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Nail the Exit Interview! Exploring Post-Trial Juror Interviews in Florida Courts

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I. Introduction

1. Trial by jury is often regarded as one of the cornerstones of our system of justice in the United States. From the perspective of a litigator, jury proceedings undoubtedly involve a number of strict procedures, including restrictions on what to say to a jury and when to communicate with jurors. As part of jury service, members of the venire sit through *voir dire*, or the jury selection process, whereby trial lawyers are oftentimes permitted to ask questions and communicate directly with each person in order to choose the members of the jury. Once a jury is chosen and duly sworn, lawyers are then expected not to communicate with the jurors, except through the presentation of their case. However, this prohibition is not without its exceptions. . .

2. In rare circumstances, a Florida trial court may reopen the dialogue between the trial lawyers and the jurors for a post-trial round of Q&A — an interview. These interviews occur after a trial, after a verdict has been rendered, and oftentimes even after the jury has been dismissed. In allowing a post-trial interview of jurors, courts not only grant

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lawyers the opportunity to peel back the veil of the deliberation room, but also permit a party to seek additional facts to challenge the rendered verdict.

3. I had the unique experience to participate in the process for seeking and conducting juror interviews. Through my experience, I gained a valuable perspective on best practices, which I hope to share in the forthcoming paragraphs. In this article, I will discuss my personal experience with facilitating juror interviews, as well as offer practical guidance on effectively navigating this nuanced area of litigation. I will begin with insight into the jury trial that changed my understanding of juror interaction and precipitated my exposure to conducting juror interviews. Next, I will provide a brief and partial overview of the legal framework pertaining to juror interviews. Lastly, I will take you through the process of preparing for a juror interview and highlight the methodologies that were used in my case and that I found to be valuable. Though my experience with juror interviews certainly may not amount to an expertise in the subject matter, I hope that by imparting this limited perspective, other lawyers may be better armed to nail their first exit interview.

II. A Young Prosecutor's Introduction to Juror Interviews

4. The process by which a jury reaches a verdict is different from case to case. Notwithstanding, the lawyers outside of the jury deliberation room are oftentimes left wondering as to the nature of deliberations, including questions such as how long the jury will deliberate, whether any particular evidence left a lasting impression, and what — if any — holdouts are keeping the jury from its verdict sooner.

5. During my earlier years as a criminal prosecutor, I tried a number of cases before juries, including one particular case where the defendant was charged with armed robbery of a convenience store. Before trial, the defense attorney filed a motion in limine, seeking to prohibit the State from introducing any evidence or testimony at trial that referenced the defendant's alleged drug use, drug rehabilitation, or that the defendant apparently sought to use the stolen money from the convenience store to purchase drugs. The defense argued that drugs lacked any relevance or nexus to the alleged crime, and that mentioning any connection between the defendant and drug use would prejudice the defendant, unduly influence the jury, and interfere with the defendant's right to a fair trial. After the motion was granted, the State prepared to move forward without referencing any suspected drug use. The case then proceeded to trial.

6. At trial, the State introduced the defendant's hoodie-styled jacket into evidence, in order to connect him to the armed robbery suspect, who was captured on video surveillance wearing an identical jacket and also a mask which obscured his face. The jacket,

along with all of the evidence, was then given over to the jury at the end of the trial to inspect and consider in its deliberations. The jury took the trial exhibits into the deliberations room, where the evidence remained until the jury finally emerged, multiple hours later. After deliberations lasting into the evening, the jury returned with a verdict, finding the defendant guilty as charged. As with most verdicts, the jury did not provide the reason or any explanation as to its decision, and merely checked the box labeled “Guilty” on the verdict form. The Judge thanked the jurors for their service and dismissed them to go home.

7. Weeks later, defense counsel and I received news of a shocking discovery from the clerk of court, who had retained possession of the trial evidence. During a routine inventory of the trial exhibits, the clerk had discovered a number of extraneous objects located inside the pockets of the defendant’s jacket. One of these objects resembled a pipe, and very clearly not the kind for smoking tobacco. Another object was an unknown prescription pill. Somehow, law enforcement did not discover these items when officers impounded the jacket, and the objects also eluded the defense counsel and me while handling the jacket during trial. It did not take long for each side to deduce that the jurors, who had full access to the jacket during their deliberations, may have also discovered the extraneous objects, or worse, potentially considered the objects in reaching their verdict.

