

Circuit Court for Baltimore County
Case No. C-03-CR-22-000158

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 2450

September Term, 2023

GARY WARREN PARRISH

v.

STATE OF MARYLAND

Shaw,
Ripken,
Meredith, Timothy E.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 2, 2025

*This is a per curiam opinion. Under Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Following a jury trial in the Circuit Court for Baltimore County, Gary Warren Parrish, appellant, was convicted of second-degree murder. On appeal, appellant contends that the trial court abused its discretion in refusing his request to ask prospective jurors during voir dire: (1) whether they would “tend to believe or disbelieve the testimony of a witness called by the prosecution more than the testimony of a defense witness” (the State-Witness question); and (2) whether they would give the testimony of a witness involved in forensic or scientific testing “more or less weight simply because it is scientific and forensic in nature” (the forensic testimony question). The State concedes that the court abused its discretion in refusing to ask the State-Witness question. We agree that the trial court abused its discretion in failing to ask the State-Witness question requested by appellant, and shall reverse the judgment of the circuit court. In light of our decision, we need not address appellant’s remaining contention regarding the court’s refusal to ask the forensic testimony question, nor is it necessary to set forth all the evidence at trial that supported appellant’s conviction.

Prior to trial, appellant filed a written request for voir dire questions that included the following question: “Would any member of the jury panel tend to believe or disbelieve the testimony of a witness called by the prosecution more than the testimony of a defense witness?” The court did not ask this question of the prospective jurors, despite a follow-up request to do so by defense counsel during voir dire. Specifically, the court indicated it would not ask the question because: “I think I’ve covered it every which way from Sunday.”

Whether to pose a requested voir dire question is a decision entrusted to the sound discretion of the trial judge. *Pearson v. State*, 437 Md. 350, 356 (2014) (“An appellate court reviews for abuse of discretion a trial court’s decision as to whether to ask a *voir dire* question.”). That broad discretion notwithstanding, “parties to an action triable before a jury have a right to have questions propounded to prospective jurors on their *voir dire*, which are directed to a specific cause for disqualification, and failure to allow such questions is an abuse of discretion constituting reversible error.” *Washington v. State*, 425 Md. 306, 317 (2012) (emphasis omitted) (quoting *Langley v. State*, 281 Md. 337, 341–42 (1977)). “There are two categories of specific cause for disqualification: (1) a statute disqualifies a prospective juror; or (2) a collateral matter is reasonably liable to have undue influence over a prospective juror.” *Collins v. State*, 463 Md. 372, 376 (2019) (quotation marks and citation omitted). The second category comprises “biases [that are] directly related to the crime, the witnesses, or the defendant.” *Id.* at 377 (quotation marks and citation omitted).

In *Moore v. State*, 412 Md. 635 (2010), the Supreme Court of Maryland held that the State-Witness question is mandatory when requested. The Court explained:

The question specifically addresses whether a witness[] sponsored by the State would receive a “presumption of credibility” in direct contravention to a defendant’s right to a fair and impartial trial. *Voir dire*, as this Court has held numerous times, is supposed to uncover bias favoring one witness over another solely because of that witness’s status or affiliation demonstrates bias . . . [I]t is not enough to confine the inquiry to occupation, to assure a fair trial, it is necessary to extend the inquiry to whether a venireperson would also favor or disfavor a non-official witness, simply because of his or her status or affiliation with the State or the defense.

Id. at 663-64.

As in *Moore*, appellant was entitled to have the court ask the State-Witness question.¹ The proposed question went to the heart of the fairness discussed in *Moore*, and was crafted in order to discover potential bias among the venire, either for or against a witness based purely on their affiliation with either the State or the defense. Moreover, a review of the record indicates that the court’s other voir dire questions did not fairly cover the topic raised in appellant’s proposed question. For example, the court’s question regarding whether the prospective jurors would give more weight to the testimony of a police officer, while helpful, ignores whether a prospective juror might credit a prosecution witness over a defense witness, regardless of their occupation. *See Moore*, 412 Md. at 665. And in this case were multiple witnesses called by the State who were not police officers.

Because the trial court did not ask the mandatory State-Witness question, and we are unable to conclude that the trial court’s other questions would have revealed the potential bias that the State-Witness question was designed to uncover, we must reverse appellant’s conviction.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY REVERSED.
COSTS TO BE PAID BY BALTIMORE
COUNTY.**

¹ To be sure, the court was not required to ask the exact question propounded by appellant. *See State v. Shim*, 418 Md. 37, 55 (2011) (“A proposed *voir dire* question need not be in perfect form, and the [trial] court is free to modify the proposed question as needed.” (citations omitted)). Nevertheless, upon appellant’s request, it was required to formulate a question for prospective jurors that was sufficient to determine whether they would give more credence to a prosecution witness simply because they were called by the State.