

A man sued his former business partner for fraud. After a verdict for the man, the business partner talked with a juror about the trial. After talking with the juror, the business partner promptly filed a motion for new trial.

The business partner seeks to have the juror testify as to the reason for his vote at the hearing on the motion for new trial.

Which testimony by the juror would most likely be permitted by the court?

- A. The juror learned from a court clerk that the business partner had been accused of fraud in several recent lawsuits.
- B. The juror misunderstood the judge's instructions concerning the standard of proof in a fraud case.
- C. The juror relied on testimony that the judge had stricken and ordered the jury to disregard.
- D. The juror was feeling ill and needed to get home quickly.

Explanation:

Judge & juror competency as witness

Judge	May not testify in trial over which judge is presiding No objection necessary to preserve issue for appeal
Juror	During trial May not testify before jury in which juror is sitting Objection outside jury's presence must be permitted
	After trial May not testify about jury deliberations
	or
indictment	May testify about improper extraneous prejudicial information, outside influence, or mistake on verdict form

A **juror** is **generally prohibited** from **testifying after trial** about:

any statement made, or incident that occurred, during jury deliberations—eg, a juror's statement about the strength of the evidence presented at trial

the effect of anything upon that juror or another juror's vote—eg, a juror was feeling ill and needed to get home quickly **(Choice D)** *or*

any juror's mental process concerning the verdict—eg, a juror misunderstood the judge's instructions concerning the standard of proof or relied on stricken testimony **(Choices B & C)**.

But since the jury must issue a verdict based *only* on evidence presented at trial, post-trial juror testimony is **admissible if** it addresses:

extraneous prejudicial information brought to the jury's attention

an **outside influence** improperly brought to bear on a juror *or*

a **mistake** made in **entering the verdict** onto the verdict form.

Therefore, testimony that the juror learned from a court clerk that the business partner had been accused of fraud in several recent lawsuits (extraneous prejudicial information) is admissible at the motion for new trial hearing.

Educational objective:

Post-trial juror testimony is admissible if it concerns (1) extraneous prejudicial information brought to the jury's attention, (2) an outside influence improperly brought to bear on a juror, or (3) a mistake made in entering the verdict onto the verdict form.

References

Fed. R. Evid. 606 (juror's competency as a witness).

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