8. Shortly thereafter, the defense filed a motion for a new trial and also a motion to interview each of the jurors. As grounds for both motions, the defense asserted three concerns. First and foremost, the pipe and pill were not admitted into evidence, yet they were included in the evidence provided to the jury. Moreover, the court specifically prohibited any mention of drug use pertaining to the defendant because of its prejudicial effect on the defendant’s ability to receive a fair trial. If the jury discovered either of the extraneous objects during the course of its deliberations, a new trial was likely imminent. Secondly, the defense stated that during the deliberations process, one of the courtroom deputies consistently interrupted the jury by knocking on the door to the deliberations room, thereby “rushing” the jury to a verdict. Lastly, the defense discovered after the trial that one of the jurors was listed as a victim in a separate case being handled by the same prosecutor (me) who had handled the instant jury trial. Neither the State nor defense discovered the juror’s connection during *voir dire* or anytime during the trial, and the juror in question did not otherwise disclose this fact during jury selection. The court granted the motion to interview the jurors and reserved ruling on the motion for a new trial until after hearing from each of the jurors. Needless to say, the juror interviews were anticipated to be an interesting dialogue that would essentially decide whether the verdict would stand.

III. Legal Overview of Juror Interviews

9. In preparing to conduct my first juror interviews, I recall asking around my office and finding nobody who had previously interviewed jurors or had any experience as to where to begin in the process. I thereafter set out to learn this new area of post-trial litigation through legal research. In this section, I address in turn some of the core legal standards and authority that guided me through the process. It is also worth noting that the following is not intended to be a comprehensive discussion as to the full body of law governing juror interviews. Rather, I hope to cover some legal topics as a reflection of the understanding I gained in preparing for my first juror interviews, as well as providing context for the perspectives I provide in a later section on methodology.

A. Juror Interviews Generally

10. Juror interviews function as a helpful tool and means in order to develop the grounds to challenge a verdict. It is not uncommon for a party to concurrently file a motion for a new trial and a motion to interview jurors. As mentioned, in my case, the court reserved ruling on the motion for new trial until juror interviews were completed. In a way, juror interviews serve a quasi-discovery function, due in part to their nature of fact-finding and inquiring into particular matters that are separate and apart from the jury's thought processes during deliberations. However, courts are generally hesitant to permit post-trial juror interviews because of their intrusive nature into the privacy of the jurors and the sanctity of the deliberation process. In fact, public policy generally disfavors juror interviews.² As stated by the Fourth District Court of Appeals, the rule of procedure regulating juror interviews "is not intended to be used as a sword to prevent jurors from contacting the court to reveal misconduct. The rule is a shield to prevent disgruntled parties and attorneys from harassing jurors after a verdict."³

11. Notwithstanding, the standard for requesting juror interviews in Florida does not actually require evidentiary proof of juror misconduct. The movant need only state the circumstances which they believe may exist to challenge the verdict. The trial courts therefore serve a quasi-gatekeeper function with broad discretion to grant or deny a motion to interview jurors based on the totality of the circumstances.⁴ Moreover, a trial court's ruling will not be disturbed on appeal unless it constitutes an abuse of discretion.⁵

2 See *Parra v. Cruz*, [59 So.3d 211, 212](#) (Fla. 3d DCA 2011) ("Although there are rare instances in which post-trial juror interviews are allowed, the general policy is that they are disfavored.").

3 *Naugle v. Philip Morris USA, Inc.*, [133 So.3d 1235, 1238](#) (Fla. 4th DCA 2014).

4 See *Melrose Nursery, Inc. v. Collinsworth, Alter, Nielson, Fowler & Dowling, Inc.*, [832 So.2d 891, 892](#) (Fla. 3d DCA 2002).

5 *Marshall v. State*, [976 So.2d 1071, 1076](#) (Fla. 2007).

