

Voir Dire-DWI

DEFENDANT _____

CAUSE NO. _____

D. A. VD _____

D. A. CC. _____

MAY IT PLEASE THE COURT?

I. INTRODUCTION

II. DOES PANEL KNOW WITNESSES?

a. DEFENDANT _____

b. DEF. WITNESSES _____

c. STATE'S WITNESSES _____

d. Do panel members know each other?

e. Six remain to resolve a dispute/contest/matter of opinion

III. PARTICIPANTS:

a. *STATE:*

- i. Accuses so must prove the charge
- ii. Burden of proof
- iii. Expect all evidence from state:
- iv. Even evidence favorable to defendant
- v. Videotape
- vi. All available witnesses
- vii. Prosecutors- work closely with police

b. *DEFENDANT :*

- i. Only obligation is to be here
- ii. No obligation to testify or present witnesses

c. *JUDGE:*

- i. Give jury the law

- ii. Referee- rules on objections- not taking sides
 - iii. Has no opinion on case, witnesses or evidence
 - iv. At conclusion of testimony & evidence- Judge's charge on law
- d. *JURY*:
 - i. Represents people- not law enforcement
 - ii. Judges of credibility-fact finders
 - iii. Decides whether enough evidence has been offered or proven
- IV. PROCEDURE:
 - a. How does a Defendant get here?
 - i. A.O. has suspicion-makes an arrest
 - ii. Formalizes his suspicion by an offense report and complaint
 - iii. Complaint is routed to D.A.
 - iv. Case assigned to a Court
 - v. Fact of suspicion doesn't mean guilty
 - vi. Fact of arrest doesn't mean guilty
 - vii. Fact of formal accusation doesn't mean guilty
 - viii. Easy to accuse
 - 1. Traffic ticket-not deserved
 - 2. The point is-Don't hold it against Defendant that he wants a trial
- V. PRESUMPTION OF INNOCENCE
 - a. Preconceived notion of guilt
 - b. I wonder what he did?
 - c. No evidence yet: How vote?
 - d. Easier if father/brother/son/uncle
- VI. BURDEN OF PROOF
 - a. The state accuses so they have to bring the witnesses and evidence
 - b. What the lawyer's say isn't evidence
 - c. Jury must not look to Defendant to prove anything
 - d. After evidence jury must decide guilty/not guilty
 - e. Not guilty/innocent
 - f. Not guilty means failure to believe guilt
 - i. Not enough evidence
 - ii. Not enough certain evidence
 - iii. Can come close to breaking law but not do
 - iv. Suspicion guilty but can't be certain
- VII. BEYOND REASONABLE DOUBT
 - a. No definition –
 - i. Doubt have reason for
 - ii. Important life decision
 - iii. Six reasonable people can't agree
 - 1. Certainty would want for father/brother/son/uncle
 - 2. Certain next week, next year
 - 3. Go beyond reasonable doubt
 - 4. Big, small, glaring or minimal doubt-N.G.
- VIII. DON'T DECIDE CASE TOO SOON

- a. State goes first
- b. Defense has witnesses
- c. Be fair to Defendant's witnesses
- d. Hand example

IX. RANGE OF PUNISHMENT

- a. Jail
- b. Fine
- c. License

X. INDIVIDUAL VERDICT

- a. Not Democracy
- b. Elect foreman
- c. Stick to own opinion-self direction
- d. Common Sense
- e. Asking you
 - i. View evidence
 - ii. Hear witnesses
 - iii. Decide reasonable doubt that accusation is certain

1. Supervisor/education/military
2. Always believe police? -A.O's don't exaggerate /ever use DA's office? Friends or relatives in law enforcement?
3. Alcohol accident victim/MADD/Bad experience w/intox. person.
4. Nervous when stopped by police
5. Not against law to drink & drive
6. Experience w/intox. people
7. Know it if see it, videotape
8. Ever drive w/alcohol on breath-bloodshot/sleepy /tired
9. Drinking scale 1-5? Spouse? religion/moral/good sense/health
10. How much before feeling sets in? You know it!
11. Accused something didn't do- handcuffed-angry
12. Breath Test: Machine-not infallible-junk in junk out-correct reference sample-correct procedure-certification not meaning to do harm-cooking-computer
13. Breath test refusal-Implied consent-not on D.L.
14. Believe police are now more or less aggressive on D.W.I.?
15. If state presented witnesses swearing DWI and saw videotape shortly after arrest which created reasonable doubt, how vote?
16. Anything else we should know about you as a potential juror? **LOOK FORWARD TO WORKING WITH YOU CHALLENGES FOR CAUSE ? ? ? ?**