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# Recent Developments: Stringfellow v. State: Voir Dire Question Asking Potential Jurors Whether They Would Require Scientific Evidence in Order to Find the Defendant Guilty beyond a Reasonable Doubt Deprived the Defendant of a Fair and Impartial Jury; Sufficient Evidence of Handgun Possession Existed to Support the Convictions

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## RECENT DEVELOPMENT

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***STRINGFELLOW V. STATE*: VOIR DIRE QUESTION ASKING POTENTIAL JURORS WHETHER THEY WOULD REQUIRE SCIENTIFIC EVIDENCE IN ORDER TO FIND THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT DEPRIVED THE DEFENDANT OF A FAIR AND IMPARTIAL JURY; SUFFICIENT EVIDENCE OF HANDGUN POSSESSION EXISTED TO SUPPORT THE CONVICTIONS.**

**By: Jennifer M. Williams**

The Court of Special Appeals of Maryland held that the trial court abused its discretion by referring solely to conviction when asking potential jurors if they would require scientific evidence in order to render a guilty verdict. *Stringfellow v. State*, 199 Md. App. 141, 20 A.3d 825, cert. granted, 421 Md. 557, 28 A.3d 644 (2011). The court further held that the testimony of two eyewitnesses, if believed, was sufficient for a reasonable jury to find that the defendant possessed a handgun. *Id.* at 155, 20 A.3d at 834.

On November 21, 2009, two detectives with the Baltimore City Police Department saw Reginald Stringfellow (“Stringfellow”) holding a handgun while standing on the street. One detective apprehended Stringfellow; the other recovered the firearm and found that it contained seven live rounds. The detective did not request a fingerprint analysis because no suitable prints were found on firearms he recovered in the past.

During voir dire in the Circuit Court for Baltimore City, the judge asked, “[d]oes any member of the panel believe that the State is required to utilize specific investigative or scientific techniques such as fingerprint examination in order for the defendant to be found guilty beyond a reasonable doubt?” The question elicited no response from the venire. The jury was empanelled and both detectives testified at trial that they observed Stringfellow holding the gun. Despite contrary defense testimony, the jury found Stringfellow guilty of wearing, carrying, or transporting a handgun, and possessing a regulated firearm after being convicted of a disqualifying crime.

Stringfellow raised two issues on appeal to the Court of Special Appeals of Maryland. First, Stringfellow questioned whether the trial court erred in asking the “scientific evidence” voir dire question. He argued that the question deprived him of a fair trial because it signaled to potential jurors that they should return a guilty verdict. Second,

Stringfellow questioned whether the detectives eyewitness testimony was sufficient to sustain the convictions.

The Court of Special Appeals of Maryland opened its analysis by declaring that the purpose of voir dire in criminal cases is to ensure selection of a fair and impartial jury. *Stringfellow*, 199 Md. App. at 147, 20 A.3d at 829 (citing *Wright v. State*, 411 Md. 503, 983 A.2d 519 (2009)). Either the judge or the attorneys may conduct voir dire; however, it is within the judge's discretion to determine the form and substance of the questions. *Stringfellow*, 199 Md. App. at 147, 20 A.3d at 829 (citing MD. R. 4-312(d)(1)). Appellate courts review the propriety of voir dire inquiries under an abuse of discretion standard. *Stringfellow*, 199 Md. App. at 147-48, 20 A.3d at 829-30 (citing *North v. North*, 102 Md. App. 1, 13-14, 648 A.2d 1025, 1031-32 (1994)). A court will be found to have abused its discretion when no reasonable person would have adopted the trial court's view or if the court's ruling unfairly deprived a party of a substantial right. *Stringfellow*, 199 Md. at 148, 20 A.3d at 829-30 (citing *North*, 102 Md. App. at 13-14, 648 A.2d at 1031-32).

The court first addressed the propriety of the voir dire question. Upon examining Maryland precedent, the court noted that appellate courts have not approved of venire questions that suggested the jury's only option was to find a criminal defendant guilty. *Stringfellow*, 199 Md. App. at 153, 20 A.3d at 832. Instead, permissible inquiries use neutral language to determine whether potential jurors would give more or less weight to certain types of evidence, or whether the jurors personal beliefs would prevent them from rendering a fair and impartial verdict. *Id.* at 153, 20 A.3d at 832-33.

