

[CAPTION]

**MOTION FOR INDIVIDUAL VOIR DIRE AND SEQUESTRATION OF JURORS DURING  
VOIR DIRE**

The Defendant, by counsel, respectfully requests this Court to allow counsel to voir dire the prospective jurors individually, separate and apart each from the other, and sequester the jurors from the Courtroom during the voir dire in order to prevent the jury the questions being asked individual jurors. In support of the Motion, the Defendant states the following:

1. The Defendant is charged with [insert offense(s)].
2. The collective voir dire of jurors in a panel as to their familiarity with news media coverage in this cause, and with the alleged crime and victims will educate all jurors sitting on the panel to prejudicial and irrelevant material thereby rendering it difficult if not impossible to select a fair and impartial jury.
3. The issues in the case require that the voir dire include sensitive and potentially embarrassing questions exploring the prospective juror's bias or prejudice.
4. The collective voir dire of jurors in a panel will preclude the candor and honesty on the part of the jurors which is necessary in order for counsel to intelligently exercise his preemptory challenges.
5. The Defendant submits that jurors often hide their true feelings in a collective voir dire in order to avoid embarrassment and to avoid appearing in an unfavorable light to the Judge and their fellow jurors; that the average citizen and jurors are intimidated by the courtroom atmosphere and the authority of the Judge and react by agreeing with what they imagine a Judge wants them to say, such as, "Yes, I have read all about this case and I can be totally objective," or, "No, I have heard nothing about this case and I am therefore impartial."
6. In a trial with as many inflammatory issues as this one, and where many if not all of the members of the panel have attitudes or prejudices that could be hidden during the collective voir dire, the only possibility of attaining a fair and impartial jury as required by the constitutions would be through individual and sequestered voir dire. U.S. Const. Amend VI; Ind. Const, art. I, section 13.

WHEREFORE, the Defendant, by counsel, respectfully requests that the Court order an individual voir dire with each prospective juror examined separately and privately, and for all other relief just and proper in the premises.

(Signature)


## REFERENCES



## CASEBANK D.9.d.1


Trial Rule 47 (D) (providing discretion to judge to control examination of jury by counsel).



Indiana Jury Rule 24 (requiring that the trial court examine a juror who has personal knowledge concerning a case outside of the presence of the rest of the jury if the person knowledge comes to light during trial).

## CASE LAW

Ashby v. State, [486 N.E.2d 469](#)  (Ind. 1985) (trial court has broad discretion in regulating voir dire; no error in not granting the Defendant opportunity to have separate and individual voir dire of jury, where thirty minutes judge allotted parties to conduct additional voir dire gave ample opportunity to delve into possible racial prejudice among jurors).

Burris v. State, [465 N.E.2d 171](#)  (Ind. 1984) (no right to a separate and individual voir dire in a capital case), *superseded by statute on other grounds*, Wrinkles v. State, [690 N.E.2d 1156](#)  (Ind. 1997).

Boggs v. State, [667 So.2d 765](#)  (Ind. 1996) (where two newspapers published articles on eve of trial reporting allegations that capital murder Defendant was faking mental illness, and that he had been convicted previously of charged offenses, it was abuse of discretion for trial court to bar individual inquiry of venire persons who had read articles and could not say whether they could set aside their opinions and render verdict solely on evidence presented at trial).

Stroud v. State, [787 N.E.2d 430](#)  (Ind.Ct.App. 2003) (the trial court erred in questioning jurors exposed to prejudicial newspaper article in the presence of other jurors who had not read article, therein, contaminating those who had not read article). But see Edwards v. State, [479 N.E.2d 541](#)  (Ind. 1985).