# PROPER AND IMPROPER VOIR DIRE

# QUESTIONS BY COUNSEL

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## The Court may require written voir dire questions before trial.[[1]](#footnote-1)

#### “The right in criminal cases to examine each prospective juror in order to secure an impartial jury is set out in the Code at O.C.G.A. §15–12–133…which provides in part: “In the examination, the counsel for either party shall have the right to inquire of the individual jurors examined touching any matter or thing which would illustrate any interest of the juror in the case, including any opinion as to which party ought to prevail, the relationship or acquaintance of the juror with the parties or counsel therefor, any fact or circumstance indicating any inclination, leaning or bias which the juror might have respecting the subject matter of the action or the counsel or parties thereto, and the religious, social, and fraternal connections of the juror.”[[2]](#footnote-2)

* 1. However, questions that tend to test the prospective juror’s willingness to accept particular defenses are not allowed.[[3]](#footnote-3)

## Presiding Over *Voir Dire*

* 1. The trial judge has the authority to limit or prohibit repetitive questions during *voir dire*.[[4]](#footnote-4)
  2. Where a juror has indicated the existence of a relationship with a party or witness that could suggest bias, counsel should be given the “broadest of latitude” in questioning that juror.[[5]](#footnote-5)
  3. Where a potential juror makes a statement that may be prejudicial and could be seen to have infected the entire jury panel, see endnote.[[6]](#footnote-6)

## On voir dire, counsel may ask jurors following questions:[[7]](#footnote-7)

### Leaning, Prejudice Or Bias

### Any opinion as to which party should prevail;

### Any fact or circumstance indicating an inclination, leaning or bias respecting:

### The subject-matter of the action;

### Counsel (including elected DA)[[8]](#footnote-8) or

### Defendant;

### Regarding any juror prejudice as to the subject matter of the suit.[[9]](#footnote-9)

### Whether the race of the parties would impact the jurors’ ability to be impartial.[[10]](#footnote-10)

### Same with national origin or immigration status.[[11]](#footnote-11)

### The parties can ask whether any potential juror has formed an opinion as to the guilt or innocence of the defendant but cannot ask the jurors to prejudge the case.[[12]](#footnote-12)

### The parties may inquire about pretrial publicity on voir dire.[[13]](#footnote-13) (But require that any extensive questioning be done outside the presence of the entire group or panel to ensure the group or panel is not “infected.”)

### Relationship Or Familiarity

### The relationship or acquaintance with the defendant or counsel;

### Any religious, social or fraternal connections of juror/family.

### If a juror indicates that they have a relationship with anyone connected to the case, error to not allow counsel latitude to determine if the relationship will result in bias.[[14]](#footnote-14)

### As to whether the juror has ever been represented by counsel in the case.[[15]](#footnote-15)

### As to whether the juror knows or is related to a witness in the case.[[16]](#footnote-16)

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### Whether the juror or any close family members employed in law enforcement.[[17]](#footnote-17)

### Where a potential juror is employed by the DOFS crime lab, that fact alone is not a basis for excusal for cause.[[18]](#footnote-18)

### “Critical Fact” In The Underlying Case[[19]](#footnote-19)

### “We have acknowledged, however, that ‘there is often a fine line between asking potential jurors how they would decide the case and questions that merely seek to expose bias or prejudice.’”[[20]](#footnote-20)

### It should be noted that this “critical fact” exception does not open the door into asking jurors to prejudge the case. The prohibition against asking questions that call for a prejudgment of the case is addressed below among those questions that are impermissible.

### “[V]oir dire questions must be framed properly to reveal the prospective juror's general view on the critical fact and whether that view is so strong that it would substantially impair the juror in considering all [facts of the case]; the questions must not seek to *commit the juror to vote a certain way based on that fact.”[[21]](#footnote-21)*

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### *In a molestation case, whether the juror has such a strong feeling about child molestation that it would impair their judgment or make it difficult to judge the case is proper.[[22]](#footnote-22)*

### *Same where the murder victim is a child—the jury can be asked whether the fact that a child was killed, without knowing any other facts surrounding the case, will make it impossible to be fair.[[23]](#footnote-23)*

### *Error not to allow in a drug case for defendant to ask if juror or member of his/her family ever had any problems with drugs.[[24]](#footnote-24)*

### Reaffirming Responses to “Statutory Questions”

### The court asked the “statutory qualification questions” set forth in O.C.G.A. §15-12- 163 earlier in the trial but the parties are not required to simply accept the juror’s responses to the court’s inquiry.

