

IN THE COURT OF APPEALS OF MARYLAND

No. 42

September Term, 1996

DARRIS ALARIC WARE

v.

STATE OF MARYLAND

Bell, C.J.
Eldridge
Rodowsky
Chasanow
* Karwacki
Raker
Wilner,

JJ.

Concurring and Dissenting Opinion by Bell, C.J.

Filed: November 18, 1997

*Karwacki, J., now retired, participated in the hearing and conference of this case while an active member of this Court; after being recalled pursuant to the Constitution, Article IV, Section 3A, he also participated in the decision and the adoption of this opinion.

I concur in and, therefore, join in all but part III A of the majority opinion.

In my opinion, the instruction, at issue in part III A, which the appellant timely requested, is a correct statement of the law; unanimity is an option available to the jury. For my views on that subject, see my dissenting opinions in Booth v. State, 327 Md. 142, 203, 608 A.2d 162, 192 (1992) and Oken v. State, 327 Md. 628, 684, 612 A.2d 258, 286 (1992).