

Jury Selection: Challenges for Cause

(7-11-10)

Basis for Challenge for Cause. 15A-1212

- (6) The juror has formed or expressed an opinion as to the guilt or innocence of the defendant. (You may NOT ask what the opinion is.)
- (8) As a matter of conscience, regardless of the facts and circumstances, the juror would be unable to render a verdict with respect to the charge in accordance with the law of N.C.
- (9) For any other cause, the juror is unable to render a fair and impartial verdict.

GOAL for Challenge for Cause...Have the juror agree that the juror:

- 1) has formed an opinion about guilt (or “expressed” an opinion),
- 2) would be unable to follow the law about _____, or
- 3) would be unable to be fair and impartial.

The STEPS to obtain a for cause challenge

- 1) Repeat the juror’s bias or impaired position.
Use their EXACT words
“My son was a cocaine addict...I despise anyone ever remotely involved in it.”
- 2) Follow up with OPEN-ENDED questions to get the juror to further explain views.
Tell me more... What happened... Why...?
NO leading at this point
“Tell us about your son’s problem...How did he get into using cocaine...What happened...How is he today...?”
- 3) Acknowledge the validity of the juror’s position and compare it to other jurors
Ira calls it... “Normalize the impairment”
Do NOT argue or be judgmental... Some empathy but NOT condescending
Recognize their sharing of a very personal experience
See if other jurors have the same or similar views
“Thank you for your honesty and for sharing your personal experience about your son. It is understandable that you feel the way you do. Does anyone else feel the same way about people charged with selling drugs?”
- 4) Lock the juror’s biased answer into a challenge for cause basis
Switch to LEADING questions from here on
Repeat the juror’s biased views and emphasize the strength of the views
If the juror tries to wiggle out or qualify the answer, strip or take away their qualifier and repeat the essence of their views
“Your son’s struggles with cocaine has caused you to have very strong and personal feelings against anyone charged with a drug crime.”

- 5) Suggest how the bias or impairment “might” provide the grounds for challenge
First, just raise the issue...do not go for the kill
The bias may provide more than one basis for challenge [see below examples]
Use leading questions but do not be confrontational
You may have to re-validate the juror’s belief and right to hold those beliefs
***“Your feelings about someone charged with a drug crime might affect your ability to be a neutral juror in this case?
[or your ability to presume innocence...or may make you lean toward an opinion of guilt before the trial starts...or prevent you from considering all the evidence]”***
- 6) Get the juror to agree that their bias will affect their ability to serve
This may be tricky...you have to go from “might affect” to “would affect”
It might take several closely worded questions quantifying the effect...from
“might” to “possible” to “probable” to “likely” to “substantially”, etc.
You need to discuss how every case is not a right fit for every juror
Another type of case would be better for that juror...a case not involving that bias
Do not argue with the juror... You need the juror to agree with you
You may need to praise their honesty or right to hold their beliefs
***“Your views about someone charged with a drug crime would affect your ability to be a neutral juror in this case?
[or your ability to presume innocence...or may make you lean toward an opinion of guilt before the trial starts...]”***
This should provide the basis for a challenge for cause but beware “rehabilitation”
- 7) Protect your challenged juror’s answers from “rehabilitation”
Commend the juror’s honesty and willingness to talk about this personal issue
Remind juror of appropriateness of having strong views
Lock juror in on strength of views and views are part of who they are
Reassure juror that there is nothing wrong with having views that differ
from lawyers, other jurors, or judge
from the rules about jury service
Note that the juror does not appear the type who change opinions for convenience

Make your Challenge for CAUSE