

Categorical Analysis of Prosecutorial Misconduct in Closing Arguments (85 Instances)

The misconduct during closing arguments can be grouped into six primary categories. This systematic behavior demonstrates a contempt for the rules of evidence and the jury's role as the impartial arbiter of fact, compounding the errors from voir dire and making a fair trial impossible.

1. Direct Assertion of Guilt & Usurping the Jury's Role (34 instances)

This is the most pervasive error in the closing arguments. The prosecutors did not argue that the evidence *suggested* guilt; they repeatedly declared guilt as a proven fact, thereby usurping the jury's fundamental role.

- **Key Examples:**

- **#28:** *"We are here because of what this defendant did."*
- **#43:** *"That doesn't mean this crime didn't happen."*
- **#57:** *"This defendant committed this crime."*
- **#58:** *"He made a choice to be stepdad or child molester, and he crossed that line."*
- **#60:** *"So after you find this defendant guilty and you check that box, then you have to assess punishment."*
- **#64:** *"We know the crime occurred."*
- **#65:** *"He is guilty beyond a reasonable doubt."*
- **#85:** *"He has to be punished for this. You know what he did."*

2. Improper Vouching for Witness Credibility (21 instances)

The prosecutors consistently and improperly used the authority of their office to personally vouch for the truthfulness of the State's witnesses.

- **Key Examples:**

- **#17:** *"Brianna Jackson isn't inconsistent."*
- **#30:** *"She has absolutely no motive to make it up."*
- **#37:** *"He knows those things for sure because we know he's not lying..."*
- **#51:** *"That Brianna Jackson is telling you the truth..."*
- **#52:** *"If someone told her what to say... she would not be able to relate sensory details..."*
- **#62:** *"We know she's telling the truth."* (Repeated in #63).
- **#67:** *"If you're making it up... you're certainly going to give it up at that point if it's not true... We know she's telling the truth on that."*

3. Inflammatory Rhetoric & Appeals to Emotion (16 instances)

The prosecutors frequently abandoned argument based on evidence in favor of language designed to inflame the passions and prejudices of the jury.

- **Key Examples:**

- **#8:** *"I submit to you, ladies and gentlemen, that what other purpose is there for an adult to touch a child's vagina? There is no other reason. It's lewd. It's lascivious."*
- **#32 & #33:** Listing the victim's hardships ("labeled the victim of sexual abuse," "had

- to go to counseling for a year") to evoke sympathy.
- **#44:** *"this defendant took advantage of that."*
- **#56:** *"Because that's what someone says that's what a sex offender says when they're trying to comfort a child while they molest them..."*
- **#59:** *"So I submit to you this defendant is guilty... when he took that from her. He took - he took her innocence from her."*

4. Improper "Burden Met" Declarations (7 instances)

In a specific and egregious subset of usurping the jury's role, the prosecutor repeatedly walked through the elements of the crime and personally declared that the State had met its burden on each one.

- **Key Examples:**
 - **#2:** *"The State of Oklahoma has met their burden of proof as it relates to that first element."* (This pattern is repeated for each element in instances #3, #4, #5, #6, #12, and #13).
 - **#11:** *"And so the State of Oklahoma has met their burden."*

5. Mischaracterizing Defense & Misstating Facts (5 instances)

The prosecutors misrepresented the defense's arguments and, in some cases, argued facts that were either not in evidence or were directly contradicted by it.

- **Key Examples:**
 - **#29:** *"He just stood up here and called Brianna Jackson a liar for 50 minutes..."* (Mischaracterizing the defense's argument).
 - **#73 & #74:** Dismissing defense arguments as "things that you do not have to consider" and "things you have no evidence of."
 - **#82:** *"Once in the bedroom, once on the couch."* (Misstating the evidence regarding locations).
 - **#83:** *"Nobody ever said 2018."* (Directly contradicting testimony and reports).

6. Burden-Shifting (2 instances)

The prosecutors made arguments that improperly suggested the defense had a burden to disprove the State's case or that the jury's remedy for a poor investigation was outside the courtroom.

- **Key Examples:**
 - **#42:** *"But just because we don't like an investigation, the remedy is not to let a guilty man go free."*
 - **#84:** *"If you were unhappy with that investigation... Complain to the chief, Chief Foster. We'll give you his phone number."*

Summary of Closing Argument Misconduct

The errors in the closing argument were not subtle. They were direct, forceful, and repeated assertions of guilt and witness credibility that left no room for the jury to perform its constitutional function. When combined with the extensive priming during voir dire, the cumulative effect is overwhelming. The jury was first conditioned to accept a lowered burden of proof and to excuse

a lack of evidence, and then told repeatedly during closing that guilt was a foregone conclusion. This two-stage assault on the principles of a fair trial constitutes a profound and reversible cumulative error.