



IN THE SUPREME COURT OF THE STATE OF DELAWARE

NOAH SHARP,)
)
 Defendant Below,)
 Appellant,)
) No. 64, 2023
 v.)
)
 STATE OF DELAWARE,)
)
 Plaintiff Below,)
 Appellee.)

APPELLANT'S OPENING BRIEF

**ON APPEAL FROM THE SUPERIOR COURT IN AND FOR NEW
CASTLE COUNTY**

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DATE: December 4, 2023

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NATURE AND STAGE OF THE PROCEEDINGS

Noah Sharp was first indicted on November 16, 2020 (A1, D.I #4; A15—16), and then reindicted on March 8, 2021. A3, D.I.#9; A17—18. The trial court granted his original attorneys’ motion to withdraw as counsel on April 8, 2021, and trial counsel entered their appearance that same day. A4, D.I.#15 and #17.

Appellant was tried before a jury from October 17, 2022 to October 27, 2022. A12, D.I.#85. At the start of trial, juror number 8 admitted to having concerns about his impartiality given that his wife was active on the victim’s family social media campaign. A293. Defense counsel made a motion to strike him from the jury and the court denied it. A301—03. Sharp was convicted on all charges. A945—47.

On February 3, 2023 Sharp was sentenced to serve his natural life, plus thirty years at level 5, followed by probation. (*See* Sentence Order, attached as Ex. B).

Sharp filed a timely notice of appeal. This is his opening brief in support of that appeal.

SUMMARY OF THE ARGUMENT

1. During *voir dire*, a juror failed to provide accurate and material information to the trial court. The juror failed to inform the trial court, in response to a relevant question, that one of his children is in school with a classmate of the victim and that his wife was active on a “very one sided” social media campaign. During the middle of trial, the juror came forward with bias concerns and admitted to forming “feelings” about the defendant’s guilt when he became familiar with the case. Accordingly, Sharp moved to strike the juror from the panel and the trial court denied the motion. This, in turn, denied Sharp his rights to an impartial jury. Had the juror properly provided the trial court with material information during jury selection, there would have been a challenge for cause by Sharp. Thus, his convictions must be reversed.

STATEMENT OF FACTS

According to the State, Noah Sharp, and his co-defendant, Annika Stalczynski (“Stalczynski”) began planning the murder of Maddison Sparrow (“Sparrow”) in September 2020. Sharp and Stalczynski each gave numerous statements to police: in some, they professed to have not been involved in Sparrow’s murder, and other’s they claimed involvement. A431—33; A441; A633—36. The Delaware State Police recovered text messages which appeared to show Sharp and Stalczynski planning the murder. A344—45; A384—91; A419—26). Stalczynski, who had entered into a plea agreement before Sharp’s trial, testified that they had in fact planned the murder on these texts. A612.

The Chief Investigating Officer summarized (A666—69) the State’s theory as to what occurred: on October 2, 2020 Stalczynski invited Sparrow to go out for ice-cream (A278; A480), but instead drove her to a wooded area near Maclary Elementary School where Sharp was waiting with a baseball bat and killed her. A454; A468—72; A479. Then, according to the State, Stalczynski and Sharp buried Sparrow next to a stream near Old Cooch’s Bridge Road (A555—58) and finally, disposed of a cooler with Sparrow’s blood on it at McVey Elementary School. A512—13; A534—35; A578. The State submitted video evidence of what Stalczynski testified was her and Sharp at each of these locations, engaging or preparing for the above-described parts of the crime. A419—22; A430; A624—27.

Sparrow's body was found at the location near Old Cooch's bridge (A487; A493—96), and the medical examiner concluded the cause of death was blunt force trauma to her head. A541—43.

I. SHARP WAS NOT AFFORDED HIS RIGHT TO A TRIAL BY AN IMPARTIAL JURY AS A RESULT OF THE COURT’S DECISION TO DENY HIS MOTION TO STRIKE A JUROR WHO FAILED TO DISCLOSE MATERIAL INFORMATION DURING VOIR DIRE AND LATER CAME FORWARD DURING THE TRIAL ADMITTING TO HAVING IMPARTIALITY CONCERNS.

Question Presented

Does a trial court deprive a defendant of his right to an impartial jury when, after discovery that a juror failed to disclose material information during *voir dire* and later comes forward during the trial disclosing bias concerns, it denies the defendant's motion to strike the juror from the panel? This question was preserved by defendant’s motion to strike the juror. A301.

Standard and Scope of Review

A trial court's decision overruling an objection relating to a constitutional violation is reviewed de novo. *Hall v. State*, 788 A.2d 118, 123 (Del. 2001).

Argument

During *voir dire*, a juror failed to provide material information to the trial court. The juror failed to inform the trial court, in response to a relevant question, that one of his children is in school with a classmate of the victim and that his wife was active on a “very one sided” social media campaign. After opening arguments, the same juror came forward with bias concerns and admitted to forming “feelings” about the defendant’s guilt when he became familiar with the

case. Accordingly, Sharp moved to strike the juror from the panel and the trial court denied the motion. This, in turn, denied Sharp his rights to an impartial jury. Thus, his convictions must be reversed.

Jury Selection At Sharp's Trial

Prior to selecting a jury, the court informed all members of the jury pool that the offenses, which included murder first degree, and conspiracy first degree “occurred in Newark, Delaware, on or about October 2, 2020,” and asked all potential jurors if they were familiar with “Noah Sharp, Annika Stalczynski, Madison Sparrow, or any of their friends or relatives,” had knowledge from “social media,” and if they or any of their relatives belong to “any victim advocacy groups.” A21—25.

