

WHY DON'T WE JUST TAKE THE FIRST 12 JURORS IN THE BOX?

PART OF THE CONSTITUTIONAL GUARANTEE OF A  
DEFENDANT'S RIGHT  
TO AN IMPARTIAL JURY IS AN ADEQUATE VOIR DIRE TO  
IDENTIFY  
UNQUALIFIED JURORS.

State v. Moseley, 338 N.C. 1, 449 S.E. 2d 412 (1994)

BOTH THE STATE AND THE DEFENDANT ARE ENTITLED  
TO A FAIR AND UNBIASED JURY.

THE PRIMARY PURPOSE OF VOIR DIRE OF  
PROSPECTIVE JURORS IS TO SELECT AN  
IMPARTIAL JURY.

State v. Lee, 292 N.C. 617, 234 S.E. 2d 574 (1977)

THE FUNCTION OF A CHALLENGE FOR CAUSE IS NOT  
ONLY TO ELIMINATE EXTREMES OF PARTIALITY ON  
BOTH SIDES BUT TO ASSURE THE PARTIES THAT THE  
JURY BEFORE WHOM THEY TRY CASES WILL DECIDE  
ON THE BASIS OF THE EVIDENCE PLACED BEFORE  
THEM AND NOT OTHERWISE.

State v. Wright, 52 N.C. App. 166, 278 S.E. 2d 579 (1981)

THE PURPOSE OF THE CHALLENGE SHOULD BE TO GUARANTEE NOT ONLY FREEDOM FROM ANY BIAS AGAINST THE ACCUSED, BUT FROM ANY PREJUDICE AGAINST THE PROSECUTION. BETWEEN HIM AND THE STATE, THE SCALES ARE TO BE EVENLY HELD.

State v. Wright, 52 N.C. App. 166, 278 S.E. 2d 579 (1981)

THE VOIR DIRE EXAMINATION OF PROSPECTIVE JURORS SERVES A DUAL PURPOSE:

(1) TO ASCERTAIN WHETHER GROUNDS EXIST FOR A CHALLENGE FOR CAUSE

(2) TO ENABLE COUNSEL TO EXERCISE INTELLIGENTLY THE PEREMPTORY CHALLENGES PROVIDED BY LAW.

State v. Green, 336 N.C. 142, 164, 443 S.E. 2d 14 (1994)

A DEFENDANT IS NOT ENTITLED TO ANY PARTICULAR  
JUROR.  
HIS RIGHT TO CHALLENGE IS NOT A RIGHT TO SELECT  
BUT TO REJECT A JUROR.

State v. Abraham, 338 N.C. 315, 451 S.E. 2d 131 (1994)

A PARTY TO AN ACTION DOES NOT HAVE THE RIGHT  
TO SELECT  
A JUROR PREJUDICED IN HIS FAVOR, BUT ONLY TO  
REJECT ONE  
PREJUDICED AGAINST HIM.

State vs. Lee, 292 N.C. 617, 234 S.E. 2d (1977)



ARE THERE OTHER WAYS TO DEAL  
WITH THESE PROBLEMATIC SITUATIONS?

THE TRIAL COURT HAS BROAD DISCRETION IN THE  
MANNER AND METHOD OF JURY VOIR DIRE IN ORDER  
TO ASSURE THAT A FAIR AND IMPARTIAL JURY IS  
IMPANELED.

State v. Watson, 310 N.C. 384, 312 S.E. 2d 448 (1984)

**Juror Name:** \_\_\_\_\_

**YES NO**

1. Have you ever experienced an unwanted sexual contact from another person?
2. Have any of your close friends or family members ever experienced an unwanted sexual contact from another person?
3. Do you know anybody who has been the victim of a crime or offense involving sexual contact?
4. If your answer to number 3 was yes, was this matter reported to police or other authorities?  
Circle One: YES NO DON'T KNOW
5. Have you every been accused of or charged with an offense involving allegations of unwanted sexual conduct?
6. Have any of your close friends or family members ever been accused of or charged with an offense involving allegations of unwanted sexual contact?

