

IN THE DISTRICT COURT IN AND FOR TULSA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
Plaintiff,)
)
vs.)
)
Defendant.) Case No.

**MOTION TO ALLOW DEFENSE TO SIT NEAREST
THE JURY BOX AND WITNESS STAND
OR IN THE ALTERNATIVE
TO EXCHANGE PLACES WITH THE PROSECUTOR DURING TRIAL**

Comes now the Defendant above, by and through counsel, and does hereby move this Court to allow (1) the defense to occupy the counsel table most adjacent to the jury box (and closest to the witness stand) or, in the alternative, and without waiving the foregoing request, (2) to assign counsel tables based on a basis that involves random selection rather than custom or favoritism or, in the alternative, and without waiving the foregoing request, (3) to allow the defense to exchange places with the prosecution and sit nearest to the jury box (and witness stand) during the defense questioning of witnesses, and in support hereof, the defense would show as follows:

I. Communicative and Psychological Advantages to Being Nearest to Jury Box and Witness Stand

The parties who are allowed to occupy the counsel table nearest to the jury and/.or witness stand have several advantages. First, the fact that counsel in nearer to the jurors and the witness allows that counsel to speak in a conversational and modulated tone of voice if he so chooses. Second, proximity allows counsel a better view of the jurors and the witness and their reactions during the testimony. Third, it allows the jurors a better view of the counsel who is sitting

nearest them, particularly if that counsel's body serves to obstruct the juror's view of the persons seated at the farthest counsel table. Fourth, the parties who are allowed to occupy the "heard table" nearest the fact finder are symbolically clothed with the suggestion of status and prestige, vis-à-vis the parties who are relegated to the counsel table farthest from the jurors and/or witness placement indicates leadership.

II. Psychological Factors

From the psychological standpoint, the physical layout of the courtroom, e.g., the seating arrangements and distances between the people, can affect the perception and judgment of the fact finders. Differences of feeling are created according to how people are placed in a room.

For example, the counsel who occupies the table closest to the jurors has a better opportunity to get psychologically close to the jurors in the sense that they feel comfortable with such counsel. Distance between person tends to indicate animosity and/or prejudice.

III. Witnesses More Candid When Facing Questioner

All other things being equal, the witness is more likely to be candid with the interrogator who is confronting and facing him than he would be if the interrogator is in a less confrontive position such as at an angle to him. Counsel may need to access his client and his notes or file which will be at counsel's table which is more readily accessible if counsel's table is closer to witness position and the jury box.

IV. Distance Creates More Possibility of Witness Distortion

The counsel who is required to sit most distant from the witness runs the greater risk of distortion of communication. Distortion in Communication increases in proportion to the amount of distance between the communicators.

Wherefore, premises considered, the Defendant prays that the Court grant this motion.

Respectfully submitted,

Glen R. Graham OBA
Attorney for Defendant
1612 S. Cincinnati Ave.
Tulsa, OK 74119
(918) 583-4621

CERTIFICATE OF SERVICE

This is to certify that the undersigned hand delivered a true and correct copy of the above and foregoing motion to the Office of the Tulsa County District Attorney, 9th Floor, Tulsa County Court House, 500 S. Denver Ave., Tulsa, Oklahoma, on the same day it was filed with the Tulsa County Criminal Court Clerk.