

Cherokee Nation Code Annotated

Title 22: Criminal Procedure

Chapter 12: Trial

§ 831. Order of trial proceedings

Cite as: 22 CNCA § 831

The jury having been impaneled and sworn, the trial must proceed in the following order:

1. If the information is for a crime, the Clerk or Prosecuting Attorney must read it, and state the plea of the defendant to the jury.
2. The Prosecuting Attorney, or other Counsel for the Nation, must open the case and offer the evidence in support of the information.
3. The defendant or his counsel may then open his defense, and offer his evidence in support thereof.
4. The parties may then, respectively, offer rebutting testimony only, unless the Court for good reason, in furtherance of justice, or to correct an evident oversight, permit them to offer evidence upon their original case.
5. When the evidence is concluded, the attorneys for the prosecution may submit to the Court written instructions. If the questions of law involved in the instructions are to be argued, the Court shall direct the jury to withdraw during the argument, and after the argument, must settle the instructions, and may give or refuse any instructions asked, or may modify the same as he deems the law to be. Instructions refused shall be marked in writing by the Judge, if modified, modification shall be shown in the instruction. When the instructions are thus settled, the jury, if sent out, shall be recalled and the Court shall thereupon read the instructions to the jury.
6. Thereupon, unless the case is submitted to the jury without argument, the Counsel for the Nation shall commence, and the defendant or his counsel shall follow, then the Counsel for the Nation shall conclude the argument to the jury. During the argument the attorneys shall be permitted to read and comment upon the instructions as applied to the evidence given, but shall not argue to the jury the correctness or incorrectness of the propositions of law therein contained. The Court may permit one or more counsel to address the jury on the same side, and may arrange the order in which they shall speak, but shall not without the consent of the attorneys limit the time of their arguments. When the arguments are concluded, if the Court be of the opinion that the jury might be misled by the arguments of counsel, he may to prevent the same further instruct the jury. All instructions

given shall be in writing unless waived by both parties, and shall be filed and become a part of the record in the case.

Historical Data

LA 10-90, eff. November 13, 1990.