NOTHING IN THIS HOLDING... SHOULD BE  
INTERPRETED TO  
INFRINGE UPON THE TRIAL COURT'S INHERENT  
AUTHORITY  
TO PERMIT INDIVIDUAL VOIR DIRE AS TO SPECIFIC  
SENSITIVE ISSUES IN ANY CASE.

State v. Roache, 358 N.C. 243, 595 S.E. 2d 381 (2004)

THE DECISION WHETHER TO ALLOW INDIVIDUAL VOIR  
DIRE  
OF PROSPECTIVE JURORS IS WITHIN THE COURT'S  
DISCRETION.

State v. Ysaquire, 309 N.C. 780, 309 S.E. 2d 436 (1983)  
(A sexual assault case)

THE TRIAL COURT JUDGE IN THE EXERCISE OF HIS OR  
HER  
DUTY TO SUPERVISE AND CONTROL THE TRIAL SO AS  
TO  
ENSURE A FAIR TRIAL TO ALL PARTIES HAS THE RIGHT  
AND  
DUTY TO QUESTION PROSPECTIVE JURORS

State v. Simmons, 286 N.C. 681, 213 S.E. 2d 280 (1975)

## **BE CAREFUL QUESTIONING JURORS**

N.C. GEN. STAT. 15A-1222 PROVIDES THAT THE JUDGE MAY NOT EXPRESS DURING ANY STAGE OF THE TRIAL ANY OPINION IN THE PRESENCE OF THE JURY ON ANY QUESTION OF FACT TO BE DECIDED BY THE JURY.



EVERY PERSON CHARGED WITH A CRIME HAS AN ABSOLUTE RIGHT TO A FAIR TRIAL. BY THIS IT IS MEANT THAT HE IS ENTITLED TO A TRIAL BEFORE AN IMPARTIAL JUDGE AND AN UNPREJUDICED JURY IN AN ATMOSPHERE OF JUDICIAL CALM.

IT IS A VIOLATION OF THE STATUTE FOR THE JUDGE TO COMMUNICATE HIS OR HER OPINION ON THE FACTS OF THE CASE TO THE TRIAL JURY BY HIS REMARKS OR QUESTIONS TO PROSPECTIVE JURORS DURING THE SELECTION OF THE TRIAL JURY.

State v. Canipe, 240 N.C. 60, 81 S.E. 2d 173 (1954)



**N.C. GEN. STAT. 15A-1212**

A CHALLENGE FOR CAUSE TO AN INDIVIDUAL JUROR MAY BE MADE BY ANY PARTY ON THE GROUND THAT THE JUROR:

(6) HAS FORMED OR EXPRESSED AN OPINION AS TO THE GUILT OR INNOCENCE OF THE DEFENDANT.

(8) AS A MATTER OF CONSCIENCE, REGARDLESS OF THE FACTS AND CIRCUMSTANCES, WOULD BE UNABLE TO RENDER A VERDICT WITH RESPECT TO THE CHARGE IN ACCORDANCE WITH THE LAW OF NORTH CAROLINA.

(9) FOR ANY OTHER CAUSE IS UNABLE TO RENDER A FAIR AND IMPARTIAL VERDICT.

WHAT IS THE STANDARD FOR A CHALLENGE FOR CAUSE?

THE QUESTION THE TRIAL COURT JUDGE MUST  
ANSWER IN  
DETERMINING WHETHER TO EXCUSE A PROSPECTIVE  
JUROR  
FOR CAUSE IS WHETHER THE JUROR'S VIEWS WOULD  
PREVENT  
OR SUBSTANTIALLY IMPAIR THE PERFORMANCE OF HIS  
DUTIES  
AS A JUROR IN ACCORDANCE WITH HIS  
INSTRUCTIONS AND HIS OATH.

State v. Simmons, 205 N.C. App. 509, 698 S.E. 2d 95 (2010)

WHAT STANDARD ARE OUR RULINGS JUDGED BY?

WE REVIEW A TRIAL COURT'S RULING ON A  
CHALLENGE FOR  
CAUSE FOR ABUSE OF DISCRETION.

