JURY SELECTION:
RESEARCH TECHNIQUES & STRATEGIES

Benjamin L. McArthur
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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@babc.com
(256) 517-5124