12. In Florida, the topics and subject matter of juror interviews are limited only to matters that are extrinsic to the verdict. In other words, lawyers cannot ask or elicit responses from jurors that are inherent to their thought processes, intent, or deliberative process. Florida's Evidence Code codifies this restriction and states that jurors are not competent to testify as to "any matter which essentially inheres in the verdict or indictment."⁶ In *Baptist Hospital of Miami, Inc. v. Maler*, 579 So.2d 97, the Florida Supreme Court restated its long-standing position on preserving the jury deliberative process, as follows:

The law does not permit a juror to avoid his verdict for any reason which essentially inheres in the verdict itself, as that he did not assent to the verdict; that he misunderstood the instructions of the Court; the statements of witnesses or the pleadings in the case; that he was unduly influenced by the statements or otherwise of his fellow-jurors, or mistaken in his calculations or judgment, or other matter resting alone in the juror's breast.⁷

13. It is therefore no surprise that juror interviews rarely occur. Nonetheless, circumstances can arise that necessitate peeling back the veil of the deliberation room and inquiring with the jury.

B. Grounds for Seeking Juror Interviews

14. An appropriate starting point for seeking juror interviews can be found in the Florida rules of procedure. In criminal cases, Rule 3.575 pertains to juror interviews and states:

A party who has reason to believe that the verdict may be subject to legal challenge may move the court for an order permitting an interview of a juror or jurors to so determine. The motion shall be filed within 10 days after the rendition of the verdict, unless good cause is shown for the failure to make the motion within that time. The motion shall state the name of any juror to be interviewed and the reasons that the party has to believe that the verdict may be subject to challenge. After notice and hearing, the trial judge, upon a finding that the verdict may be subject to challenge, shall enter an order permitting the interview, and setting therein a time and a place for the interview of the juror or jurors, which shall be conducted in the presence of the court and the parties. If no reason is found to believe that the verdict may be subject to challenge, the court shall enter its order denying permission to interview.⁸

⁶ Fla. Stat. § 90.607(2)(b) (2024).

⁷ *Baptist Hospital of Miami, Inc. v. Maler*, 579 So.2d 97, 99 (Fla. 1991) (quoting *McAllister Hotel, Inc. v. Porte*, 123 So.2d 339, 344 (Fla. 1959)).

⁸ Fla. R. Crim. P. 3.575.

15. In the civil context, Rule 1.431(h) pertains to juror interviews and states:

A party who believes that grounds for legal challenge to a verdict exist may move for an order permitting an interview of a juror or jurors to determine whether the verdict is subject to the challenge. The motion must be served within 15 days after rendition of the verdict unless good cause is shown for the failure to make the motion within that time. The motion must state the name and address of each juror to be interviewed and the grounds for challenge that the party believes may exist. After notice and hearing, the trial judge must enter an order denying the motion or permitting the interview. If the interview is permitted, the court may prescribe the place, manner, conditions, and scope of the interview.⁹

16. In either the civil or criminal context, a movant seeking juror interviews must allege that the verdict is potentially subject to challenge by a matter that does not inhere on the verdict. These matters include overt, prejudicial acts that may have influenced the jury or express agreements between jurors to disregard their oaths, the law, or the court's instructions.¹⁰ In contrast, certain factors like regret or remorse for the verdict do not constitute cause to interview jurors.¹¹

17. Florida courts have recognized that jury misconduct falls squarely within the scope of matters that may serve as grounds to challenge a verdict, and therefore topics for juror interviews. Such misconduct includes things like private communications, outside research conducted by a juror, and misrepresenting information during *voir dire*. The list goes on, including things as egregious as deliberating while under the influence of alcohol or other intoxicants, and perhaps the more common example of juror misconduct, considering things not in evidence. Upon alleging any of these grounds in a motion, a party likely meets the standard to invoke a trial court's discretion on granting juror interviews.

IV. Perspectives on Methodology for Conducting Juror Interviews

18. In my case, the defense alleged the existence of three overt acts: (1) the unintentional disclosure of extraneous and prejudicial materials, which were not admitted into evidence; (2) interference during the deliberations; and (3) a juror's failure to disclose a potential conflict during jury selection. Although only the first and third acts would

⁹ Fla. R. Civ. P. 1.431(h).

