Circuit Court for Montgomery County
Case No. 135060C

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2421

September Term, 2023

HENRY GRENFELL STEVENSON

v.

STATE OF MARYLAND

Graeff,
Albright,
Battaglia, Lynne A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Battaglia, J.

Filed: July 3, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Following a jury trial in the Circuit Court for Montgomery County, Henry Grenfell Stevenson, the Appellant herein, was convicted of attempted second-degree murder and first-degree assault. Stevenson was sentenced to thirty years' incarceration, with all but twenty years suspended.

He raises one issue on appeal:

> Whether the trial court denied Mr. Stevenson his right to an impartial jury by erroneously declining to ask a mandatory voir dire question necessary to discover whether prospective jurors would give the testimony of law enforcement officers more weight than the testimony of other witnesses?

The State concedes that the trial court erred in not asking this mandatory voir question and that Stevenson properly preserved his objection.

We agree. As a result, we shall vacate the judgment of the circuit court and remand for a new trial.

BACKGROUND

Stevenson was tried before a jury in the Circuit Court for Montgomery County on a criminal indictment, charging him with attempted first-degree murder and first-degree assault. The gravamen of the State's evidence was testimony from five law enforcement officers from the Montgomery County Police Department, including one police officer, two sergeants, and two detectives. Two weeks prior to jury selection, Stevenson's counsel submitted a set of questions for voir dire, which included several queries focused on whether any prospective jurors were affiliated with or exhibited an affinity toward law

enforcement officers.[1] The question, which the trial judge refrained from giving was Number 34 in Stevenson's voir dire list:

> Would any of you tend to believe or disbelieve the testimony of a law enforcement officer more than the testimony of any other witness?

After voir dire had been completed, the trial judge asked counsel whether there was "anything else" to pose to the panel. Stevenson's counsel asserted that "Question 34" had not been asked, and the judge responded that the question had been "covered" by the following inquiries, numbered in Stevenson's list as Questions 31 and 32, respectively:

- Would you tend to believe or disbelieve the testimony of a witness called by the prosecution more than the testimony of a defense witness?

- Would you tend to believe the testimony of a witness called by the defense more than the testimony of a witness called by the prosecution?

[1] The following questions related to law enforcement were offered by Stevenson and asked during voir dire:

- Have you or a close friend or relative even been trained or employed in the law, law enforcement, or a law-related field such as an attorney, paralegal, investigator, or a legal secretary?

- Have you or a close friend or relative been employed by, or associated in any way with, someone who is employed by any police department, transit authority, fire department, or paramedic unit?

- Is there any member of the prospective jury panel who has career plans to work in the field of law enforcement or join a law enforcement agency?

- Is there any member of the prospective jury panel who has made contributions or donations to the police department, fire department, or other law enforcement or rescue agency?

Stevenson's counsel, apparently, continued to object to the court's failure to give Question 34. In any event, the State does not challenge that Stevenson preserved the issue for our review.[2]

After Stevenson was convicted, but prior to his sentencing, his counsel filed a motion for a new trial, pursuant to Maryland Rule 4-331(a),[3] asserting that Stevenson was deprived of his right to a fair and impartial jury because the trial judge did not ask Question 34, "would any of you tend to believe or disbelieve the testimony of a law enforcement officer more than the testimony of any other witness?" The State responded to the motion, asserting that the court's failure to ask a single question during voir dire did not compromise Stevenson's right to a fair and impartial jury and that the trial judge should deny the motion for a new trial. A hearing on the motion for a new trial was held, and after arguments, the same judge determined that "the questions that were asked, which were of

[2] The colloquy between the trial judge and Stevenson's counsel at the bench is attenuated, because the recording of the voir dire proceedings at the bench was damaged. In preparation for the hearing on the motion for a new trial, four exhibits were prepared. The first exhibit was an original version of the transcript of the voir dire proceedings from the court's technical services department; the second exhibit was a summary of what the trial judge heard when he went back and listened to the proceedings; the third was a summary of what the trial judge heard after listening again to the recording without the sound of a white noise "husher" in the background; and the fourth and final exhibit was a transcript created by the court's technical services department after being asked again to listen to the recording more carefully. None of the technical issues, however, have intruded upon our review.

[3] Maryland Rule 4-331(a) provides:

> (a) **Within ten days of verdict. --** On motion of the defendant filed within ten days after a verdict, the court, in the interest of justice, may order a new trial.

the category and affiliation variety, were broad enough to include within their scope any occupation or status-based witnesses who may have been called by either side" and denied the motion for a new trial. [4]

After the motion for a new trial was denied, the trial judge sentenced Stevenson to thirty years' incarceration with all but twenty years suspended.[5] Stevenson noted a timely appeal.

DISCUSSION

"Voir dire is the primary mechanism through which the constitutional right to a fair and impartial jury, guaranteed by the Sixth Amendment to the United States Constitution and Article 21 of the Maryland Declaration of Rights, is protected." *Curtin v. State*, 393 Md. 593, 600 (2006) (citing *State v. Thomas*, 369 Md. 202, 206 (2002). "[I]n Maryland, the sole purpose of voir dire 'is to ensure a fair and impartial jury by determining the existence of [specific] cause for disqualification[.]'" *Pearson v. State*, 437 Md. 350, 356 (2014) (citing *Washington v. State*, 425 Md. 306, 312 (2012)). A juror may be disqualified when statutory requirements are not met or if "'a collateral matter [is] reasonably liable to have undue influence over' a prospective juror. *Id.* at 357. The latter category is [generally] comprised of 'biases directly related to the crime, the witnesses, or the defendant[.]'" *Id.* Maryland Rule 4-312(e) provides in pertinent part that, "[t]he trial judge

[4] At the motion for new trial, the trial judge referred to the damaged voir dire recordings but reached the merits of the motion for a new trial.