### While the scope of voir dire questions are usually left to the discretion of the trial judge, it would seem that all of the “statutory qualification” questions found in O.C.G.A. §15-12-163 would be permissible areas to explore.

### Cases suggest it is permissible to ask about a potential juror’s mental illness on voir dire.[[25]](#footnote-25)

### Where a juror admits prior arrests and convictions but could not say with certainty whether his/her civil rights had been restored, that juror could be excused for cause.[[26]](#footnote-26)

### State may ask whether anyone on panel believes that a person who assists another in the commission of a crime should not be prosecuted.[[27]](#footnote-27)

### Questions counsel may not ask jurors: *IRRELEVANT QUESTIONS*

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## Irrelevant Questions (Generally):

## Asking jurors about books, magazines, televisions programs, bumper stickers, views on abortion;[[28]](#footnote-28)

## Prior military service.[[29]](#footnote-29)

## Asking jurors about the employment of their children (EXCEPT LAW ENFORCEMENT-LAW ENFORCEMENT EMPLOYMENT IS A VALID QUESTION).[[30]](#footnote-30)

## Asking jurors whether they smoked cigarettes or drank alcohol.[[31]](#footnote-31)

## Whether the jurors have ever taken a Spanish class.[[32]](#footnote-32)

## Prior jury service (Irrelevant):

## Whether juror who had previously served on a grand jury, petit jury or had been the foreman of any type of jury;[[33]](#footnote-33)

## Aware of notorious cases (Irrelevant):

## Asking whether the jurors are familiar with the OJ Simpson case or any other notorious cases (even local case).[[34]](#footnote-34)

## Hypotheticals, Argumentative Questions Or Questions That Require Prejudgment Of Case

## Hypothetical Questions

## Of a hypothetical nature regarding the evidence in the case-Court has some discretion to allow hypothetical questions but not if the answer requires a prejudgment of the case.[[35]](#footnote-35)

## Framed in language which is confusing or unduly argumentative or which is general and hypothetical or which is general or involves technical, legal terms and phrases.[[36]](#footnote-36)

## Willingness to Accept Possible Defenses (Prejudgment of case):

## Asking whether juror could believe a defense of insanity.[[37]](#footnote-37)

## Any question which tests willingness of juror to accept a particular defense (i.e. using a gun in self-defense);[[38]](#footnote-38)

## Cannot ask about their feelings about cases where the allegations involve a man beating a woman.[[39]](#footnote-39)

## Asking if anyone believes that the woman cannot be the aggressor in a domestic violence situation is improper;[[40]](#footnote-40)

## Asking if jurors think it is possible for the gun to discharge if two people are tussling over the weapon;[[41]](#footnote-41)

## Asking if jurors had ever heard of a death being accidental;[[42]](#footnote-42)

## Defense cannot ask whether the jurors have ever heard of the phrase “guilt by association” and what that phrase may mean to jurors.[[43]](#footnote-43)

## Verdict without hearing evidence (Prejudgment):

## Asking jurors what their verdict would be without hearing any evidence.[[44]](#footnote-44)

## Asking if jurors believe the defendant is probably guilty of something.[[45]](#footnote-45)

## Asking whether juror would convict if only evidence was only one witness’ eyewitness identification.[[46]](#footnote-46)

## Asking if they believe that the defendant might be guilty but the state has not proved this beyond reasonable doubt would the verdict be guilty or not guilty? “Technical legal question”[[47]](#footnote-47)

## Questions dealing with “the burden of proof, reasonable doubt and the presumption of innocence” are improper.[[48]](#footnote-48)

## Asking if jurors would be reluctant to return not guilty verdict if there was a reasonable doubt as to guilt.[[49]](#footnote-49)

## Asking if jury understands that they would also be enforcing the law by voting not guilty if the case is not proven.[[50]](#footnote-50)