For further guidance, the court relied on *Charles v. State*, wherein the Court of Appeals of Maryland addressed the propriety of a voir dire question aimed at addressing the "CSI effect." *Stringfellow*, 199 Md. App. at 149, 20 A.3d at 830 (citing *Charles v. State*, 414 Md. 726, 997 A.2d 154 (2010)). In *Charles*, the trial court asked whether any potential jurors believed they could not convict a defendant without scientific evidence, regardless of what other evidence the state presented. *Stringfellow*, 199 Md. App. at 149, 20 A.3d at 830 (citing *Charles*, 414 Md. App. at 730, 997 A.2d at 154). In reaching its decision in *Charles*, the court compared the voir dire question to the jury instruction at issue in *State v. Hutchinson*. *Stringfellow*, 199 Md. App. at 150, 20 A.3d at 831 (citing *State v. Hutchinson*, 287 Md. 198, 411 A.2d 1035 (1980)). In *Hutchinson*, the judge only explained to the jury how to render a guilty verdict when providing instructions on the verdict sheet. *Stringfellow*, 199 Md. App. at 150, 20 A.3d at 831 (citing *Hutchinson*, 287 Md. at 201, 411 A.2d at 1035). The *Hutchinson* court held that the trial judge abused his discretion because the language in the jury instruction suggested that

finding the defendant guilty was a foregone conclusion. *Stringfellow*, 199 Md. App. at 150-51, 20 A.3d at 831 (citing *Charles*, 414 Md. at 737, 997 A.2d at 154).

In arriving at its holding in *Charles*, the court also found persuasive a Mississippi opinion, *Goff v. State*. *Stringfellow*, 199 Md. App. at 151-52, 20 A.3d at 831-32. The prosecutor in *Goff* asked potential jurors whether they could consider all of the evidence without speculating as to why there may be no DNA, fingerprint, or other types of evidence they may have learned about on “CSI.” *Id.* at 151-52, 20 A.3d at 832 (citing *Goff v. State*, 14 So. 3d 625, 652-53 (Miss. 2009)). The *Goff* court held that because the voir dire inquiry was neutrally worded, the prosecutor’s remarks did not prejudice the defendant. *Stringfellow*, 199 Md. App. at 152, 20 A.3d at 832 (citing *Goff*, 14 So. 3d at 652-53).

After analyzing *Hutchinson* and *Goff*, the court in *Charles* held that the trial judge abused his discretion because the question suggested that the venire’s only option was to convict the defendant. *Stringfellow*, 199 Md. App. at 152, 20 A.3d at 832 (citing *Charles*, 414 Md. at 739, 997 A.2d at 162). The question, therefore, “poisoned the venire, thereby depriving [the defendants] of a fair and impartial jury.” *Stringfellow*, 199 Md. App. at 152, 20 A.3d at 832 (quoting *Charles*, 414 Md. at 739, 997 A.2d at 162). The court in the instant case found the voir dire question nearly identical to the question in *Charles* because it preordained the return of a guilty verdict. *Stringfellow*, 199 Md. App. at 152-53, 20 A.3d at 832. Although the trial court’s question did not elicit a response from the venire, the court could not say that the error did not influence the verdict. *Id.* at 153, 20 A.3d at 833. Accordingly, *Stringfellow* was deprived of his right to be tried by a fair and impartial jury. *Id.*

The court next addressed the issue of the sufficiency of the State’s evidence. When an appellant raises this issue on appeal, the court cannot order a new trial unless the evidence was indeed sufficient to sustain the convictions. *Stringfellow*, 199 Md. App. at 154, 20 A.3d at 833. The standard on appeal is whether the evidence, when viewed in the light most favorable to the state, was sufficient for a rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *Id.* at 154, 20 A.3d at 833 (citing *Jackson v. Virginia*, 443 U.S. 307, 319 (1979)). The court emphasized that the jury was free to believe or disbelieve any part, or the entirety of, the detectives’ testimony. *Stringfellow*, 199 Md. App. at 155, 20 A.3d at 834. Because the jury clearly credited the testimony, that was sufficient evidence for rational jurors to find the elements of the crimes beyond a reasonable doubt. *Id.* *Stringfellow*’s convictions were reversed and remanded for a new trial. *Id.*

The holding in *Stringfellow* emphasizes that all voir dire inquiries must be neutrally worded to avoid prejudice to the defendant. A trial

court's use of one-sided language that refers solely to conviction or "guilt beyond a reasonable doubt" will not be upheld on appeal unless an alternative to guilt was also offered. Neither appellate court in Maryland has decided whether voir dire inquiries that address the "CSI effect" are appropriate on a theoretical level. The State, however, appealed this decision and the Court of Appeals of Maryland granted certiorari. Perhaps now, the Court of Appeals of Maryland will address whether it is proper for trial courts to incorporate voir dire questions that address the presence or absence of scientific evidence.