

# **CRIMINAL JURY TRIAL OUTLINE**

## **1. CALL THE CASE**

This is the time set for trial in Case Number \_\_\_\_\_,  
The State of Nevada, versus \_\_\_\_\_, Defendant.  
Let the record reflect the presence of the Defendant in court, and represented by  
his/her attorney,

\_\_\_\_\_, and that the State is represented by \_\_\_\_\_  
\_\_\_\_\_. (Make sure Defendant is present for all proceedings NRS  
178.388(1))

Counsel, are you ready to proceed? Any issues to consider before the jury is  
brought in?

## **2. INTRODUCE STAFF**

Ladies and Gentlemen, you are in the Specialty/Small Claims Courtroom of  
the Carson City Justice Court. My name is (state name), and I am a Justice of the  
Peace or Senior Judge, presiding in this case. Welcome.

Let me take this opportunity to introduce the court staff with whom you may  
come in contact with.

Court Reporter: \_\_\_\_\_ is the Court Reporter today and will  
be taking down everything that is said during the trial on her stenographic  
machine.

Judicial Clerk: \_\_\_\_\_ is the Clerk who swears witnesses, marks  
exhibits, keeps track of evidence, prepares minutes or descriptions of the  
proceedings for the official court record.

Marshal: We will have several marshals who provide courtroom security.  
Today, we have \_\_\_\_\_.

### 3. CALL THE ROLL OF THE JURORS AND SWEAR THEM IN

You have been called upon to serve as a juror in this case. Our nation has traditionally placed great faith in its citizens as jurors, to reach fair and objective decisions in matters of importance. We ask you to now share this tradition and to look upon your service as both a privilege and a responsibility of citizenship.

The Clerk has checked in those summoned as prospective jurors in the Jury Assembly Room. Is there anyone here today for jury service who has not checked in?

#### **IMMEDIATE EMERGENCY:**

*Is there anyone here who has an immediate emergency?*

At this time does either counsel wish to present a challenge to the prospective jury panel as a whole?

Will counsel stipulate that we may proceed in the absence of the prospective juror (s) who failed to appear?

(If not so stipulated, recess and send sheriff after absent members of panel.)

Will Counsel agree and stipulate that I may have the entire panel sworn at the same time to answer truthfully all questions propounded to them as to their qualifications to serve as jurors, so I might ask questions collectively and so it won't be necessary to administer the oath to each replacement?

The Clerk will now swear all prospective jurors to answer truthfully all questions propounded to them concerning their qualifications to serve as jurors in this case. Ladies and Gentlemen, will you all please rise, face the Clerk, raise your right hands and be sworn:

OATH (If Clerk Not Available): "Do you and each of you solemnly swear that you will well and truly answer all questions put to you touching upon your qualifications to serve as trial jurors in the case now pending before this Court, so help you God?"

**4. QUALIFY THE JURY**  
**NRS 6.010 provides who is qualified to act as a juror:**

Every qualified elector of the state, whether registered or not, who has sufficient knowledge of the English language, and who has not been convicted of treason, felony, or other infamous crime, and who is not rendered incapable by reason of physical or mental infirmity, is a qualified juror of the county in which he resides.

- (a) Is there anyone who is not a qualified elector of the state, whether registered or not?
- (b) Is there anyone who does not have sufficient knowledge of the English language?
- (c) Is there anyone who has been convicted of treason, felony, or other infamous crime?
- (d) Is there anyone who is incapable by reason of physical or mental infirmity to serve as a juror?
- (e) Is there anyone who is not a resident of Carson City?  
(Explain that Moundhouse, Washoe Valley and Johnson Lane in Douglas County are not in Carson City.)
- (f) Is there anyone who is not a resident of the United States of America?