## Would believe certain witnesses over others/reliability of certain evidence (Prejudgment):

## Asking if jurors believe that testimony of police officers due more weight than other witnesses is improper.[[51]](#footnote-51)

## Asking if they believed that the accused’s testimony is less valuable than that of the person accusing him.[[52]](#footnote-52)

## Asking jurors about the reliability of eyewitness identification.[[53]](#footnote-53)

## Opinion of laws/justice system (Argumentative, Hypothetical, Prejudgment):

## Asking whether the criminal justice system works or if criminals are treated too leniently.[[54]](#footnote-54)

## Asking if jurors know the effects of certain drugs.[[55]](#footnote-55)

## Asking if jurors would support legalized betting.[[56]](#footnote-56)

## As to whether, if not personally agreeing with certain laws, the juror would attach less importance to those laws than to laws the juror agreed with.[[57]](#footnote-57)

## Questions calling for opinion of juror on law are improper.[[58]](#footnote-58)

## Questions asking whether “mentally retarded” defendants should be punished more harshly than others is improper.[[59]](#footnote-59)

## Technical, Legal Questions

## Presumption of innocence:

## That defendant is presumed innocent unless evidence proves beyond reasonable doubt that he is guilty is improper;[[60]](#footnote-60)

## Asking jurors if they agree that law presumes Def’s are innocent–are the jurors “ok” with that principle.[[61]](#footnote-61)

## That sometimes innocent men are charged with crimes.

## Asking jurors if they believe, as he sits here right now, that the defendant is innocent.[[62]](#footnote-62)

## Asking jurors if they believe, as he sits here right now, that the defendant is innocent.[[63]](#footnote-63)

## Defendant must have done something to be here (Technical, Legal Question/Prejudgment):

## Asking if the presence of a state prosecutor means that the defendant must be guilty of something;[[64]](#footnote-64)

## Asking whether the def. must have done something wrong or he would not be here (Prejudgment of case);[[65]](#footnote-65)

## Asking jurors what weight should be given the fact that the defendant has been charged or indicted.[[66]](#footnote-66)

## Grand Jury/Indictment (Technical, Legal Question):

## That proceedings before the grand jury are one-sided:[[67]](#footnote-67)

## If juror understands that an indictment is merely an accusation and is no indication of guilt or innocence of accused;[[68]](#footnote-68)

## Burden of Proof (Technical, Legal Question):

## Cannot ask about their feelings on the State’s burden of proof;[[69]](#footnote-69)

## Asking whether the jurors understand that the State’s burden is beyond a reasonable doubt.[[70]](#footnote-70)

## Jurors’ Understanding Of Law On Parole (Legal Question/Irrelevant)

## “[A] prospective juror's personal views regarding the meaning of a life sentence or [a death sentence] are extraneous to his or her ability to serve as a juror unless it can be shown that those views would seriously impair the juror's performance of his or her duties.”[[71]](#footnote-71)

## Right to remain silent (Technical, Legal Question):

## Asking if jurors would expect someone who pleads not guilty to give some explanation;[[72]](#footnote-72)

## Put yourself in the position of defendant (Technical, legal question):

## Asking any question that begins by ‘if you were ever so unfortunate as to find yourself sitting at this table...’[[73]](#footnote-73)

