Cherokee Nation Code Annotated
Title 22: Criminal Procedure
Chapter 15: New Trial—Arrest of Judgment
§ 952. Grounds for new trial—Affidavits and testimony
Cite as: 22 CNCA § 952

A court in which a trial has been had upon an issue of fact has power to grant a new trial when a verdict has been rendered against a defendant by which his substantial rights have been prejudiced, upon his application in the following cases only:

First. When the trial has been in his absence, if the charge is for a crime;

Second. When the jury have received any evidence out of court, other than that resulting from a view of the premises;

Third. When the jury have separated without leave of the Court, after retiring to deliberate on their verdict, and before delivering or sealing the same, if it be sealed, or have been guilty of any misconduct by which a fair and due consideration of the case has been prevented;

Fourth. When the verdict has been decided by lot, or by any means other than a fair expression of opinion on the part of the jury;

Fifth. When the Court has misdirected the jury in a matter of law, or has erred in the decision of any question of law arising during the course of the trial;

Sixth. When the verdict is contrary to law or evidence;

Seventh. When new evidence is discovered, material to the defendant, and which he could not with reasonable diligence have discovered before the trial, and that the facts in relation thereto were unknown to the defendant or his attorney until after the trial jury in the case was sworn and were not of record. When a motion for a new trial is made on the ground of newly discovered evidence, the defendant must produce at the hearing in support thereof affidavits of witnesses, or he may take testimony in support thereof and if time is required by the defendant to procure such affidavits or testimony, the Court may postpone the hearing of the motion for such length of time as under all the circumstances of the case may seem reasonable.

Historical Data

LA 10–90, eff. November 13, 1990.