**5. DISCUSS EXEMPTIONS**  
**NRS 6.020 Exemptions from service**

1. Except as otherwise provided in subsections 2 and 3 and NRS 67.050, upon satisfactory proof, made by affidavit or otherwise, the following-named persons, and no others, are exempt from service as grand or trial jurors:

- (a) Any member of the legislature, or employee of the legislature or the legislative counsel bureau while the legislature is in session.
- (b) Any person who has a fictitious address pursuant to NRS 217.462 to NRS 217.471, inclusive. (Address approved by application to Secretary of State i.e.: victim of domestic violence or sexual assault.)
- (c) Any police officer, as defined by NRS 617.135, which includes, sheriff, deputy sheriff, city police officer, Highway Patrol officer, State Investigation Division Officer, uniformed employee of the Department of Corrections (regular contact with offenders and subject to recall in emergency), parole and probation officers, State Fire Marshall, and State game warden.

**Is there anyone who comes within one of these exemptions?**

2. All persons of the age of 70 years or over are exempt from serving as grand or trial jurors. Whenever it appears to the satisfaction of the court, by affidavit or otherwise, that a juror is over the age of 70 years, the court shall order the juror excused from all service as a grand or trial juror, if the juror so desires.

(a) Is there anyone 70 or over who wishes to be excused?

**6. HARDSHIP (NRS 6.030)**

The Court recognizes that serving on a jury is almost always a financial hardship. But that is a hardship that impacts all of our citizens in one form or another. For that reason, financial hardship is not an excuse to serving as a juror. However, on some occasions, extreme inconvenience or undue hardship that are unique to your service in this particular trial may exist, such as a sickness or physical disability, serious illness or death of an immediate family member, public necessity, primary care-giver of another person with documented medical condition that requires full time assistance, a medical problem or appointment, child care needs or some other special reason why you cannot serve as a juror in this particular trial. Is there anyone who has extraordinary reasons why he or she cannot serve as a juror in this particular case?

**7. BRIEF STATEMENT OF THE CASE AND WITNESSES**

Before we go any further, I want the attorneys: (DA first)

- (a) To introduce themselves, their client and the attorneys in their office
- (b) To briefly state the nature of their case, and
- (c) To state any prospective witnesses that they may call in this matter (List on board.)

**8. DRAW THE NAMES OF JURORS**

The Clerk will now draw the names of 24 prospective Jurors from the jury list. As your names are called, please step forward and be seated in the jury box in the order in which the names are called. Please start in the back row all the way at the right end and then fill the back row up. Then fill the front row up. (NRS 175.051) The last four jurors called, please take the remaining seats in front, starting on the right.

## 9. TALK TO JURY ABOUT PROCESS OF PICKING JURY

Ladies and Gentlemen, we will be asking you some questions at this time concerning your qualifications to serve as a Juror in this case. The questions I am about to ask are directed to all prospective jurors (those seated in the jury box, as well as those still outside the rail.) It is important that all of you pay close attention to what is going to happen now. It is not only possible but probable that some of the people now in the jury box will be excused and that some of you outside the rail will take their places.

It is our purpose in selecting a jury to find six (6) persons and two (2) alternate who will hear and decide this case on the basis of the evidence presented in open court and not on some other basis (such as prior knowledge of the case, pre-conceived opinions, acquaintance with the defendant, attorneys or witnesses).

To begin this process, I will have each of you in the jury box to stand and tell us the information set out on the easel. I will then ask all of you some general questions and then the attorneys if they choose, will ask you questions regarding your qualifications to serve.

During this questioning, I ask all of you to bear in mind that neither I nor the attorneys want to embarrass you. We are only seeking relevant information upon which to decide your qualifications to serve as a juror in this case.

You should understand that although it is your duty as a citizen to serve on juries, it is also your duty as a citizen not to serve on a jury if there is any reason whatsoever that you cannot do so in fairness to the State of Nevada and the defendant, or to yourself.

What this is all about is to get your honest, straightforward feelings and answers as to your opinions or an honest factual response.

If you don't understand a question, just speak up and I will clarify it. What is most important is that you be as honest and forthright as you possibly can.

If any of your answers appear to reveal a legal basis for you to be excused as a juror, one of the attorneys will challenge you. That is, he will request that you be excused. If the Court agrees with the reasons stated for the challenge, you will be excused from further service in this case, and the name of another prospective juror will be drawn. These challenges are called challenges for cause.