State v. Cummings, 361 N.C. 438, 648 S.E. 2d 788 (2007)

WHAT IS AN ABUSE OF DISCRETION?

A TRIAL COURT ABUSES ITS DISCRETION IF ITS  
DETERMINATION IS  
MANIFESTLY UNSUPPORTED BY REASON AND IS SO  
ARBITRARY THAT  
IT COULD NOT HAVE BEEN THE RESULT OF A  
REASONED DECISION.

State v. Cummings, 361 N.C. 438, 648 S.E. 2d 788 (2007)

WHAT EVIDENCE DO WE CONSIDER?

WE PRESUME THAT JURORS WILL TELL THE TRUTH;  
OUR COURT SYSTEM COULD NOT FUNCTION  
WITHOUT THE ABILITY TO RELY ON SUCH  
PRESUMPTIONS.

State v. Sokolowski, 351 N.C. 137, 522 S.E. 2d 65 (1999)

DO WE HAVE TO TAKE WHATEVER THE JUROR SAYS TO BE TRUE?

NO

THE COURT IS NOT BOUND BY THE ANSWERS OF THE  
JUROR  
ON HIS VOIR DIRE WHEN THEY ARE OPPOSED TO AND  
INCONSISTENT WITH THE FACTS AND THE  
CIRCUMSTANCES  
DISCLOSED BY HIS EXAMINATION.

State v. Lee, 292 N.C. 617, 624-625, 234 S.E. 2d 574 (1977)

IF IN THE TRIAL COURT'S OPINION THE PROSPECTIVE  
JUROR  
CREDIBLY MAINTAINS THAT HE WILL BE ABLE TO SET  
ASIDE  
ANY BIAS HE MAY HAVE AND RENDER A FAIR AND  
IMPARTIAL  
VERDICT BASED ON THE EVIDENCE PRESENTED AT  
TRIAL,  
THEN IT IS NOT ERROR FOR THE COURT TO DENY  
DEFENDANT'S MOTION TO REMOVE THE JUROR FOR  
CAUSE.

State v. Simmons, 205 N.C. App. 509, 698 S.E. 2d 95 (2010)

IT IS CLEAR, HOWEVER, THAT WHERE A JUROR CREDIBLY MAINTAINS THAT HE CAN PUT HIS OPINION ASIDE AND RENDER A VERDICT ON THE EVIDENCE PRESENTED, THE COURT WILL NOT HAVE ERRED IN DENYING THE DEFENDANT'S MOTION TO REMOVE THE JUROR FOR CAUSE.

State v. Shope, 118 N.C. App. 270, 454 S.E. 2d 716 (1995)

YOU NEED TO ASSESS THE CREDIBILITY OF THE JUROR'S STATEMENTS TO RESOLVE A CHALLENGE FOR CAUSE.



## SEX OFFENSE VOIR DIRE HYPOTHETICALS

### VIGNETTE ONE--FAMILY HISTORY OF SEXUAL ABUSE

(ADA: Lisa Garrison, Juror 1: Kinsley Craig)

ADA: As you are aware, in this case the defendant is accused of having committed several crimes that may be described as sex offenses. Have any of you or close family members ever been the victim of any kind of sexual abuse?

Juror: (Hesitantly raises her hand)

ADA: Who was the victim you were thinking of? Was it you?

Juror: (Shakes her head negatively)

ADA: Which family member was it?

Juror: I don't want to say.

ADA: Why not.

Juror: It's embarrassing...what about her privacy?

ADA: Whose privacy?

Juror: (Long pause and then quietly) My daughter's.

ADA: Who abused her?

Juror: Why do I have to tell you?

ADA: We need to know. We have to figure out if you can serve on this jury.

Juror: She said my father did.

ADA: What did he do to her?

Juror: I don't want to tell you that or talk about this in front of all these people. There are lots of people here who don't need to know about this painful and very private matter.

ADA: What did he do to her?

Juror: I'm not going to discuss that.

