

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)
)
 v.) No. 0807040237
)
 DECHANTA KNOX,)
)
 Defendant.)

Submitted: June 25, 2009
Decided: July 24, 2009

Upon Defendant's Motion For a New Trial

STAYED PENDING ADDITIONAL INQUIRY

ORDER

Upon review of Dechanta Knox's ("Defendant") Motion for a New Trial and the record, it appears to the Court that:

1. Following trial by jury on March 18, 2009, defendant was found guilty of three counts of issuing a bad check. Defendant's sentencing awaits a presentence investigation.
2. Defense counsel filed a motion for new trial on April 6, 2009. Defendant asserts possible bias by a juror in favor of the state based on non-disclosure or denial of material information during *voir dire*. Defendant

contends that the juror failed to disclose his status as a victim of a violent crime and his familiarity with the prosecutor.

3. The prosecuting attorney in this case met with Juror Number 8, a victim in a pending criminal case, on March 25, 2009. The prosecutor represents:

that any contact with the juror in the unrelated case prior to the Knox trial would have been ministerial, consisting primarily (if not solely) of an introduction and explanation of where the case was in the criminal justice process. No such contact would have been in person, rather it would have been conducted over the phone or by letter.

The prosecutor did not recognize the juror's name or face.

4. The *voir dire* of the jury panel did not include a question regarding whether any prospective juror had been the victim of a violent crime. Therefore, Juror Number 8 did not fail to disclose requested information relating to his status as a crime victim.

5. The Court asked the panel: "Do you know the attorneys in this case or any other attorney or employee in the offices of the Attorney General or the defense counsel?" Juror Number 8 did not respond to this question. Under the circumstances, it is reasonable to infer that because the juror had never met Carroll personally and had only minimal communications with him, the juror did not recall the prosecutor at the time of the *voir dire*.

6. The Court must determine whether there has been a “denial or non-disclosure of material information in response to a *voir dire* question.”¹ To the extent the juror’s response was inaccurate, if the inaccuracy was not dishonest, a new trial is not warranted.²

7. The Court must interview Juror Number 8 to ascertain the juror’s state of mind and any possible bias. A hearing will be scheduled for that purpose as soon as possible.

IT IS SO ORDERED.

The Honorable Mary M. Johnston

¹ *Banther v. State*, 823 A.2d 467, 482 (Del. 2003) (citing *Jackson v. State*, 374 A.2d 1, 2 (Del. 1977)) (citations omitted).

² *Smallwood v. State*, 2002 WL 31883015, at *1 (Del.); (citing *Fitzgerald v. Greene*, 150 F.3d 357, 362-63 (4th Cir.1998) (no new trial warranted where juror's interpretation of *voir dire* question did not indicate dishonesty but rather factual inaccuracy); *United States v. Edmond*, 43 F.3d 472, 473-74 (9th Cir. 1994) (simple forgetfulness of juror did not indicate lack of impartiality)).