Once prospective jurors have been qualified, the attorneys may then exercise another type of challenge--called a peremptory challenge. Each side is allowed **two (2) peremptory challenges** and one (1) peremptory challenge as to the alternate jurors (1 challenge for 1 or 2 alternates see NRS 175.061, NRS 67.030).

If either side--for any reason or for no reason at all--makes this type of challenge against you, the Court has no alternative but to excuse you. If that happens, don't feel that anything is wrong with you. It simply means that the attorney who so challenges you believes--rightly or wrongly--that you would not be as receptive to his case as another prospective juror might be.

Before I begin asking questions, will each of you stand up and tell us:

- a. your name
- b. your occupation
- c. your marital status
- d. if you are married your spouses occupation
- e. the number of children if any that you have and their ages and
- f. the length of time that you have lived in Carson City.

I will now ask some general questions. If any juror in the box would answer a question affirmatively, please raise your hand. If any juror gives an affirmative answer, I may explore the matter further, and the attorneys will also be given a chance to ask additional questions on that subject later. I encourage you not to hesitate to raise your hand should you feel it appropriate. The integrity of our entire judicial system depends upon obtaining jurors who are disinterested, unbiased and unprejudiced, and the only way we can do this is through the question and answer process we are now to begin.

- (1) Is any juror acquainted with the Defendant in this case?
- (2) Is any juror acquainted with any of the attorneys involved in this case or with any of his associates? (State the names of members of firm.)
- (3) Are any of you acquainted with any member of the District Attorney's office in Carson City?
- (4) Is any juror acquainted with any law enforcement personnel-- police officer, sheriff, deputy sheriff, highway patrolman, etc.?
- (5) If any law enforcement officer were to testify in this case, would any juror tend to give any more or any less weight to his testimony simply because he is a law enforcement officer?
- (6) Is anyone acquainted with the prospective witnesses in this case? (Have names on board)
- (7) Is anyone acquainted with any of the other jurors in this case?
- (8) Does anyone know anything about the facts of this case?
- (9) Have any of you read any newspaper accounts of, or seen or heard any radio or television broadcasts concerning this case?
- (10) Has any juror formed or expressed any opinion as to the guilt or innocence of Defendant or as to any other matter connected with this case?
- (11) Do any of you have other than a passing interest in the outcome of this case?

- (12) Does any juror entertain any bias or prejudice for or against the State of Nevada or the Defendant? (Race)
- (13) At the conclusion of the evidence, I will state to you the law applicable to this case. I will instruct you that it is your duty to apply that law to the facts as found by you. Would any juror be reluctant to apply the general: principles of law which: will be so stated by the Court?
- (14) In this case, the Defendant is charged with \_\_\_\_\_. Does any juror have any quarrel with the principle that \_\_\_\_\_ are declared to be criminal offenses in this state?
- (15) If the Court were to instruct you at the conclusion of this case that “A defendant in a criminal action is presumed to be innocent until the contrary is proven beyond a reasonable doubt”, would each of you accept and follow that instruction?
- (16) If the Court were to instruct you that “A reasonable doubt is one based on reason. It is not mere possible doubt, but is such a doubt as would govern or control a person in the more weighty affairs of life. If the minds of the jurors, after the entire comparison and consideration of all the evidence, are in such condition that they can say they feel an abiding conviction of the truth of the charge, there is not a reasonable doubt. Doubt to be reasonable must be actual, not mere possibility or speculation,” would each of you accept and follow that instruction?
- (17) Have any of you ever served on a jury before--criminal civil or grand jury? (If yes, what type of jury and whether verdict was returned, and whether anything in that experience would prevent juror from being fair and impartial in this case)
- (18) Are any of you now, or have you ever been involved in any type of litigation--civil or criminal? (If yes--nature of litigation and involvement and whether that experience would prevent juror from being fair and impartial in this case.)
- (19) Have any of you ever been the victim of a crime?
- (20) Does any juror harbor any prejudice whatsoever against the race or nationality of the attorneys or of the defendant.
- (21) Is there any one of you who would not like to be tried by a jury composed of people having the same frame of mind you now have?
- (22) This case is expected to last 2 days. Would serving that period of time represent an extraordinary burden upon any of you? (If yes, ask the prospective juror who replaces you at work when you are sick or on vacation.) (Financial hardship is not an excuse to serving as a Juror.)
- (23) Does any juror have any health reason which would prevent them from serving as an unbiased and impartial juror in this case--such as impaired vision or hearing back injury, etc.?
- (24) Do any of you have any legal training?
- (25) Do any of you have any extraordinary business or personal reason which you feel would interfere with your serving as a juror in this case? (Generally, financial hardship is not an excuse.)

