

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ALVIN PHILLIPS,	§	
	§	No. 195, 2005
Defendant Below,	§	
Appellant,	§	
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware
STATE OF DELAWARE,	§	in and for New Castle County
	§	Cr. I.D. No. 0408028860
Plaintiff Below,	§	
Appellee.	§	

Submitted: October 26, 2005

Decided: November 28, 2005

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

ORDER

This 28th day of November, 2005, on consideration of the briefs of the parties, it appears to the Court that:

1) Alvin Phillips appeals from his convictions, following a jury trial, of first degree carjacking and possession of a deadly weapon during the commission of a felony. His sole argument is that the trial court erred in refusing to give a jury voir dire question concerning possible racial bias. Phillips is African-American and the carjacking victim is white. Consistent with our holding in *Filmore v. State*¹, we conclude that the trial court was required to ask the potential jurors about racial prejudice. Accordingly, we reverse.

¹813 A.2d 1112 (Del. 2003).

2) On August 29, 2004, Kurt Charles stopped at a gas station on Route 13 to purchase a bottle of water. He saw Phillips and the store clerk arguing. When Charles returned to his car, Phillips approached the driver's side and showed Charles a handgun that was tucked in his waistband. Phillips then got into Charles's car and ordered Charles to drive him to two locations in Wilmington. Phillips left the car at both stops, but Charles did not attempt to drive away. After the second stop, Phillips told Charles to drive him back to the gas station. Phillips got out, and Charles drove away. Phillips was arrested at a motel near the gas station. No gun was recovered.

3) Before jury selection began, Phillips asked the trial court to question the prospective jurors about racial bias. The trial court noted that there were no racial overtones to this incident, and ruled that the mere fact that a defendant is African-American and a victim is white is not enough reason to ask a voir dire question on racial bias. Phillips was convicted and sentenced as a habitual offender. This appeal followed.

4) In *Feddiman v. State*,² this Court held that trial courts must ask potential jurors about racial bias under the facts presented here. More recently, in *Filmore v. State*, this Court stated:

If for some reason our holding in *Feddiman* seems unclear, we announce the following bright line rule: Our view that Article I Section 7

²558 A.2d 278, 282-83 (Del. 1989).

of the Delaware Constitution calls for the “essential demands of fairness” requires that the trial judge question prospective jurors about racial prejudice when: (1) the defendant stands accused of a violent crime; (2) the defendant and victim are members of different racial groups; and (3) the defense attorney specifically requests the trial court to question the jurors during *voir dire* concerning potential racial prejudice.³

5) Phillips satisfied all of the *Feddiman* requirements. We reject the State’s contention that, because Charles was not injured during the carjacking, the crime was not a violent crime for purposes of this analysis. Carjacking is denominated a violent crime and, in this case, Phillips used a gun to threaten his victim.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be, and the same hereby is, REVERSED. This matter is REMANDED for a new trial. Jurisdiction is not retained.

BY THE COURT:

/s/ Carolyn Berger
Justice

³813 A.2d 1112, 1117 (Del. 2003).