performance of the juror's duties as a juror in accordance with the instructions of the court and the juror's oath.

(K) Because the juror is or, within 1 year preceding, has been engaged or interested in carrying on any business, calling, or employment, the carrying on of which is a violation of law, where defendant is charged with a like offense.

(L) Because the juror has been a witness, either for or against the defendant on the preliminary examination or before the grand jury.

(M) Having formed or expressed an unqualified opinion or belief as to whether the defendant is guilty or not guilty of the offense charged, but exposure to any media accounts of the case shall not disqualify a juror either for bias or opinion unless the juror has formed a state of mind evincing enmity or bias based on any media exposure.

(N) Conduct, responses, state of mind, or other circumstances that reasonably lead the court to conclude the juror's views would prevent or substantially impair the performance of his or her duties as a juror in accordance with his or her instruction and oath.



(O) The existence of a state of mind in the juror evincing enmity against or bias to either party. Bias may be actual, implied, or inferred.

**7. Alternate jurors.** The court may impanel alternate jurors in order to replace any jurors who are unable to perform or who are disqualified from performing their duties. Alternate jurors must have the same qualifications and be selected and sworn in the same manner as any other juror. Alternate jurors shall not be informed of their status as an alternate juror during the pendency of the trial. If one or two alternate jurors are called, the prosecution and defense shall each have one additional peremptory challenge. If three or four alternate jurors are called, the prosecution and defense shall have two additional peremptory challenges. If five or six alternative jurors are called, the prosecution and defense shall each have three additional peremptory challenges. Alternate jurors replace jurors in the same sequence in which the alternates were selected. An alternate juror who replaces a juror has the same authority as the other jurors. The court shall retain alternate jurors for a return to duty after the jury retires to deliberate. The court must ensure that a retained alternate does not discuss the case with anyone until that alternate replaces a juror or is discharged. If an alternate replaces a juror after deliberations have begun, the court shall recall the jury, seat the alternate, and instruct the jury to begin its deliberations anew. The court shall admonish the jury as follows:

Members of the jury, juror \_\_\_\_\_ is unable to continue to serve on the jury. Alternate juror \_\_\_\_\_ is now a member of the jury. You are instructed that all deliberations must be restarted in their entirety, any work performed in deliberations

must start anew, and \_\_\_\_\_ must be part of the deliberations from the beginning. Deliberations may not be resumed; they must start anew. This case is resubmitted for deliberation.

**8. Reached verdicts.** Jurors may not deliberate anew a verdict already reached or entered during the guilt phase of the trial that has been entered upon the record. If an alternate juror is seated during the penalty phase, that alternate juror must be canvassed by the court and acknowledge on the record that the juror will accept the guilt phase verdicts rendered by the jury.

**9. Deliberations in a capital case.** In a capital case, alternate jurors not selected to participate in the guilt phase deliberations must not be excused if the jury returns a guilty verdict of murder of the first degree. This rule governs their continued participation in the case. During the penalty phase of the trial, the alternate jurors must be present at the proceedings and listen to all the evidence and argument presented by counsel. When the jury retires to deliberate during the penalty phase, the alternate jurors may not participate in the deliberation. If a deliberating juror is excused during the penalty phase due to the juror's inability or disqualification to perform required duties, the court shall substitute an alternate juror in accordance with subsection 6. If an alternate replaces a juror who is discharged during the penalty phase deliberation, the court shall recall the jury, seat the alternative and instruct the jury to begin its penalty deliberations anew. The jurors may not deliberate anew a verdict already reached or entered during the guilt phase of the trial. If the alternate juror was not present during the entirety of the penalty phase



presentation, they may not be seated, and a new penalty phase with a new jury must occur.

10. **Juror oath.** When the jury is impaneled, the court shall administer the juror oath in accordance with NRS 175.111.

11. **Admonishment.** The judge shall during all recesses or breaks in the trial admonish the jury as follows:

During this recess (or break) you must not (1) discuss or communicate with anyone, including fellow jurors, in any way regarding the case or its merits—either by voice, phone, email, text, internet, or other means of communication or social media; (2) read, watch, or listen to any news or media accounts or commentary about the case; (3) do any research, such as consulting dictionaries, using the internet, or using reference materials; (4) make any investigation, test a theory of the case, re-create any aspect of the case, or in any other way investigate or learn about the case on your own; (5) form or express any opinion regarding the case until it is submitted to you.

### **Rule 18. Court Interpreters**

1. The court shall provide, at no cost to the parties, a qualified, preferably certified, interpreter in all criminal proceedings in which any limited English proficiency (LEP) individual is involved as a defendant, witness, or juror.