- (26) Is there any juror now in the box who knows of any reason why he could not act as a fair and impartial juror in this matter?

## **10. ATTORNEYS QUESTION AND THEN PICK THE JURY**

The attorneys may now proceed with any supplemental examination of the jurors--commencing with the State.

The State may now examine the jurors.

The Defense may now examine the jurors.

(If any juror is excused for cause) –The Clerk; will now draw one additional name from the jury list to fill the vacant seat.

**New Juror:** The Court asked a series of questions, would you have answered any in the affirmative?

## **DO THE PARTIES PASS THE JURY FOR CAUSE?**

## **11. EXCUSE EXCESS JURORS**

The members of the panel whose names were not called and who are still seated outside the rail may now be excused from further attendance at this trial. Any of you who wish to do so are invited to remain as spectators I wish to thank all of you on behalf of the Court and the parties. Our system of trial by jury cannot operate without a sufficient number of prospective jurors from which the actual trial panel may be chosen. Your attendance at, and attention to, these proceedings have permitted us to reach the stage where this case can be tried and finally decided.

## **12. PEREMPTORY CHALLENGES (Excuse the Jury & Admonish them--4 each, NRS 175.051)**

The State may now exercise its first peremptory challenges (as to the first 14 Jurors called). (Continue to alternate peremptory challenges between State and defense.)

(Determine whether alternate jurors are needed. Each side has 1 peremptory challenge if one or two 2 alternate Jurors are to be impaneled. These peremptory challenges may be exercised only against one of the alternates). NRS 175.061

## **13. SWEAR THE JURY**

The Clerk will now swear the jury (and the alternate).

“Do you, and each of you, solemnly swear (or affirm under the pains and penalties of perjury) that you will well and truly try the case, now pending before this court and a true verdict render according to the evidence given so help you God?”

## **14. DESCRIBE TRIAL TO JURY**

### **1.1 DUTY OF JURY**

Ladies and gentlemen: You now are the jury in this case, and I want to take a few minutes to explain about your duties as jurors and to give you some instructions. At the end of the trial I will give you more detailed instructions. Those instructions will control your deliberations.

It will be your duty to decide from the evidence what the facts are. You, and you alone, are the judges of the facts. You will hear the evidence, decide what the facts are, and then apply those facts to the law which I will give to you. That is how you will reach your verdict. In doing so you must follow that law whether you agree with it or not. The evidence will consist of the testimony of witnesses, documents, and other things received into evidence as exhibits and any facts on which the lawyers agree or which I may instruct you to accept.

You should not take anything I may say or do during the trial as indicating what I think of the evidence or what your verdict should be.

### **1.2 THE CHARGE—PRESUMPTION OF INNOCENCE**

This is a criminal case brought by the State of Nevada. The State of Nevada has charged the defendant with the crimes of \_\_\_\_\_.

The charges against the defendant are contained in the Criminal Complaint. The Criminal Complaint is simply the description of the charges made by the State of Nevada against the defendant; it is not evidence of anything.

In order to help you follow the evidence, I will now give you a brief summary of the elements of the crime which the government must prove to make its case. The following elements must be proven beyond a reasonable doubt:

In order to prove that \_\_\_\_\_ committed the crime of \_\_\_\_\_, the State of Nevada must prove beyond a reasonable doubt each of the following elements, that defendant:

*List elements of crime.*

### **1.3 WHAT IS NOT EVIDENCE**

The following things are *not* evidence, and you must not consider them as evidence in deciding the facts of this case:

1. Statements and arguments of the attorneys.
2. Questions and objections of the attorneys.
3. Testimony that I instruct you to disregard.
4. Anything you may have seen or heard when the court is not in session even if what you see or hear is done or said by one of the parties or by one of the witnesses.

