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RECENT DEVELOPMENT

WILLIAMS V. STATE: WHEN IT IS FOUND THAT A POTENTIAL JUROR HAS FAILED TO RESPOND ACCURATELY TO A VOIR DIRE QUESTION, EITHER INTENTIONALLY OR INADVERTENTLY, TRIAL COURTS MAY NOT EXERCISE THEIR DISCRETION AS TO WHETHER A NEW TRIAL WILL BE GRANTED UNLESS THE COURT HAS UNDERTAKEN FURTHER INVESTIGATION INTO THE MATTER ON THE RECORD.

By: Jayme Fye

In a case of first impression, the Court of Appeals of Maryland held that a judge must inquire, on the record, about a juror's failure to disclose information during voir dire or the defendant is entitled to a new trial. *Williams v. State*, 394 Md. 98, 114, 904 A.2d 534, 543 (2006). The Court held that a trial judge, without further findings of fact, may not use his or her discretion to deny a new trial based on a conclusion that prejudice is "pretty remote." *Id.* at 115, 904 A.2d at 544.

Willard H. Williams ("Williams") was charged with distribution of cocaine and possession of heroin with intent to distribute. During voir dire, the trial judge asked the venire if they were related to anyone employed in the State's Attorney's Office. The judge instructed the venire to be prepared to inform the court about any such relationship when they are questioned. Juror Ernestine Lane ("Lane") did not respond to the above inquiry during voir dire. However, Lane's sister was a secretary in the State's Attorney's Office. The court did not question Lane as to why this information was withheld.

The Circuit Court for Baltimore City convicted Williams of various violations of the Controlled Dangerous Substances Act, including possession of heroin. Williams offered the non-disclosure of Lane's familial relations as grounds for a new trial, but the motion was denied. Williams filed an appeal to the Court of Special Appeals of Maryland and the Court of Appeals of Maryland issued a writ of certiorari *sua sponte*. The Court reversed the circuit court's ruling and remanded the case for a new trial.

Under the Sixth Amendment of the United States Constitution and Article 21 of the Maryland Declaration of Rights, a criminal defendant's right to a fair trial depends on the impartiality of a juror. *Williams*, 394 Md. at 105-06, 904 A.2d at 538. As such, voir dire is in place to exclude jurors for whom there exists cause for disqualification, and the overarching purpose of voir dire is to ensure a fair and impartial jury. *Id.* at 107, 904 A.2d at 539.

The State relied on two previous Maryland cases to deny *Williams* a new trial. *Id.* at 111, 904 A.2d at 542. First, *Burkett v. State* held that absent a showing of actual prejudice or bias by the juror, the grant of a new trial is left to the discretion of the trial judge. *Williams*, 394 Md. at 109, 904 A.2d at 540 (citing *Burkett v. State*, 21 Md. App. 438, 445, 319 A.2d 845, 849 (1974)). In *Burkett*, the father of a secretary employed by the Baltimore City State's Attorney's Office did not respond to a voir dire question asked by the judge that would have revealed such information. *Id.* The juror testified that his daughter's position did not influence his decision. *Williams*, 394 Md. at 110, 904 A.2d at 541. In denying the defendant's motion for a new trial, the court believed the non-disclosure was inadvertent and had no effect on the verdict. *Id.* (citing *Burkett*, 21 Md. App. at 442, 319 A.2d at 847).

In *Leach v. State*, a juror failed to disclose her relationship with one of the investigating detectives. *Williams*, 394 Md. at 110, 904 A.2d at 541 (citing *Leach v. State*, 47 Md. App. 611, 618, 425 A.2d 234, 238 (1981)). The court voir dired the juror who testified that she would be impartial and fair. *Williams*, 394 Md. at 111, 904 A.2d at 541 (citing *Leach*, 47 Md. App. at 618, 425 A.2d at 238). The court accepted this assurance, denying the defendant's motion for a new trial. *Williams*, 394 Md. at 110, 904 A.2d at 541. The *Leach* court cited the test outlined in *Burkett*, explaining that the trial judge, after conducting voir dire, found that the non-disclosure of requested information was inadvertent and that the juror could still render a fair verdict. *Williams*, 394 Md. at 111, 904 A.2d at 542 (citing *Leach*, 47 Md. App. at 619, 425 A.2d at 238-39).

The Court of Appeals of Maryland disagreed with the State's contention that *Burkett* and *Leach* were applicable and dispositive. *Williams*, 394 Md. at 111, 904 A.2d at 542. The Court distinguished *Williams* from the above two cases on the basis that the trial judge, in *Burkett* and *Leach*, upon discovery of the non-disclosure, was able to question the respective jurors to determine whether there was actual cause for prejudice. *Williams*, 394 Md. at 112, 904 A.2d at 542. Only after the court made this inquiry could the trial judge exercise his or

her own discretion with respect to the relief requested. *Id.* In *Williams*, the trial judge, in denying the motion for a new trial, used his own discretion to declare that the withheld information, and thus the potential for prejudice, was remote. *Id.*

The Court clarified its position stating that a trial court judge may exercise his or her discretion to determine if a new trial should be granted only after a juror is further voir dired regarding the withheld information. *Id.* at 113, 904 A.2d at 543. The Court added that “the trial court’s sound discretion can only be exercised on the basis of the information that the voir dire reveals and the findings the trial court makes as a result.” *Id.*

The Court held that the perceived “remoteness” of the potential bias does not preclude prejudice and that a finding of fact must be made in order to confirm the impartiality of a juror. *Id.* at 115, 904 A.2d at 544. The Court believed that a defendant is denied a fair trial when he or she is denied the benefit of investigation into the juror’s state of mind. *Id.*

The Court rationalized its holding and approach as being consistent with decisions from other jurisdictions. *Id.* New Jersey courts have concluded that non-disclosure results in a defendant being deprived of a fundamental right to a fair trial, and that his conviction cannot stand. *Id.* at 116, 904 A.2d at 544-45 (citing *State v. Thompson*, 361 A.2d 104, 108 (1976)). South Carolina courts have held that a juror who fails to disclose a relationship should be inferred to be impartial. *Williams*, 394 Md. at 116, 904 A.2d at 545 (citing *State v. Woods*, 550 S.E.2d 282, 284 (2001)). Similarly, Missouri courts have held that bias and prejudice are inferred when there has been intentional withholding of information during voir dire. *Williams*, 394 Md. at 116, 904 A.2d at 545 (citing *Doyle v. Kennedy Heating & Service, Inc.*, 33 S.W.3d 199, 201 (Mo. Ct. App. 2000)).

The dissent in *Williams* believed that there are steps that could be taken before granting a new trial when dealing with non-disclosure issues. *Williams*, 394 Md. at 119, 904 A.2d at 546. They believed that an evidentiary hearing should be held to inquire as to whether there was intentional non-disclosure and whether there was prejudice on the part of the juror. *Id.*

In *Williams*, the Court took substantial steps to preserve a defendant’s guarantee to have a fair trial. However, automatically ordering a new trial because of undisclosed information during voir dire could prove to be costly and time consuming. A more effective

and efficient method would be to hold, as the dissent suggested, an evidentiary hearing. If it is found that a juror was biased, then a new trial should be granted. To comply with *Williams*, trial judges, when dealing with potential juror bias because of undisclosed information, may only grant a new trial after questioning the juror's motives for the non-disclosure.