

VOIR DIRE OBJECTIONS

1. The question is not related to challenges for cause or to the intelligent exercise of peremptory challenges.
2. The question attempts to indoctrinate jurors on the law.
3. The question asks jurors to prejudge the evidence.
4. The question tests juror's understanding of the law.
5. Counsel is attempting to prejudice the jury for or against a particular party.
6. Counsel is attempting to argue the case. People v. Williams (1981) 29 C.3d 392, 408
7. Counsel is attempting to educate the jury panel to the particular facts of the case. People v. Williams
8. Question is based on an incorrect statement of the law. People v. Tibbetts (1929) 102 C.A. 787, 789-90
9. Question is in improper form.
 - a. If question is proper in scope, the court can still require counsel to rephrase the question in a neutral non-argumentative form. People v. Williams

SPECIFIC EXAMPLES RELATING TO OBJECTIONS 1 – 5:

1. **Question is not related to challenge for cause or to the intelligent exercise of peremptory challenges**
 - a. Cannot ask:
 - i. What religion do you belong to? People v. Daily (1958) 157 C.A. 2d 649
 - ii. Questions that seek to ascertain juror's views on death penalty in actual or hypothetical cases not before him (i.e. Hitler) People v. Fields (1983) 35 C.3d 329
 - b. Can ask:
 - i. Any question "reasonably designed to assist in the intelligent exercise of peremptory challenges" People v. Williams
 - ii. Do you belong to any religious sect whose teachings might interfere with the consideration of the case? People v. Daily

- iii. Do you have any inherent belief based upon any church's teachings that might interfere with a fair consideration of the case? People v. Daily
- iv. Do you belong to any political, religious, social, industrial, fraternal, law enforcement or other organization whose beliefs or teachings would prejudice you for or against either party to the case? People v. Boyle (1937) 22 C.A.2d 143
- v. If you were faced with this charge, would you be willing to be tried with jurors who had the same attitude toward the charge and the defendant as you do now? People v. Estorga (1928) 206 C. 81
- vi. What is your occupation? People v. Boorman (1956) 142 C.A. 2d 85
- vii. May ask about a juror's willingness to apply legal principles. People v. Williams
- viii. Questions which seek to expose peremptory level bias, such as:
 - 1. why are there so few African-americans in professional golf or tennis?
 - 2. why are there so few African-american presidents of large corporations?
 - 3. why has there never been an African-american governor in California? People v. Walls (1983) 149 C.A.3d 721

2. Question attempts to indoctrinate jurors on the law
People v. Williams

- a. cannot ask:
 - a. questions that attempts to indoctrinate the jury as to the meaning or applicability of particular Rules of Law

example: "Do you have any personal objection to a rule of criminal jurisprudence which provides that those jurors entertaining a reasonable doubt of the defendant's guilt should vote for acquittal?" People v. Parker (1965) 235 C.A. 2d 86
- b. if juror will follow specific jury instructions. People v. Modell (1956) 143 C.A. 2d 724

- b. can ask:
 - a. questions that tend to indoctrinate but otherwise are sufficient for the intelligent exercise of peremptory challenges. People v. Williams
 - i. example: explanation of the law applicable to the case as a basis for hypothetical questions to determine whether the jurors would follow the instructions of the court, and to ascertain their state of mind on the issues presented. People v. Wein (1958) 50 C.2d 383
 - b. will you follow the judge's instructions. People v. Modell
 - c. may ask about a juror's willingness to apply legal principles. People v. Williams

3. Question asks juror to prejudge the evidence

- a. Cannot ask:
 - i. Questions that call for a promise inconsistent with a juror's duty to hear the evidence with an open mind and to refrain from forming or expressing an opinion until the case is submitted for decision. People v. Fowler (1918) 178 C. 657
 - 1. example: Will you give the same credit to the defendant's testimony as you will to any other witness? People v. Fowler

4. Question tests juror's understanding of the law

- a. Cannot ask:
 - i. Do you understand the difference in degrees of proof in civil and criminal cases? People v. De La Plane (1979) 88 C.A. 3d 223
 - ii. Questions about prospective jurors understanding of the discretionary nature of the death penalty. People v. Love (1960) 53 C.2d 843
- b. Can ask:
 - i. May ask about juror's willingness to apply legal principles (if doctrine is likely to be applied at trial). People v. Williams
 - 1. example: would you follow the rule that a person may use force in self-defense even though an avenue of retreat is open? People v. Williams, 398, 411

5. Counsel is attempting to prejudice the jury for or against a particular party

a. Cannot ask:

- i. Do you have any objections to a psychologist coming, free of charge to defendant, to help defendant select a jury because he believes the defendant is innocent? Hawk v. Superior Court (1974) 42 C.A. 3d 108