### **1.4 EVIDENCE FOR LIMITED PURPOSE**

Some evidence is admitted for a limited purpose only. When I instruct you that an item of evidence has been admitted for a limited purpose you must consider it only for that limited purpose and for no other.

### **1.5 DIRECT AND CIRCUMSTANTIAL EVIDENCE**

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is indirect evidence, that is, it is proof of one or more facts from which one can find another fact. You are to consider both direct and circumstantial evidence. The law permits you to give equal weight to both, but it is for you to decide how much weight to give to any evidence.

### **1.6 RULING ON OBJECTIONS**

There are rules of evidence which control what can be received into evidence. When a lawyer asks a question or offers an exhibit into evidence and a lawyer on the other side thinks that it is not permitted by the rules of evidence, that lawyer may object. If I overrule the objection, the question may be answered or the exhibit received. If I sustain the objection, the question cannot be answered, and the exhibit cannot be received. Whenever I sustain an objection to a question, you must ignore the question and must not guess what the answer would have been.

Sometimes I may order that evidence be stricken from the record and that you disregard or ignore the evidence. That means that when you are deciding the case, you must not consider the evidence which I told you to disregard.

## **1.7 CREDIBILITY OF WITNESSES**

In deciding the facts in this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness says, or part of it, or none of it. In considering the weight and value of the testimony of any witness, you may take into account:

1. the opportunity and ability of the witness to see or hear or know the things testified to;
2. the witness' memory;
3. the witness' attitude and behavior while testifying;
4. the witness' interest in the outcome of the case and any bias or prejudice;
5. whether other evidence contradicted the witness' testimony;
6. the reasonableness of the witness' testimony in light of all the evidence; and
7. any other factors that bear on believability.
8. the weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify.

## **1.8 CONDUCT OF THE JURY (Admonishment)**

I will now say a few words about your conduct as jurors.

Do not talk to each other about this case or about anyone who has anything to do with it until the end of the case when you go to the jury room to decide on your verdict. (Continuing admonishment.)

Do not talk with anyone else about this case or about anyone who has anything to do with it until the trial has ended and you have been discharged as jurors. "Anyone else" includes members of your family and your friends. You may tell them that you are a juror, but don't tell them anything about the case until after you have been discharged by me.

Do not let anyone talk to you about the case or about anyone who has anything to do with it. If someone should try to talk to you, please report it to me immediately. **You will each be given a badge to wear to identify you as a juror. This will assist in individuals knowing not to speak to you about the case.**

Do not read any news stories or articles or listen to any radio or television reports about the case or about anyone who has anything to do with it.

Do not do any research, such as consulting dictionaries or other reference materials, and do not make any investigation about the case on your own.

If you need to communicate with me, give a signed note to the [Marshal] to give to me.

Do not make up your mind about what the verdict should be until after you have gone to the jury room to decide the case and you and your fellow jurors have discussed the evidence. Keep an open mind until then.

No Juror may declare to fellow Jurors any fact relating to the case as of his or her own knowledge.

If you discover during the trial that you or any other Juror has personal knowledge of any fact in the case, you should disclose such situation to me, out of the presence of the other Jurors.

## **1.9 NO TRANSCRIPT AVAILABLE TO JURY**

At the end of the trial you will have to make your decision based on what you recall of the evidence. You will not have a written transcript to consult, and it is difficult and time consuming for the reporter to read back lengthy testimony. I urge you to pay close attention to the testimony as it is given.