1. *Wilkins v. State*, 246 Ga. App. 667 (2000). [↑](#footnote-ref-1)
2. *Henderson v. State*, 251 Ga. 398, 399 (1983). [↑](#footnote-ref-2)
3. *Lester v. State,* 343 Ga. App. 618 (2017); *Stewart v. State*, 262 Ga. App. 426, 427 (2003); *Meeks v. State*, 216 Ga. App. 630, 632 (1995) citing *Henderson v. State*, 251 Ga. 398, 400 (1983). [↑](#footnote-ref-3)
4. *Brockman v. State*, 292 Ga. 707, 724 (2013), citing *Gissendaner v. State*, 272 Ga. 704, 709 (2000). [↑](#footnote-ref-4)
5. *Kim v. Walls*, 275 Ga. 177, 179 (2002), citing *White v. State*, 230 Ga. 327, 336 (1973). [↑](#footnote-ref-5)
6. "In determining whether a trial court is required to excuse a jury panel for remarks made during voir dire, the inquiry is whether the remarks were inherently prejudicial and deprived [defendant] of his right to begin his trial with a jury free from even a suspicion of prejudgment or fixed opinion. If so, then the trial court's failure to excuse the panel constitutes an abuse of discretion." *Johnson v. State*, 340 Ga. App. 429 (2017). Proper procedure for a "tainted panel" is a motion to disqualify panel and have the jury selected from a different panel. *Sharpe v. State*, 272 Ga. 684, 687-688 (2000). Any motion for mistrial made before the jury is impaneled and sworn is premature and Court should overrule it. *Smalls v. State*, 174 Ga. App. 698 (1985). However, it is permissible to ignore the "use of incorrect nomenclature" if the import of the motion is to make a "challenge to the poll." *Herrington v. State*, 300 Ga. 149, 152 (2016). Where there is no timely objection (i.e. before the jury is impaneled or sworn), the objection may be waived. Smith v. State, 276 Ga. 97, 98 (2003). "Generally, dismissal of a jury panel is required when, during voir dire, a prospective juror relays information that is specific to the defendant and germane to the case for which the defendant is on trial. Dismissal is not required, however, when the statements establish only gossamer possibilities of prejudice." Johnson v. State, 340 Ga. App. 429 (2017). [↑](#footnote-ref-6)
7. O.C.G.A. §15-12-133. [↑](#footnote-ref-7)
8. *Cowan v. State*, 156 Ga. App. 650, 651 (1980), overruled on other grounds by *Legare v. State*, 256 Ga. 302, 304, n. 2 (1986). Cited in Ellis v. State, 292 Ga. 276, n. 2 (2013). [↑](#footnote-ref-8)
9. *Curtis v. State*, 224 Ga. 870(2) (1968). [↑](#footnote-ref-9)
10. *Keating v. State*, 309 Ga. App. 804 (2011); Ham v. South Carolina, 409 U.S. 524 (1973); *Roberts v. State*, 252 Ga. 227, 237 (1984). [↑](#footnote-ref-10)
11. *Flores v. State*, 277 Ga. App. 211 (2006), citing *Robles v. State*, 277 Ga. 415, 418-419 (2003). [↑](#footnote-ref-11)
12. *Lee v. State*, 258 Ga. 762, 763 (1988). [↑](#footnote-ref-12)
13. *Edenfield v. State*, 293 Ga. 370, 378 (2013), overruled on other grounds by *Willis v. State*, 304 Ga. 686 (2018). [↑](#footnote-ref-13)
14. *Kim v. Walls*, 275 Ga. 177, 178-179 (2002). [↑](#footnote-ref-14)
15. *Glover v. Maddox*, 100 Ga. App. 262 (1959) (civil case). *Payne v. State*, 195 Ga. App. 523 (1990); *Darden v. State*, 212 Ga. App. 345, 346 (1994). [↑](#footnote-ref-15)
16. *Hendricks v. State*, 108 Ga. App. 259 (1963) (overruled on other grounds), *Kim v. Walls*, 275 Ga. 177, 178-179 (2002). [↑](#footnote-ref-16)
