IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR SUSSEX COUNTY

STATE OF DELAWARE)
)
v.) ID 0804009949
)
MILLARD PRICE,)

Upon Defendant's Motion to Compel. Denied.

Submitted: October 16, 2009 Decided: November 3, 2009

<u>O R D E R</u>

In this capital murder case, Defendant Millard E. Price has moved for an order compelling the State to provide Defendant with equal access to criminal records of the jury array or to preclude the State from possessing such records during jury selection. The State opposes the motion, arguing that Defendant has not shown that he will suffer any prejudice from not having the records because he can ask questions to the potential jurors about their involvement with crime.

By statute, Defendant is barred from having access to a juror's criminal history:

Notwithstanding any law or court rule to the contrary, the dissemination to the defendant or defense attorney in a criminal case of criminal history record information pertaining to any juror in such case is prohibited.¹

¹Title 11 *Del. C.* § 8513 (g) (2007).

Despite the clarity of § 8513 (g), Defendant argues that *Charbonneau v. State* indicated that a due process violation could be made on the proper showing. Yet *Charbonneau* found that the defendant's due process rights were not violated by the State's exclusive possession of the jurors' criminal information.² The Court also stated that *voir dire* questions about jurors' involvement in past crimes could be asked prior to trial.³ A similar result was reached in *McBride v. State*.⁴

These principles still govern the issue raised in Defendant's motion to compel. Because Defendant will have the opportunity during *voir dire* to ask necessary questions, the Court finds that Defendant has not shown that his due process or equal protection rights will be denied by the State's exclusive possession of the jurors' criminal records.

For these reasons, Defendant's motion to compel is **DENIED**.

IT IS SO ORDERED.

Richard F. Stokes, Judge

Original to Prothonotary cc: Paula T. Ryan, Esquire John Donahue, Esquire Stephanie Tsantes, Esquire

John Daniello, Esquire Joseph A. Hurley, Esquire

 $^{3}Id.$

⁴477 A.2d 174 (Del. 1984).

²904 A.2d 295, 319 (Del. 2006).