¹⁰ See *Ibar v. State*, 360 So.3d 397, 399 (Fla. 3d DCA 2023).

¹¹ *Ibar v. State*, 360 So.3d 397, 399 (Fla. 3d DCA 2023) ("the mere remorse of a juror is insufficient to warrant an intrusion into the jury's deliberations").

constitute misconduct by the jurors, each of these allegations, if true, would have likely constituted overtly prejudicial acts and grounds for a new trial. The juror interviews in my case, therefore, needed to address each allegation in turn and provide clarity on whether extrinsic matters interfered with the verdict. Through this process, I developed a perspective on methodology and procedure, which I will set forth below in practical steps, from setting the scope of the interview, to the actual inquiry of jurors in the courtroom.

A. Define the Structure and Scope of the Interview

19. Once the court had committed to interviewing the jurors in my case, it needed to also determine the scope of the questioning. In Florida, trial courts are authorized to determine and set forth the manner in which interviews are conducted, including the structure and subject matter of the interview. In setting the structure, the trial court should address issues such as:

- What topics and matters will be discussed in front of the jury?
- What format will the interview take?
- Will the interview be an open dialogue, or rather a question-and-answer session involving a pre-set series of questions?

20. In my motion arguments, I recall requesting the court to rule that the interviews be conducted using a series of pre-set questions in the interest of curbing any unpredictable interactions between the parties and the jurors. It is also worth noting at this juncture that despite the adversarial nature of the litigation, the parties and court were generally in agreement on setting a firm limit on the scope of juror interviews. It was evident to me that all parties were proceeding with caution so as not to venture into the province of the jury or to elicit responses that may inhere in the verdict. Notwithstanding, opposing parties generally should be diligent and cautious as to avoiding any use of juror interviews for fishing expeditions to elicit any new matters not specifically within the scope of the interview.

21. Ultimately, the court decided on utilizing a pre-set series of questions for the interviews. The State and defense were required to work together to supply the questions to the judge in advance of the interview. Moreover, the questions were to be narrowly tailored to address each of the defense's three allegations, and no other matter.

B. Assign Who Will Conduct the Interview

22. The trial court is empowered with discretion to decide who will conduct the interview and may, but is not required, to perform the questioning itself. Notwithstanding,

the Florida Supreme Court has previously recommended in *Marshall v. State*, that the trial court conduct most or all of the questioning, “thereby ensuring that unnecessarily intrusive questions will not be asked of the jurors and to prevent questioning on matters that inhere in the verdict.” ¹²

23. In my arguments on the defense’s motion to interview the jurors, I requested for the trial court to conduct the questioning. My concern became that the jurors’ focus would unnecessarily turn to the party asking each question, which may lead each juror to adjust their answers depending on who asks the question, in accordance with their belief as to which side should prevail in the trial. Additionally, having one party’s attorney lead the interviews may have the unintended effect of influencing the juror’s answers if the attorney presents the pre-set questions with a particular tone or inflection. For these reasons, I sought for the interview to appear as if neither side had a greater stake in the jurors’ respective answers. Ultimately, the parties all agreed that the trial court should conduct the questioning by reading the pre-set questions to the jurors.

C. Draft the Interview Questions

24. As previously mentioned, the court instructed both the defense and I to agree on a single set of questions that would be read to each juror. Similar to how parties agree on jury instructions, the defense and I arranged for one party’s attorney to start a first draft, after which time the other party’s attorney made revisions to arrive at a list of questions that was acceptable to both sides. Alternatively, parties may prefer to each draft a set of questions and then to confer on reconciling and combining the two versions.

25. The process of drafting interview questions will depend on the nature of the interview’s scope and of the matters which need factual clarity. In my case, the defense and I recognized the possibility that the jurors may respond with unpredictable or narrative responses. The challenge in drafting the juror interview questions became how to account for potential responses and anticipate any desired follow-up questions. We also needed to ensure that our questions were not leading or suggestive of a particular answer and did not delve into the individual thought processes, calculation or judgments of the jurors. At the same time, questions needed to be narrowly tailored to address the extrinsic matters within the scope of the interview and to seek a definitive answer as to those extrinsic concerns. Ultimately, we opted for questions calling for a “yes” or “no” response, accompanied by conditional follow-up questions, which depended on the initial answers received. By way of example, the following are all the questions asked at my juror interview:

¹² *Marshall v. State*, 854 So.2d 1235, 1253 (Fla. 2003).