17. *Falsetta v. State*, 158 Ga. App. 392 (1981); *Henderson v. State*, 251 Ga 398 (1983); *Ellis v. State*, 292 Ga. 276, 284-285 (2013), citing *Robinson v. State*, 277 Ga. 277, 280 (2003). [↑](#footnote-ref-17)
18. *Wellons v. State*, 266 Ga. 77, 83-84 (1995). [↑](#footnote-ref-18)
19. Ellington v. State, 292 Ga. 109, 127-128 (2012), disapproved on other grounds in Willis v. State, 304 Ga. 686 (2018). The Ellington case really brought this issue into stark contrast and was just decided in 2012 so some of the "old hands" may not be aware of the impact this decision had on voir dire. But deciding what is a "critical fact" may be extremely difficult. [↑](#footnote-ref-19)
20. *Ellis v. State*, 292 Ga. 276, 280 (2013), citing *Sallie v. State*, 276 Ga. 506, 510 (2003). [↑](#footnote-ref-20)
21. *Ellington v. State*, 292 Ga. 109, 136 (2012), disapproved on other grounds in *Willis v. State*, 304 Ga. 686 (2018). [↑](#footnote-ref-21)
22. *Meeks v. State*, 269 Ga. App. 836 (2004). [↑](#footnote-ref-22)
23. *Ellington v. State*, 292 Ga. 109, 127-128 (2012), disapproved on other grounds in *Willis v. State*, 304 Ga. 686 (2018) (in *Ellington*, one of murder victims was a child. Trial court erred in not allowing defendant to ask whether prospective jurors would automatically vote for death merely because there was a child victim). [↑](#footnote-ref-23)
24. *Henderson v. State*, 251 Ga. 398, 400 (1983); *Craig v. State*, 165 Ga. App. 156 (1983). [↑](#footnote-ref-24)
25. *Caldwell v. State*, 249 Ga. App. 885, 889 (2001), citing O.C.G.A. §15-12-163(b)(3). However, the fact that a person has been treated for mental illness does not render that person incompetent to serve as a juror. *Bolick v. State*, 244 Ga. App. 567, 570 (2000). [↑](#footnote-ref-25)
26. *Smith v. State*, 277 Ga. 213, 217, overruled on other grounds by *State v. Lane*, 2020 WL 609615, S19A1424 (Ga. Sup. Ct. 2/10/2020). [↑](#footnote-ref-26)
27. *Thomas v. State*, 296 Ga. 485, 498-499 (2015). [↑](#footnote-ref-27)
28. *Spivey v. State*, 253 Ga. 187, 192 (1984); *Frazier v. State*, 138 Ga. App. 640, 643 (1976); *Alderman v. State*, 254 Ga. 206, 206-207 (1985) (books, magazines, bumper stickers, reliability of hypnosis,Adolph Hitler), citing *Henderson v. State*, 251 Ga. 398(1) (1983). *Pace v. State*, 271 Ga. 829, 836(1999) (bumper stickers); *Barnes v. State*, 269 Ga. 345, 351 (1998) (favorite television show); *Willis v. State*, 304 Ga. 686, 709 (2018) (when juror said she thought she had seen something about the case on television, that did not open the door to questions about what shows the juror liked); *Brockman v. State*, 292 Ga. 707, 720 (2013) (bumper stickers). [↑](#footnote-ref-28)
29. *Brown v. State*, 170 Ga. App. 398 (1984). [↑](#footnote-ref-29)
30. *Frazier v. State*, 138 Ga. App. 640, 643 (1976); *Falsetta v. State*, 158 Ga. App. 392, 392-393 (1981); *Ellis v. State*, 292 Ga. 276, 284-285 (2013). [↑](#footnote-ref-30)
31. *Frazier v. State*, 138 Ga. App. 640, 643 (1976). [↑](#footnote-ref-31)
32. *Flores v. State*, 277 Ga App. 211 (2006) (defendant was allowed to ask if anyone biased against him because he is Mexican but could not ask if anyone on panel took a Spanish class). [↑](#footnote-ref-32)