[5] Count Two, first-degree assault, was merged with Count One, attempted second-degree murder.

may permit the parties to conduct an examination of qualified jurors or may conduct the examination after considering questions proposed by the parties."[6] Generally, "[a]n appellate court reviews for abuse of discretion a trial court's decision as to whether to ask a voir dire question." *Pearson,* 437 Md. at 356. (Emphasis removed).

One question testing bias "directly related" to the witnesses is whether a prospective juror would give more or less weight to the testimony of a law enforcement officer. *Id.* In *Langley v. State*, 281 Md. 337, 349 (1977), the then Court of Appeals[7] held that it was reversible error for the trial judge in voir dire to refuse to ask if there is anyone who would give more credit to the testimony of a police officer over that of a civilian merely because of his status as a police officer. The pivotal question was phrased, if "a principal part of the State's evidence is testimony of a police officer diametrically opposed to that of a defendant, is it prejudicial error to fail to propound a question such as that requested in this case[?]" *Id.* at 349. The Court answered in the affirmative, without reference to whether other questions on voir dire regarding law enforcement would suffice.

In *Bowie v. State*, 324 Md. 1, 5 (1991), the same court considered whether the failure to propound a similar question was an error: "Did the trial court err in refusing to propound voir dire questions designed to identify jurors who would give more weight to the

[6] *See Washington*, 425 Md. at 314 (citing *Poole v. State*, 295 Md. 167, 187 (1983) ("Other than by Rule 4–312 and Maryland common law, the manner of conducting voir dire is not governed by any statute or specific rule.").

[7] At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Appeals to the Supreme Court of Maryland. The name change took effect on December 14, 2022.

testimony of police officers than civilians . . .?" (Emphasis removed). In answering the question, the Court deemed *Langley* to be dispositive and clarified that a defendant is not required to proffer that the testimony of the police officer would be diametrically opposed to the defense for the police-witness question to be asked. *Id.* at 8-9.

The Court of Appeals in *Curtin v. State,* 393 Md. at 609 n.8, while grappling with whether a different voir dire question was required, alluded to the "placement of undue weight on police officer credibility" as a mandated inquiry during voir dire, without reference to a constitutional paradigm. The following year, in *Stewart v. State*, 399 Md. 146, 161 n.5 (2007), the Court identified the police-officer question, "whether any juror would tend to give either more or less credence" to the testimony of an officer because of their occupation, as a question that must be asked by the trial judge if requested by a defendant.

In *Moore v. State*, 412 Md. 635, 641, 649-650 (2010), the Court further underscored "the well settled principle" that the police-witness question is mandatory, because it "uncover[s] prejudicial or disqualifying bias [that would] . . . adversely impact[] the defendant's ability to obtain a fair and impartial trial." Quite recently, the Court in *Mitchell v. State*, 488 Md. 1, 25-26 (2024), highlighted that "a juror may apply their own experience with respect to police officers" and thus iterated that the police-witness question is needed to eliminate a potential disqualifying bias from the jury panel.

Also, in subsequent cases following *Langley*, the Court established that the law enforcement witness question is specifically mandated and could not be subsumed by other questions of bias. In *Thomas v. State*, 454 Md. 495, 497 (2017), the Court scrutinized the

manner in which the police-witness question was posed by the trial court. Because three law enforcement officers were anticipated to testify at trial, Thomas had posed the following question to be included in voir dire:

> If you are selected as a juror in the case you may hear the testimony of one or more law enforcement officers. Do any of you believe that a law enforcement officer's testimony is entitled to greater weight than any other witness just because he is a law enforcement officer? *Id.* at 498-500.

Instead, the trial judge asked a broad occupational bias question that was 450 words and 30 sentences long and which combined a laundry list of potential occupations including "a physician, a clergyman, a firefighter, a police officer, psychiatrist, social worker, [and] electrician" into the one question. *Id.* at 501, 506. Thomas averred that the length and format of the question "obfuscated the police-witness question, thereby evading the spirit of the required inquiry." *Id.* at 506.

In reversing, the Court held that it was an error to fail to propound a voir dire question that was tailored to the witnesses' occupation as police officers and that the question provided did not "satisfy the purpose and spirit of the question—to identify a juror's predisposition to give a police officer's testimony greater or lesser weight than that of another witness due to his or her position as a police officer." *Id.* at 506, 13. *See also Brice v. State*, 225 Md. App. 666, 690 (2015) (other voir dire questions were not sufficient to cover the police-witness question).

As a result, because the State's witnesses included law enforcement officers, the failure to ask the voir dire panel, "whether any of the jurors would tend to believe or disbelieve the testimony of a law enforcement officer more than the testimony of any other

witness" was an abuse of discretion on the part of the trial court. The question was a mandatory one, not to be subsumed into other categories of questions addressing occupational biases, affinities toward law enforcement, or status as a witness. As a result, we vacate the judgment of the trial court and remand the case for a new trial.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY VACATED. CASE REMANDED FOR A NEW TRIAL. COSTS TO BE PAID BY MONTGOMERY COUNTY.