Issue Reference: Alleged Extraneous Material in the Defendant's Jacket

26. Question: "Did any of the jurors physically examine a hoodie that was introduced into evidence?"

- If answered no, no other questions on this issue.
- If answered yes, then ask: "Were the insides of the pockets examined?"
- If answered no, no other questions on this issue.
- If answered yes, then ask: "Was anything found in any pocket?"
- If answered no, no other questions on this issue.
- If answered yes, then ask: (1) "What was found, and do you know what the item(s) were?"; and (2) "Did this influence your verdict in any way?"

Issue Reference: Alleged Interference of Deliberations by Courtroom Deputy

27. Question: "Did the jury have sufficient time to conduct deliberations?"

- If answered yes, no other questions on this issue.
- If answered no, then ask: "Was this caused by any person outside of the jury room?"

Issue Reference: Alleged Conflict and Juror's Failure to Disclose

28. Question: "Are you listed as a state witness in a criminal case here in Hillsborough County, where Mr. Sean Bevil is the prosecutor?"

- If answered no, then ask: (1) "Did you appear at the Office of the Public Defender for a deposition on October 4, 2019?"; and (2) "Were you asked questions about a burglary of a business you manage?"
- If answered yes, then ask: (1) "Was your verdict in the [defendant's] case influenced by your role as a witness in the other case?"; (2) "Was your verdict in the [defendant's] case influenced by any information you knew about that other case?"; and (3) "Was your verdict in the [defendant's] case influenced by Mr. Bevil's role as prosecutor in both that case and the [defendant's] case?"

29. Once the attorneys agreed on the above set of questions, a copy was sent to the court for its review. The court subsequently approved the agreed-upon questions, and the parties were then prepared to bring in the jurors...

D. Conduct the Interview

30. The court sent out subpoenas to each juror, with instructions to appear at a designated time on the same date. On the day of the interviews, each party was situated in the courtroom at their respective table, with the judge presiding from the bench as in a standard court proceeding. A court reporter was present to record everything that transpired, including all questions asked and answers received. The bailiffs instructed each juror to enter the courtroom one at a time for their individual interview. Upon being escorted to the jury box and placed under oath, the judge began the inquiry and read through each of the pre-set questions. The parties silently noted each response and gave no visual reaction. In total, the interviews lasted approximately one hour, with each juror's respective interview lasting only 10 minutes.

31. At the conclusion of the juror interviews, we reviewed the respective responses. To my relief, none of the jurors had discovered the pipe or prescription pill that was located inside the defendant's jacket. Each juror also answered that he or she had sufficient time to conduct the deliberations. Lastly, the one juror in question answered that he was in fact involved in a separate case, but that his involvement in that case did not in any way affect or influence his verdict in this case.

32. In summary, the juror interviews revealed that no jury misconduct had occurred and that the defense's challenge to the verdict did not have merit. The court subsequently denied the defendant's motion for a new trial, and the case proceeded to its conclusion.

V. Conclusion

33. In my case, juror interviews effectively accomplished the goal of clarifying factual allegations and concerns regarding purported jury misconduct and extrinsic matters during deliberations. Though rarely used and often safeguarded due to its potential to intrude into the sanctity of jury deliberations, post-trial interviews are a valuable tool in determining the viability of challenging a verdict and whether grounds exist to seek a new trial. Jury misconduct and certain overt acts may trigger the need for post-trial interviews, but lawyers should be diligent in carefully arguing for and crafting a particular structure and process for the interviews, including the manner of inquiry and the actual questions to be asked. My own exposure to the interview process resulted in a valuable perspective and a newfound appreciation for the methodology of navigating our system of justice, which emphasizes the right to a trial by jury. In sharing my account of this experience and the challenges therein, I am pleased to offer some practical guidance as to how to effectively navigate the process for initiating, planning, and executing a post-trial inquiry of the jury. Through this approach and methodology, I am confident that lawyers and jurors can all nail the exit interview!