33. *Alderman v. State*, 254 Ga. 206, 207 (1985); *Frazier v. State*, 138 Ga. App. 640 (1976); *McGinnis v. State,* 135 Ga. App. 843(2) (1975); *Curtis v. State*, 224 Ga. 870, 871 (1968). If you think about this issue deeply, decisions that a prior jury made, without full analysis of that other case, is really irrelevant to whether the juror has any leaning or bias in the present case. [↑](#footnote-ref-33)
34. *Williams v. State*, 259 Ga. App. 742 (2003); *Alderman v. State*, 254 Ga. 206, 206-207 (1985); *Meeks v. State,* 216 Ga. App. 630 (1995). [↑](#footnote-ref-34)
35. “Hypothetical voir dire questions are not *per se* improper [cits omitted] but a trial judge should be cautious in allowing counsel to propound question which ask the juror to assume that certain facts will be proven. Such questions tend to improperly influence jurors.” *Waters v. State*, 248 Ga. 355 (1981); *Walker v.* State, 294 Ga. 752, 755 (2014). U.S.C.R. §10.1 provides “hypothetical questions are discouraged but may be allowed in the discretion of the court. It is improper to ask how a juror would act in certain contingencies or on a certain hypothetical state of facts. No question shall be framed so as to require a response from a juror which might amount to a prejudgment of the action.” [↑](#footnote-ref-35)
36. *Gatlin v. State*, 236 Ga. 707 (1976). [↑](#footnote-ref-36)
37. *Waters v. State*, 248 Ga. 355(3) (1981). [↑](#footnote-ref-37)
38. *Holloway v. State*, 137 Ga. App. 124(3) (1975); Stewart v. State, 262 Ga. App. 426, 427 (2003);Johnson v. State, 244 Ga. 295 (1979); *Henderson v. State*, 251 Ga. 398, 400 (1983); *Lester v. State*, 343 Ga. App. 618, 620-621 (2017). [↑](#footnote-ref-38)
39. *Ganas v. State*, 245 Ga. App. 645, 647 (2000). [↑](#footnote-ref-39)
40. *Lester v. State*, 343 Ga. App. 618, 619-620 (2017) (also, “is it permissible for a man to defend himself against a woman” is improper). [↑](#footnote-ref-40)
41. *Freeman v. State*, 132 Ga. App. 615, 616 (1974). [↑](#footnote-ref-41)
42. *Freeman v. State*, 132 Ga. App. 615, 616 (1974). [↑](#footnote-ref-42)
43. *Hubbard v. State*, 274 Ga. App. 184, 185-186 (2005). [↑](#footnote-ref-43)
44. *McNeal v. State,* 228 Ga. 633, 635 (1972); *Mills v. State*, 137 Ga. App. 305, 306 (1976); *Montgomery*, 128 Ga. App. 116 (1973); *Henderson v. State*,251 Ga. 398, 400 (1983). [↑](#footnote-ref-44)
45. *Gonzales v. State*, 345 Ga. App. 334, 340-341 (2018). [↑](#footnote-ref-45)
46. *Jenkins v. State*, 157 Ga. App. 310(3) (1981). [↑](#footnote-ref-46)
47. *Stack v. State*, 234 Ga. 19 (1975), overruled on other grounds by *State v. Chambers*, 240 Ga. 76 (1977). [↑](#footnote-ref-47)
48. *Fletcher v. State*, 284 Ga. 653, 657 (2008), citing *Chastain v. State*, 255 Ga. 723, 724 (1986); *Sallie v. State*, 276 Ga. 506, 509–510 (2003); *Ledbetter v. State*, 262 Ga. 370, 372 (1992). The prohibition includes questions asking the jurors to prejudge the case. [↑](#footnote-ref-48)
49. *Chastain v. State*, 255 Ga. 723, 724 (1986) (“Questions dealing with burden of proof, reasonable doubt and the presumption of innocence are technical legal questions which are properly the subjects of instruction by the court at the end of trial.”); *Ross v. State*, 194 Ga. App. 285 (1990). [↑](#footnote-ref-49)
50. *Hill v. State*, 221 Ga. 65, 68 (1965); *Curtis v. State*, 224 Ga. 870, 871; *McNeal v. State*, 228 Ga. 633, 635-636; *Bethay v. State*, 235 Ga 371(4) (1975); *Stack v. State*, 234 Ga. 19(2) (1975), *overruled on other grounds by State v. Chambers*, 240 Ga. 76 (1977); *Henderson v. State*, 251 Ga. 398, 400 (1983). [↑](#footnote-ref-50)
