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RECENT DEVELOPMENT

TROTMAN V. STATE: A COURT MAY EXCUSE A PROSPECTIVE JUROR WITH A DISABILITY FOR CAUSE IF NO REASONABLE ACCOMMODATION IS AVAILABLE AND THE DISABILITY PREVENTS THE JUROR FROM PROVIDING SATISFACTORY JURY SERVICE.

By: Michael Hart

The Court of Appeals of Maryland held that a judge may excuse a prospective juror on a disability-ground if the disability affects the juror's ability to serve on a jury. *Trotman v. State*, 466 Md. 237, 261, 218 A.3d 265, 278 (2019). The court ruled that a judge must not summarily dismiss a prospective juror because of the individual's disability. *Id.* Rather, the court must consider reasonable accommodations and find that the particular disability would prevent the individual from providing sufficient jury service. *Id.* Further, these exclusions are reasonable under both the Americans with Disabilities Act and Maryland law and do not violate an individual's right to a fair jury trial. *Id.* at 261-262, 218 A.3d at 278-279.

During *voir dire* for the trial of Sergeant Danny Trotman ("Trotman"), the Circuit Court for Baltimore City separately called prospective jurors who reported to the Jury Commissioner's Office that they had difficulty using stairs. Four prospective jurors for the trial indicated that they would be unable to use the twenty—five steps to access the jury room, which was the only way to reach the area. After confirmation that the four jurors could not use the stairs, the judge then excused the jurors to the jury assembly room to potentially participate in another trial.

Trotman objected that the court did not properly exercise its discretion when it excused the four prospective jurors because the judge did not consider possible accommodations. Trotman attested that the court should have looked into whether another courtroom or jury room was available to accommodate the prospective jurors. The circuit court judge determined that no other courtroom or jury room was available at the time of the trial. Therefore, the judge decided to excuse the four jurors on disability grounds. Following Trotman's trial, a jury found him guilty of second-degree assault and misconduct.

Trotman appealed the circuit court's decision to the Court of Special Appeals of Maryland, contesting that the court abused its discretion when it excused the four prospective jurors without considering reasonable accommodations. The Court of Special Appeals of Maryland affirmed the circuit court's decision to dismiss the prospective jurors. Trotman then filed

a petition for a writ of *certiorari*, which the Court of Appeals of Maryland granted. The issue before the court was whether the trial court abused its discretion when the judge concluded that no reasonable accommodations were available and excused the prospective jurors that could not access the jury room.

The Court of Appeals of Maryland began its analysis by discussing an individual's right and responsibility to participate in jury service. *Trotman*, 466 Md. at 240, 218 A.3d at 266. The Americans with Disabilities Act ("ADA") and Code Ann., Cts. & Jud. Proc. ("CJP") § 8-102(b), provide that a court must not exclude a prospective juror from jury service because of a disability. *Id.* at 466 Md. at 240, 218 A.3d at 267. Alternatively, the ADA and CJP § 8-103(b)(3) permit a court to dismiss a prospective juror on disability grounds if the disability prevents the individual from performing satisfactory jury service. *Id.* at 240-241, 218 A.3d at 267. This exclusion is not a violation of the Equal Protection Clause because disabilities are not a suspect or quasi-suspect class. *Id.* at 261, 218 A.3d at 279. Therefore, an exclusion is acceptable when the interest in providing a fundamentally fair trial is rationally related to dismissing an individual who cannot use the stairs required to participate in jury service. *Id.*

While it is within a court's discretion to excuse jurors on disability grounds, the ADA also establishes that failure to consider reasonable accommodations may result in disability discrimination. *Trotman*, 466 Md. at 263, 218 A.3d at 279. Discrimination towards individuals with disabilities must be reviewed independently in each matter because disabilities vary, and each disability requires different accommodations. *Id.* at 263-264, 218 A.3d at 280. Thus, the court must decide to excuse jurors on an individual basis to ensure reasonable accommodations were considered, and to safeguard the rights of individuals with disabilities to participate in jury service. *Id.* at 264, 218 A.3d at 281.

The Court of Appeals of Maryland then applied their analysis of the ADA and CJP to the facts of this case. The jury room for the trial was accessible only by the twenty—five steps. *Trotman*, 466 Md. at 265, 218 A.3d at 281. Due to the disabilities of the four prospective jurors, they would not be able to use the stairs to participate in the jury. *Id.* The circuit court judge determined that there was likely no reasonable accommodation available and that the disabilities would not allow the jurors to provide sufficient jury service. *Id.* at 265-266, 218 A.3d at 281. The judge directed the prospective jurors back to the jury assembly room, allowing them the opportunity to sit as a juror in another trial. *Id.* at 266, 218 A.3d at 281. The Court of Appeals of Maryland held that, because the potential jurors had the opportunity to participate in a different trial, their right to participate in jury service was not violated. *Id.* The court, therefore, agreed with the circuit court's conclusion

that the inability to access the jury room prevented the jurors from providing satisfactory jury service in that specific case as required by CJP § 8-103(b)(3). *Id.* at 266, 218 A.3d at 282.

Trotman argued that the circuit court failed to consider requesting the administrative office to look into the availability of another courtroom or jury room to reasonably accommodate the four prospective jurors. *Trotman*, 466 Md. at 267, 218 A.3d at 282. Trotman attested that the circuit court should have contacted the appropriate authority, rather than rely on the judge's discretion and knowledge that no reasonable accommodation was available. *Id.* However, the Court of Appeals of Maryland found that the trial was held in this particular courtroom because all other rooms were in use. *Id.* at 267-268, 218 A.3d at 282. Additionally, the record showed that there was no opportunity available to switch courtrooms, jury rooms, or use alternative conference rooms in a reasonable amount of time. *Id.* at 267-268, 218 A.3d at 283. Therefore, the Court of Appeals of Maryland found that the circuit court adequately considered accommodations and acted within its discretion to maintain a fair jury trial while protecting the rights of individuals with disabilities. *Id.* at 269, 218 A.3d at 283.

In *Trotman*, the Court of Appeals of Maryland held that the court has substantial discretion in excusing prospective jurors on disability-related grounds. Specifically, the decision to exclude a prospective juror is dependent on the knowledge and experience of each particular judge. Here, the court did not consider significant accommodations but instead relied on the judge's conclusion that no reasonable accommodation in the court was available. The ruling requires minimal considerations when reasonably accommodating potential jurors with disabilities, and allows courts to exclude jurors with disabilities to the jury room without violating their right to participate in jury service. It is not clear whether this decision helps or hurts a defendant's rights to a fair trial, but certainly extends a judge's control over trial proceedings. The focus of the ruling is to provide Maryland courts the discretion to protect disabled individuals' right to participate in a jury, uphold a fundamentally fair trial, and maintain the efficiency of court proceedings.