### COMMENTS

So, how do we avoid a mess like this? Sex offense cases are dicey because of juror issues. Jurors who have been or are related to people who have been victims of sexual abuse are in the jury venire. There are also jurors in the venire who have been accused of committing acts of abuse or who have friends or relatives who have been accused of committing such acts. This is

sensitive information that the parties need to know about. The setting is very public and intimidating. So, what can we do to facilitate the needed information sharing?

The trial court has broad discretion in the manner and method of jury voir in order to ensure that a fair and impartial jury is empaneled. We can exercise that discretion in sex offense cases.

In some sex offense cases, I have approached the parties about using a questionnaire and a modified version of individual voir dire. In this approach, after the case is introduced to the jury panel, a short questionnaire of six questions is passed to the jurors. Once they are completed, then the questionnaires are put in alphabetical order. As jurors are called to the box, their questionnaires are pulled out by the Clerk and passed to the judge. During the State's questioning, the jurors in the jury box are sent to the jury room and the other jurors waiting to be questioned are escorted out of the courtroom. Then the jurors, who have answered any of the questions on the questionnaire "Yes," are brought into the courtroom individually. Normally, I start asking the questions and provide both the State and the defense an opportunity to ask questions about the limited subjects addressed by the questionnaire. This format is slower. However, it has a few advantages. First, the jurors are less reluctant to share information when confronted with a smaller audience. This format encourages candor on the part of the jurors. Second, the risk of harmful disclosures is minimized by excusing the other jurors who cannot hear the responses given in open court.

## VIGNETTE TWO---PRE-TRIAL PUBLICITY TAKE ONE

(ADA: Lisa Garrison, Juror #2: Beverly Beal, Defense Attorney: Gale Adams)

ADA: The judge told you a little bit about this case in terms of the charges the defendant is facing and you have seen him here in the courtroom. Do any of you think you knew anything about this case before you came into the courtroom? If you think you have any prior knowledge about this case, please raise your hand?

Juror: (Quickly raises his hand)

ADA: Mr. Beal, what do you know about this case?

Juror: I know that this pervert has been convicted of molesting other kids and he is a registered sex offender. He is one sick, sick puppy.

Defense Attorney: Your Honor, we move for a mistrial or a new panel of jurors.

## COMMENTS

How quickly things can go bad.

How could you handle this situation differently?

One option for dealing with cases involving significant pre-trial publicity is individual voir dire on the limited subject of pre-trial publicity. The existing case law provides some authority for the use of limited individual voir dire even in non-capital cases. (SLIDES)

I have used individual voir dire in criminal cases involving significant pre-trial publicity and it works in a similar fashion to the questionnaire voir dire format I just described.

The benefits of individual voir dire in cases involving significant pretrial publicity are similar. It permits the attorneys to learn more about the specific information that a particular juror may have learned about the case. It also avoids the risk of contaminating the other prospective jurors in the pool with prejudicial information.

Our actors will help demonstrate another approach to consider.

### VIGNETTE THREE---PRE-TRIAL PUBLICITY TAKE TWO

(ADA: Lisa Garrison, Juror #3: Beverly Beal, Judge: RCE)

ADA: The judge told you a little bit about this case in terms of the charges the defendant is facing and you have seen him here in the courtroom. Do any of you think you knew anything about this case before you came into the courtroom? If you think you have any prior knowledge about this case, please raise your hand?

Juror: (Quickly raises his hand)

ADA: Mr. Beal, what do you know about this case?

Juror: I know.....

COURT: Excuse me, Mr. Beal. I want to ask you a few questions first. You indicated that you have some prior knowledge about this case. Is that correct?

Juror: Yes, that's right.

COURT: Right now, I don't want you to tell me what information you know about this case. Do you understand that?

Juror: Yes.

COURT: What I want to know now is where you got this information from? Did you read a newspaper article, hear something on the radio, see something on TV or find information on the internet?

Juror: I read some articles about the case on the on-line version of the Gaston Gazette.

COURT: When did you read these articles?