## **1.10 TAKING NOTES**

If you wish, you may take notes to help you remember what witnesses said. If you do take notes, please keep them to yourself until you and your fellow jurors go to the jury room to decide the case. Do not let note taking distract you so that you do not hear other answers by witnesses. When you leave, your notes should be left in the [court room] or [in the jury room]. NRS 175.131

## 1.11 JURY ASKING QUESTIONS

Generally only the lawyers and I ask witnesses questions. If you are concerned about whether a witness will testify about a matter that seems important to you, usually, if you are patient, the matter will be covered by further questions asked by me or the lawyers. Keep in mind that a witness scheduled to testify later in the trial may be the best person to answer a question.

Occasionally, however, a juror feels that an important question has not been asked. If you feel an important question has not been asked, you may write out the question on a blank piece of paper [from your notebook], raise your hand when the lawyers are finished with their examination of the witness, and have the question handed to me. I then will decide if the question is a proper one after consulting with the lawyers. If it is, and if it relates to a factual matter about which the witness can testify, I will ask the witness the question.

If I do not ask the question, that means I have decided that it is not legally proper for some reason. If I do not ask the question, the juror posing it should not guess or speculate about what the answer might have been, and may not consider the question or discuss it with other jurors during deliberations. If I decide that the question deals with a legal issue, it may be taken care of by final instructions to you.

If the question seeks factual information from the witness and is designed to clarify information about issues in this trial, the court or the attorneys may further question the witness regarding the points raised in the juror question. No emphasis or undue weight should be placed on the answer to the question merely because the question came from a juror.

Moreover, you may pose a question to a witness only to help you understand the testimony, to clarify the evidence, or to seek information, not to discredit or argue with a witness. This is because you, as jurors, are impartial judges of the facts, not advocates for either side in this trial.

## **1.12 OUTLINE OF TRIAL**

The trial will now begin. First, each side may make an opening statement. An opening statement is not evidence. It is simply an outline to help you understand what that party expects the evidence will show. A party is not required to make an opening statement.

The State will then present evidence, and counsel for the defendant may cross-examine. Then the defendant may present evidence, and counsel for the plaintiff may cross-examine.

This Court has a rule that each witness can only be questioned twice by each side. The side calling the witness will directly examine them. Then the opposing side will cross-examine the witness. Thereafter, the side that called the witness may question the witness once more directly and then the other side can cross-examine the witness once more. Thereafter, the witness will be excused and no further questions of that witness will be allowed.

After the evidence has been presented, I will instruct you on the law that applies to the case and the attorneys will make closing arguments.

After that you will go to the jury room to deliberate on your verdict.

## **1.13 ASSISTANCE DURING THE TRIAL**

The Marshal and other court staff are here to make you as comfortable as possible. Please let us know if there is anything you need. If you find you cannot hear, or need to go to the bathroom or feel ill, please raise your hand and the Marshal will come see you.

## **1.14 BENCH CONFERENCES AND RECESSES**

From time to time during the trial it may become necessary for me to talk with the attorneys out of the hearing of the jury, either by having a conference at the bench when the jury is present in the courtroom, or by calling a recess. Please understand that while you are waiting, we are working. The purpose of these conferences is not to keep relevant information from you, but to decide how certain evidence is to be treated under the rules of evidence and to avoid confusion and error.

We will, of course, do what we can to keep the number and length of these conferences to a minimum. I may not always grant an attorney's request for a conference. Do not consider my granting or denying a request for a conference as any indication of my opinion of the case or of what your verdict should be.

#### **15. EXCLUSION OF WITNESSES (Explain to Jury)**

The court: “If there is anyone present who expects to be called as a witness, please leave the courtroom but remain available in the hallway and do not discuss your testimony or the testimony of any other witness with anyone except the parties to this case and their attorneys.” (Remind attorneys to advise their client and witnesses not to speak to the jury.)

#### **16. READ THE CRIMINAL COMPLAINT**

The Clerk will now read to the jury the Criminal Complaint filed by the State in this case and state to the jury the plea thereto entered by the Defendant.

#### **17. BEGIN TRIAL**

We have now reached the stage of the proceedings where the attorneys may make their opening statement. The law provides that the District Attorney make her opening statement first. Defense counsel may then make his or her opening statement or reserve it until the conclusion of the State’s evidence.

