

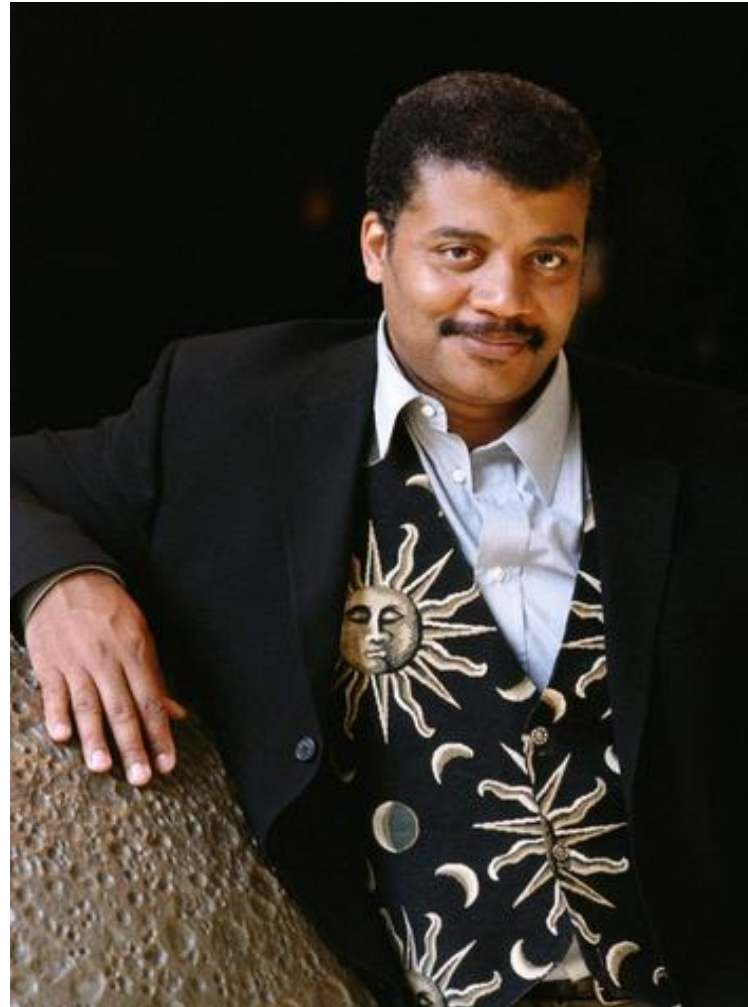
JURY SELECTION: RESEARCH TECHNIQUES & STRATEGIES

Benjamin L. McArthur
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BRADLEY ARANT
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LLP

Lessons on Jury Selection From an Astrophysicist



Introduction

- Misperceptions
 - “De-selection” rather than “selection”
- Ethical Considerations
 - Improper contact with potential jurors
 - Contamination of the jury pool
 - ARPC 3.5 – Impartiality and Decorum of tribunal
 - ARPC 3.6 – Trial Publicity

Getting to Know the Venire

- Pre-Trial Investigation
 - Obtain list of potential jurors from clerk's office
 - Usually a few weeks before trial
 - Demographic information
 - Name, Age, Sex, Race, Address
 - Rarely lists occupation/employer
 - Review list with office personnel
 - Research publicly available information

Voir Dire in State Court

- Purposes of Voir Dire
 - Educate the jury
 - Appeal to the jury
 - Obtain information from prospective jurors
- Venire Introductions
 - Name, residence, employment for juror and spouse
 - Opportunity to put name with face
- Jury Questionnaires
 - Should be addressed by Court prior to trial
 - Usually agreed upon by both sides

Interacting With the Venire

- Be polite and deferential to jurors
- Follow the Court's lead
- Use simple language
- Handling embarrassing questions
- Relationships with parties, attorneys, witnesses other jurors
- Adherence to legal principles (e.g. burden of proof, instructions)
- Commitment to fairness
- Open-ended v. closed-ended questions
- Hypothetical questions
- Experiences of jurors and their families
- Watch for emotional responses

Lines Drawn By The Courts

- Failure of juror to make proper response
 - New trials ordered in extreme cases
- Limitation by trial court of voir dire inquiry
 - Reversible error in extreme cases
- Challenges to the venire
 - Fair Cross-Section Doctrine
 - Federal Jury Selection and Service Act of 1968, 28 USC § 1861
- Challenges for cause
 - Grounds codified in Ala. Code § 12-16-150
 - Common law grounds exist as well
- Peremptory challenges
 - Strikes must be race neutral (*Batson v. Kentucky*) and gender neutral (*J.E.B. v. Alabama*)

Selecting Your Strikes

- Know your preferred juror type
 - e.g., astrophysicist, engineer, farmer, etc.
- Review information obtained prior to and during voir dire
- Determine who you want to strike, i.e., “de-select”
- Be thoughtful about striking order
 - Consideration of alternates
 - Be prepared for other side to strike someone you were planning to strike
 - Be aware of jurors the other side is not striking

Alabama Jury Rules and Statutes

- Alabama Code § 12-16-1, et seq.
 - §12-16-100 to 127 specific to criminal cases
 - §12-16-140 specific to criminal cases
 - §12-16-150 to 152 challenges for cause
- Ala. R. Civ. P. 47
- Ala. R. Cr. P. 18, et seq.
 - Rule 18.4 covers jury selection
 - Amended by Ala. Supreme Court in November 2012 to protect impartiality of excused alternate jurors

Questions and Discussion

Contact Information:

Ben McArthur

bmcarthur@babco.com

(256) 517-5124

babco