Juror: I read some when the defendant was first charged and then read an article about the trial yesterday. Because I knew that I had jury service after I read the article yesterday I decided to do some research about the case and the defendant on-line and on social media. I found out that...

COURT: Stop right there. Again, I don't want to know what you learned in your reading about the case.

Juror: Ok. But, it is interesting stuff.

COURT: Based on what you have read and your research, have you formed an opinion about the guilt or innocence of the defendant.

Juror: Absolutely. I know how to do justice in this case.

## COMMENTS

A trial court judge has a duty to supervise and control a trial to ensure a fair trial. This duty includes a right to question prospective jurors. There is authority to participate in the voir dire process.

There is one caveat. A judge may not express any opinion in the presence of the jury. This statute can be violated by questions asked in voir dire.

The benefit of asking questions yourself is that you have more control over how the questioning develops. This approach may allow you to shape the order of voir dire to avoid running aground.

The next set of hypotheticals involve the potential exercise of challenges for cause. Before presenting these to you, let's review the law on challenges for cause.

## VIGNETTE FOUR---TESTIMONY OF LAW ENFORCEMENT OFFICERS

(ADA: Lisa Garrison, Juror #4: Joe Crosswhite, Defense Attorney: Gale Adams)

ADA: What is your name?

Juror: Joe Crosswhite.

ADA: Where do you work?

Juror: The Ranlo Police Department.

ADA: What is your position there and what type of cases do you deal with?

Juror: I am the Chief of Detectives and investigate felonies and sex offense cases.

ADA: Do you know me.

Juror: Yes, Ma'am.

ADA: How do you know me?

Juror: We have worked together on a number of felony prosecutions and at times I call you to get legal opinions on the law as it may apply to cases that I am investigating.

ADA: Did you have any involvement in the investigation of this case?

Juror: No, Ma'am.

ADA: Do you know the officers that I identified as potential witnesses in this case.

Juror: No, Ma'am.

ADA: Would you be more inclined to believe the testimony of a law enforcement officer than that of any other witness?

Juror: It would depend on the circumstances.

ADA: Could you follow the law as given to you by the Court?

Juror: I can follow the law. I would follow it down the line.

ADA: Your Honor, we are more than satisfied with this juror.

Court: Any questions from the defense?

Defense: How many years have you worked in law enforcement?

Juror: 29.

Defense: You have come to court many times, right?

Juror: Yes.

Defense: Your interactions are mainly with prosecutors, right?

Juror: Yes.

Defense: Do you feel more of an allegiance toward the prosecutors than defense attorneys?

Juror: I don't believe so.

Defense: You have a great deal of respect for the opinions and the work of prosecutors, don't you?

Juror: Yes, Ma'am.

Defense: Wouldn't your prior dealing with the prosecutors be a factor in how you looked at this case?

Juror: I'm sure it would be a factor. But I happen to know defense lawyers who have represented a client that I have great admiration for, too. It is a case-by-case situation.

Defense: Earlier in jury selection, another juror indicated that he would attach more credibility to a law enforcement officer than a defense attorney. Would you share that point of view?

Juror: Not in your case, in some cases there is a possibility of that.

Defense: But you do attach a great degree of credibility to law enforcement officers?

Juror: Yes, Ma'am, I do.

Defense: You trust those that you serve with?

Juror: That I serve with, yes.

Defense: If you are listening to the testimony of an officer, wouldn't you be inclined to ascribe to that person more credibility than you may someone you don't know at all?

Juror: Not necessarily because I know them. But I probably would attribute it to their experience and expertise of what they're saying because they know what they're looking for and what they're looking at.

Defense: Would you be more inclined to assign more credibility to the officer over, say a civilian?

Juror: Yes, Ma'am, because of their training, I would think I would.

Defense: Do you feel that those that you serve alongside with are truthful and responsible and credible people?

Juror: I hope so.

Defense: You trust people in law enforcement?

Juror: Yes, Ma'am.

Defense: Do you feel that you could attach or assign the same degree of credibility to a person who is charged with committing several sex offenses as you could to a law enforcement officer?