The State of Nevada may now proceed with its opening statement.

DDA name, do you want to make your opening statement now or reserve it until the close of the State’s evidence?

## 18. THE PROSECUTION'S CASE-IN-CHIEF

The State will now call its first witness.

(After conclusion of States evidence)--.The defense may now proceed.

### Witnesses

- a. Please come forward. Raise your right hand to be sworn in.
- b. Please take the witness stand and state your full name and spell your last name

Identification of witness. Record will reflect witness of \_\_\_\_\_.

- c. After each witness, before they are excused - **Does the Jury have any questions?**

## 19. DEFENDANT'S CASE-IN-CHIEF

## 20. IF THE DEFENDANT WANTS TO TESTIFY (Sign Notice)

**(Before the defendant takes or refuses to take the stand,** the following admonition should be read to the defendant **outside the presence of the jury.** The court should further advise counsel to confer with (his or her) client with the view or having the defendant voluntarily make a knowing and understanding waiver of (his or her) right against self-incrimination by testifying, if (he or she) so desires. The defendant may refuse to waive (his or her) constitutional right and still not take the stand.) See Waiver Form. (Phillips v. State 105 Nev. 631-Do canvas.)

The Court: Defendant's name, under the constitution of the United States and under the constitution of the state of Nevada, you cannot be compelled to testify in this case. Do you understand that?

You may, at your own request, give up this right and take the witness stand and testify. If you do, you will be subject to cross-examination by the Deputy District Attorney and anything that you may say, whether on direct or cross-examination, will be the subject of fair comment when the Deputy District Attorney speaks to the jury in (his or her) final argument. Do you understand that?

If you choose not to testify, the court will not permit the Deputy District Attorney to make any comments to the jury because you have not testified. Do you understand that? If you elect not to testify, the court will instruct the jury, but only if your attorney specifically requests, as follows: “The law does not compel a defendant in a criminal case to take the stand and testify, and no presumption may be raised and no inference of any kind may be drawn, from the failure of a defendant to testify.” Do you have any questions about these rights? You are further advised that if you have a felony conviction and more than 10 years has not elapsed from the date you have been convicted or discharged from prison, parole or probation, whichever is later, and the defense has not sought to preclude that coming before the jury, and you elect to take the stand and testify, the Deputy District Attorney, in the presence of the jury, may be permitted to ask you the following:

- (1) have you been convicted of a felony?
  - (2) what was the felony? And
  - (3) when did it happen?
  - (4) however, no details may be gone into.
- NRS 175.181

**21. REBUTTAL BY STATE.**

**22. SURREBUTTAL BY DEFENSE.**

**23. INSTRUCTIONS**

Ladies and Gentlemen of the jury, before the case may be argued by counsel and submitted to you for deliberation, it is necessary that the Court and counsel meet out of the presence of the jury for the purpose of settling the instructions that will be given to you about the law applicable to this case. We will attempt to expedite this process as much as possible. However, it is an extremely critical stage of this entire proceeding, and both counsel and myself ask that you bear with us during this unavoidable delay. Court is in recess, subject to call.

(In chambers discussion of Court’s proposed instructions and additional proposed instructions and objections to instructions. Court reconvenes outside presence of jury to settle instructions on record )

The record will reflect that the Court has reconvened outside the presence of the jury for the purpose of settling the jury instructions. The record will further reflect that the Court has provided to the State and to the defense, copies of those instructions which the Court proposes to give. Is that correct, counsel?

Does the State object, to any of the Court's proposed instruction? (If yes, objections to the instructions must be designated and objection stated.)

Does the defense object to any of the Court's proposed instructions? (Same)

Does the State wish to offer any instructions, in addition to those proposed by the Court? (If yes, instruction must be offered, endorsed "Not Given," and made part of record.)

Does the defense wish, to proffer any instructions in addition to those, proposed, by the Court? (If yes, instruction must be offered, endorsed "Not Given," and made part of record.)

Will counsel stipulate on the record that the instructions have been settled in open Court?

