

## **Voir Dire is Not Foolproof, But Gives Meaning to Constitutional Rights**

*Edwin Wright v. State of Maryland*, No. 6, September Term, 2009.

The opinion is available [here](#) (pdf).

While “voir dire is not a foolproof process,” . . . “it is better that we should use an overabundance of caution, and assume that the judicial system as a whole is better served by a more careful process. . . . Certainly, that is not too high a price to pay to give meaning to a right guaranteed by our Constitution.”

In an opinion filed November 16, 2009, the Maryland Court of Appeals reversed the judgment of the Court of Special Appeals, and remanded the case for a new trial. At issue before the Court was whether a trial court in Baltimore City had abused its discretion by conducting voir dire by way of posing a roster of questions in quick succession.

During jury selection, the trial court conducted a voir dire of a fifty-person venire panel. (Voir dire is the process that trial courts and attorneys use to question prospective jurors and determine whether they could be fair and impartial.) The trial court conducted the voir dire by posing a litany of seventeen questions to the panel. After the questions were read, each juror was asked to approach the bench and state whether they had information to provide in response to the questions posed.

Counsel for the defendant objected to this methodology of voir dire, and argued that the jurors would be unable to remember all of the questions posed so as to fairly respond to them by the time they approached the judge. At trial, the defendant was convicted, and on appeal his conviction was affirmed in the Court of Special Appeals.

In the Court of Appeals, the petitioner argued that the trial court’s method of conducting voir dire failed to reasonably ensure that the court received accurate responses to its questions. The Court of Appeals agreed, and held that the trial court abused its discretion by conducting voir dire in this “cursory” and “unduly limited” manner.

The right to a fair and impartial jury is guaranteed by the United States Constitution and the Maryland Declaration of Rights. The essential purpose of voir dire in a criminal case is to ensure that this right is protected. While trial courts have broad discretion in the way they conduct voir dire, an appellate court will not defer to a lower court’s judgment when the voir dire method employed by the court “fails to probe juror biases effectively.”

The Court of Appeals took care to note that the questioning part of the voir dire process took about five minutes and thirty seconds. In addition, some of the jurors who were ultimately selected for the jury approached to answer the questions nearly one hour after the questions had been read. “Information presented in the courtroom is most accessible when divided into small, discrete segments.” By failing to allow jurors time to absorb the questions that were being posed to them, the Court of Appeals held, the trial court limited the jurors’ opportunity to provide

accurate information to the court.

“An incomplete voir dire necessarily means an incomplete investigation into potential juror biases, which in turn leads to the very real possibility that the venire members failed to disclose relevant information.”

Posted by [Brennan Sullivan and McKenna](#)