Juror: I would need to qualify an answer to that. I can't say yes or no. I would need to elaborate.

Defense: Can you do that?

Juror: If the defendant gave an explanation or testified to circumstances that coupled with the facts, then I would be able to ascertain whether the defendant was telling the truth. On the other hand, if the defendant's version of the events is so far afield that common sense doesn't attach, then I could not give him the same credibility as a police officer.

Defense: Do you feel your experiences over the years would color your ability to hear any defense that we offered?

Juror: I don't believe so, no Ma'am.

Defense: Your Honor, we challenge this juror for cause.

COURT: Challenge for cause is denied.

This line of questioning comes from *State v. Cummings*, 361 N. C. 438 (2007). The Supreme Court affirmed the trial court judge's denial of the challenge for cause.

WHY?

The juror in *Cummings* indicated that he would give more credence to an officer's testimony because of the officer's training "when facts match up with what they are saying."

The juror never indicated that he would give more weight to any particular testimony, but assured the parties and the trial court that he would look at each person's testimony in light of the other evidence in the case.

The Supreme Court concluded that "we cannot say the trial court abused its discretion in denying the challenge for cause."

#### VIGNETTE FIVE----INTERACTION WITH WITNESSES INVOLVED IN THE CASE

(ADA: Lisa Garrison, Juror #5: Carla Archie, Defense Attorney: Gale Adams)

ADA: What is your name?

Juror: Carla Archie.

ADA: How are you employed?

Juror: I work as a speech pathologist.

ADA: Are you married?

Juror: Yes.

ADA: What does your husband do?

Juror: He is a police officer with the Bessemer City Police Department.

ADA: Does he know and work with the detectives in this case?

Juror; Yes, Ma'am.

ADA: How long has your husband worked with the police department?

Juror: 11 years.

ADA: Have you been married to him that entire time?

Juror: Yes Ma'am.

ADA: Do you know most of the Bessemer City Police Department officers?

Juror: Yes, I do.

ADA: What interaction do you have with other officers of that department?

Juror: I have visited in their homes and they have been to our house. I am friendly with a number of members of the police department. I am a member of the department's police auxiliary and one of the detective's wives is too. The auxiliary gives parties where officers and their spouses attend.

ADA: Your Honor, we are more than satisfied with this juror.

Defense: Since you know the detectives and other officers who will be testifying for the State, would you put more weight on what they said about the case than some other witness you had never seen before?

Juror: I don't think so.

Defense: But, you aren't sure about that?

Juror: No Ma'am.

Defense: Is it possible that you might believe what they said more than somebody you didn't know?

Juror: I would have a tendency to.

Defense: Do you have some genuine concern in your own mind that you might be swayed because of your husband's employment?

Juror: No, Ma'am.

Defense: Do you feel you could be fair and impartial and give the defendant's testimony or that of his witnesses the same weight you would give to somebody else?

Juror: Yes, Ma'am.

Defense: Knowing the detectives, you might tend to believe them more than somebody you don't know at all?

Juror: It's hard for me to say.

Defense: Is there a possibility by reason of your knowledge of the detectives that you might believe their testimony more so than some witness who you have never met before?

Juror: There might be.

Defense. The defendant challenges this juror for cause.

COURT: Challenge for cause is denied.

The Supreme Court held the denial of this challenge for cause was an abuse of discretion. *State v. Lee*, 292 N. C. 617 (1979).

The Supreme Court observed that this juror was subject to strong influences which ran counter to the defendant's right to a trial by an impartial jury. To assume that this juror, a police officer's wife for 11 years, who had been on friendly terms with policemen who worked with her husband and attended auxiliary parties could assume a role of impartiality is to ignore human reactions.

The Supreme Court concluded that we do not believe that this juror could qualify as a disinterested and impartial juror. **HOWEVER, WE HASTEN TO ADD THAT A JUROR'S CLOSE RELATIONSHIP WITH A POLICE OFFICER, STANDING ALONE, IS NOT GROUNDS FOR A CHALLENGE FOR CAUSE.**" 292 N. C. at 625.