(Will counsel stipulate that the Court Reporter does not have to record the reading of the instructions?) (Write give and sign. FJDCR)

Does either Party, request that the jury be instructed, prior to argument?

## **24. READ INSTRUCTIONS**

**(Jurors return.)** Ladies and gentlemen, of the jury, I am about to instruct you upon the law as it applies, to this case. I would like to instruct you orally, without reading to you. However, these instructions are of such importance that almost every word is of some significance. Therefore, it is necessary for me to read to you from carefully prepared, written instructions. The instructions are, relatively long, and, some are quite complicated. If they are not especially clear when I read them to you, please bear in mind that when you retire to the jury room, you will be able to take these written instructions with you so that you can read and consider them carefully. (Court reads instructions.)

## 25. CLOSING ARGUMENT

(District Attorney), you may now make your Closing argument.

(Defense Attorney), you may now make your Closing argument.

(District Attorney) you may now conclude the arguments.

## 26. DISMISS ALTERNATE JUROR

(Alternate jurors must now be excused. Have Jurors provide telephone number to clerk.) **Admonish– still subject to being available to serve!**

## 27. SWEAR OFFICERS TO TAKE CHARGE OF JURY

The Clerk will, now swear the officers to take charge of the jury.

“Do you solemnly swear that you will keep this jury together in some private and convenient place; that you will not permit any person to speak to them, or speak to them yourself, unless it be by order of the court, except to ask them whether they have agreed upon a verdict and that you will return them into court when they have so agreed, so help you God?”

## 28. SEND JURY OUT TO DELIBERATE (Jury excused to deliberate)

The jury may take with them to the jury room all papers and other items which have been received as evidence in this case including the written instructions given by the Court, and all notes taken by the members of the jury during the trial. The jury may request through the Marshal further information or instruction.

### **Admonishment**

After this case has been submitted to you and you have begun your deliberations, you may be permitted to separate for breaks or you may be allowed to leave for the evening. During periods you are separated, you must not discuss with anyone any subject connected with this trial, and you must not deliberate further upon the case with any of your fellow jurors until all 6 of you are together again and you are assembled in the jury room. Once you are all together again after a break or after a evening recess, you may then continue your deliberations.

Court will be in recess, subject to the call of the jury.

## **29. VERDICT RETURN**

(Jury returns and court reconvenes)

Counsel, will you stipulate to presence of the jury?

Ladies and gentlemen, who of you has been selected as foreman?

Foreman \_\_\_\_\_ has the jury reached a verdict?

The Foreman will please hand the verdict to the Marshal who will, in turn, hand it to the Court. (Review Verdict to make sure that it is legally sufficient, all questions answered and not inconsistent.)

The Clerk will now read the verdict.

Ladies and gentlemen of the jury, is this your verdict, so say you one, so say you all?

Before the verdict is recorded, does either the State or the defense request that the jury be polled?

The Clerk will now record the verdict of the jury in the minutes of this Court.

## **30. SET A TIME FOR SENTENCING**

Guilty Verdict: The jury having found the Defendant guilty the Defendant is (remanded to the custody of the Sheriff of Carson City or remains out of custody) to await the judgment of the Court on the verdict.

The \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_, is fixed as the date and time for Pronouncing judgment and imposing sentence.

### **31. EXCUSE JURY**

Court: Ladies and Gentlemen, as you know, the right to trial by jury is one of our basic and fundamental constitutional guarantees.

I appreciate your willingness to give the court your valuable time. You have been most attentive and most conscientious.

On behalf of counsel, the parties and the Carson City Justice Court, I wish to thank you for your careful deliberation which you gave to this case. The question may arise as to whether you may now talk to other persons regarding this matter. I advise you that you may if you wish, talk to other persons and discuss your deliberation which you gave this case. You are not required to do so, however. I will come back shortly to the jury room, to talk to you. The attorneys may want to come back and talk to you after I am done, but you have no obligation to talk to them.

Jurors may expect a check mailed to them from the City of Carson in 3 to 4 weeks.

The jury is excused with the thanks of the court and counsel for their service to the Judicial System and community.