51. *Henderson v. State*, 251 Ga. 398, 400 (1983); *Foster v. State*, 288 Ga. 98, 105 (2010); *Simmons v. State*, 282 Ga. 183, 187 (2007); *Bennett v. State*, 153 Ga. App. 21 (1980); *Smith v. State*, 148 Ga App 1 (1978); Cox v. State, 248 Ga 713(3) (1982); Ganas v. State, 245 Ga. App. 645, 648 (2000). [↑](#footnote-ref-51)
52. *Bramble v. State*, 263 Ga. 745 (1994); *Baxter v. State*, 254 Ga. 538, 543 (1985), *overruled on other grounds by Height v. State*, 278 Ga. 592 (2004); *Walker v. State*, 281 Ga. 521, 522 (2007). [↑](#footnote-ref-52)
53. *Jenkins v. State*, 157 Ga App 310 (1981). [↑](#footnote-ref-53)
54. *Reynolds v. State*, 231 Ga. 582, 583; *Williams*, 165 Ga. App. 69 (1983). [↑](#footnote-ref-54)
55. *Smalls v. State*, 174 Ga. App. 698 (1985). [↑](#footnote-ref-55)
56. *Curtis v. State*, 224 Ga. 870, 871 (1968). [↑](#footnote-ref-56)
57. *Williams v. State*, 249 Ga. 6, 7 (1982) (should places such as the Fifth Inn be closed up and abolished? and “if you did not agree with a law, would you give it less weight” are improper); *Martin v. State*, 195 Ga. App. 548, 551 (1990). [↑](#footnote-ref-57)
58. *McCoy v. State*, 231 Ga. App. 703 (1998). [↑](#footnote-ref-58)
59. *Raulerson v. State*, 268 Ga. 623, 630 (1997). [↑](#footnote-ref-59)
60. *Westbrook v. State*, 242 Ga. 151 (1978). [↑](#footnote-ref-60)
61. *McCoy v. State*, 231 Ga. App. 703 (1998); *Goughf v. State*, 232 Ga. 178 (1974). [↑](#footnote-ref-61)
62. *Evans v. State*, 222 Ga. 392, 400-401 (1966), *judgment abandoned on other grounds by Harris v. State*, 255 Ga. 464 (1986), *overruled on other grounds by Willis v. State*, 304 Ga. 686 (2018); *Pinion v. State*, 225 Ga. 36, 37 (1969); *Henderson v. State*, 251 Ga. 398, 400 (1983); *Gonzales v. State*, 345 Ga. App. 334, 340-341 (2018). [↑](#footnote-ref-62)
63. *Freeman v. State*, 132 Ga. App. 615, 616 (1974). [↑](#footnote-ref-63)
64. *Freeman v. State*, 132 Ga. App. 615, 616 (1974). [↑](#footnote-ref-64)
65. *Baxter v. State*, 254 Ga. 538, 543 (1985), overruled on other grounds by *Height v. State*, 278 Ga. 592 (2004); *Conley v. State*, 157 Ga. App. 166, 167 (1981); *McCoy v. State*, 231 Ga. App.703 (1998) [↑](#footnote-ref-65)
66. *Todd v. State*, 243 Ga. 539 (1979); *Freeman v. State*, 132 Ga. App. 615 (1974); *Henderson v. State*, 251 Ga. 398, 400 (1983). [↑](#footnote-ref-66)
67. *Westbrook v. State*, 242 Ga. 151 (1978). [↑](#footnote-ref-67)
68. McNeal v. State, 228 Ga. 633, 636; Lundy v. State, 130 Ga. App. 171 (1973). [↑](#footnote-ref-68)
69. *Ganas v. State*, 245 Ga. App. 645, 647-648 (2000); *Anderson v. State*, 169 Ga. App. 729, 730 (1984); *Cox v. State*, 248 Ga. 713 (1982). [↑](#footnote-ref-69)
70. *Stack v. State*, 234 Ga. 19(2) (1975), *overruled on other grounds by State v. Chambers*, 240 Ga. 76 (1977); *Mills v. State*, 137 Ga. App. 305(2) (1976); *Freeman v. State*, 132 Ga. App. 615, 615-616 (1974); *Henderson v. State*, 251 Ga. 398, 400 (1983). [↑](#footnote-ref-70)
71. *Mobley v. State*, 265 Ga. 292, 295 (1995). [↑](#footnote-ref-71)
72. *Conley v. State*, 157 Ga. App. 166, 167 (1981); *Anderson v. State*, 161 Ga. App. 816 (1982); *Freeman v. State*, 132 Ga. App. 615 (1974). [↑](#footnote-ref-72)
73. *Freeman v. State*, 132 Ga. App. 615 (1974). [↑](#footnote-ref-73)