In another case, the Court of Appeals opined that “in reviewing whether a juror’s personal relationship with a witness deprives the defendant of a fair trial, we consider: (1) the degree of relationship between the juror and the witness, (2) the statements of the juror as to whether or not he could be impartial, and (3) the importance of the witness to the case. State v. Lee, 189 N. C. App. 474, 480 (2008).

## VIGNETTE SIX---PRE-TRIAL PUBLICITY AND OPINIONS

(ADA: Lisa Garrison, Juror #6: Justina Tate, Defense Attorney: Gale Adams)

ADA: What is your name?

Juror: Justina Tate.

ADA: Where are you employed?

Juror: The Gaston Gazette.

ADA: Were you aware of this case before you came to court today?

Juror: Yes, Ma’am. I am well aware of this case.

ADA: Based on what you know about this case, have you formed an opinion about the guilt or innocence of Mr. Sorghum?

Juror: Well, as of right now, the burden of proof would have to be on the defense as far as I am concerned.

ADA: So you are saying that you would not hold the State to a burden of beyond a reasonable doubt as far as proof is concerned?

Juror: No.

ADA: So you would require the defendant to prove his innocence?

Juror: Right.

ADA: You would?

Juror: That’s what I meant, yes.

ADA: So for that reason, Ms. Tate, would you be unable to render a verdict in accordance with the law given the fact that our law is that it’s up to the State to prove the defendant’s guilty beyond a reasonable doubt?

Juror: I can hear the evidence and I would be fair. I mean I would listen to both sides, but I’m just human, what I have heard thus far, I have come to the conclusion that I think he’s guilty.

Defense: To speed things up, the defense challenges Ms. Tate for cause.

Court: Ms. Tate, do you understand that what you've heard so far, whatever that may be is not evidence?

Juror: Absolutely.

Court: That is just talk on the street or things that you've read or third or fourth hand information?

Juror: Yes.

Court: Any conclusion that a juror makes is to be based upon what comes from the witness stand in this case and no other place, you understand that?

Juror: Yes.

Court: Can you put aside your prior source of information, not consider it in any way whatsoever, and come to whatever conclusion based on the evidence that you hear here and nowhere else?

Juror: Well I can put it aside, but just like I said, I would listen carefully, I would try to be as fair as possible; but just like I said right now he would have to be proven innocent instead of guilty.

Court: Do you understand he had no burden to prove anything?

Juror: Yes, I understand everyone is innocent until proven guilty. I know that everyone should be considered innocent until proven guilty.

Court: Well, they are presumed innocent until proven guilty.

Juror: Yes, yes.

Court: Can you accept that premise?

Juror: Yes, I can, I'm just talking about a very personal opinion which I think everyone has.

Court: Challenge for cause is denied.

Defense: Do you believe that you could be totally fair to Mr. Sorghum?

Juror: Well, I certainly hope I could. Now, I think that maybe, I mean everybody says that they haven't formed an opinion, but I think most people do and I have.

Defense: You have formed an opinion about his guilt or innocence?

Juror: Yes.

Defense: Given that, you could not be totally fair to Mr. Sorghum?

Juror: Possibly not, I don't know.

Defense: We would renew the challenge for cause.

COURT. In this case, the challenge for cause is denied.

The Court of Appeals concluded that the trial court abused its discretion in denying the challenge. *State v. Shope*, 118 N. C. App. 270 (1995).

A challenge for cause may be made on the ground that the juror has formed or expressed an opinion as to the guilt or innocence of the defendant. N. C. Gen. Stat. 15A-1212(6).

Typically, a juror who has formed an opinion as to the defendant's guilt or innocence is not impartial and should not serve. *Shope*, 118 N. C. App. at 274.

Where a juror credibly maintains that he can put his opinion aside and render a verdict on the evidence presented, the trial court will not have erred in denying a challenge for cause. *Id.*

The Court of Appeals concluded that the juror still adhered to her opinions. The Court of Appeals was not satisfied that this juror abandoned or set aside her rather strong preconceptions of the defendant's guilt and her placement of the burden of proof.