One potential juror was excused by the court, without a request from either party, based on their representation they followed the case in the news, and had formed an opinion about the guilt of the defendant.” A32—33. The court did not ask the potential juror if they would be able to set aside that opinion and issue a verdict based on the evidence presented.

A second potential juror was excused, without a request from either party, based on their representation that they closely followed the case on social media and had formed a “[p]retty strong” opinion about the guilt or innocence of the

defendant.” A45—46. This potential juror was also not asked if they could set aside that opinion and issue a verdict based on the evidence presented.

A third potential juror was excused, without a request from either party, based on their representation that they had read a “pretty detailed” article about the case, which they misunderstood as meaning the case was already resolved. A117—18. This juror was also not asked if they could set aside any opinion they might have formed in order to issue a verdict based on the evidence presented.

Similarly, a fourth potential juror was excused, without a request from either party, based on their representation that they had heard about the case from a teacher at Newark Charter, read an article about the case recently, and has an opinion about the defendant’s guilt. A136—37. This juror was also not asked if they could set aside that opinion and issue a verdict based on the evidence presented.

Juror #8 Failed To Provide Relevant Information

After jury selection, initial instructions from the judge, opening statements, and the beginning of testimony, Juror 8 – who had not disclosed familiarity with any of the names, knowledge from social media, or that his wife was a member of “team Madison” informed a bailiff that:

he has heard some discussions ... about the case. And he has some familiarity with it ... Apparently [the State’s] opening statement rang a few bells. Otherwise he had no clue about it. A292.

Juror 8 explained that before being selected he “did not recognize any names or anything like that. But [he] live[s] right in the heart of Newark and, you know, when all this happened”, one of his kids is in school with a (former) classmate of the victim, Madison Sparrow. A293. Juror 8 specifically recalled that his wife was active on a “very one sided” social media campaign, “team Madison,” about the allegations. A293. Juror 8’s wife showed him the social media information and told him “about what was going on.” A294. Without being asked, he asserted “I would like to think I can be impartial.” A294. When asked if he “recall[ed] forming an opinion about the defendants and whether they were guilty” he responded “feelings, not necessarily an opinion” A295. The judge found that he had “impressions.” A294. Then, again without being asked, Juror 8 began to discuss “that whole unconscious bias” and elaborated:

Like I'm coming into it having heard some things a couple years ago. Do I have like -- have I formed an opinion? No. Do I think I can be unbiased? Yes. But what I didn't want to have happen is for somebody to come and say, hey, you live right in the middle of all this. A295—96.

The judge asked Juror 8 if he would be able to “set aside [any] opinion [he formed] and base [his] verdict on what [he] hear[s] in the courtroom,” (A296) to which Juror 8 responded:

I think I'm okay. So I mean -- so a lot of what I do for work is very analytical, right. I'm an engineer. I trouble shoot equipment and stuff like that. So it's really

compartmentalizing information. So, you know, I'm very aware of kind of taking what's present now and using that only and not trying to build from the past. So I feel like I'm okay. A297.

Based on the above, Sharp moved to strike Juror 8. A301. The Judge denied the motion to strike and explained the ruling as follows.

First of all, he said that this information came to him a couple years ago and is not currently something he is seeing. Secondly, he is aware I guess of the possibility of unconscious bias. So I would think he would -- first of all, maybe I should back up. I was impressed with his candor and the way of explaining things. And to the extent there is a concern about unconscious bias, he is aware of that himself. So I think he could control that. He's an engineer, as he said, and gives him the mindset of being able to sort of put things in a particular cubbyhole or pigeonhole them and sort of not allow other things to enter into the consideration. And he said he can do it and I have no reason to doubt that. A302—03.

Upon hearing that he was permitted to stay, Juror 8 replied, “[a]wesome.”

A303. Juror 8 went on to convict Sharp on all charges. A945—47.

The Non-Disclosed Information Was Material And Juror #8 Should Have Been Stricken From The Panel After He Came Forward During Trial Admitting To Having Concerns About His Bias And Impartiality

“Nothing is more basic to the criminal process than the right of the accused to a trial by an impartial jury. The presumption of innocence, the prosecutor's heavy burden of proving guilt beyond a reasonable doubt, and the other protections afforded the accused at trial are of little value unless those who are called to decide the defendant's guilt or innocence are free of bias.” *People v. Branch*, 389 N.E.2d 467,

469 (N.Y. 1979). “Both the Sixth Amendment to the United States Constitution and Article I, § 7 of the Delaware Constitution guarantee a defendant in a criminal proceeding the right to a fair trial by an impartial jury. *Banther v. State*, 823 A.2d 467, 481 (Del. 2003). Thus, the purpose of *voir dire* examination is to “expos [e] possible biases, both known and unknown, on the part of potential jurors.” *McDonough Power Equipment, Inc. v. Greenwood*, 464 U.S. 548, 554 (1984). A defendant's right to challenge peremptorily or for cause during *voir dire* is a “primary safeguard[] for impaneling a fair and impartial jury [.]” *Banther*, 823 A.2d at 482. A defendant's right to an impartial jury “is seriously impaired by a juror's denial or nondisclosure of material information in response to a *voir dire* question.” *Id.* Therefore, a defendant is entitled to a new trial when: a “juror fail[s] to answer honestly a material question on *voir dire*,” the “correct response would have provided a valid basis for a challenge for cause;” and the juror's reasons for concealment “affect [his] impartiality[.]” *McDonough*, 464 U.S. at 556.

Sharp, like any criminal defendant, has the right to a trial by an impartial jury. Here, he was not afforded that right. “Allowing Juror No. 8 to be empaneled in this case was so prejudicial that it jeopardized the fairness and integrity of the trial process”. *Knox v. State*, 29 A.3d 217, 223 (Del. 2011). An accurate response by Juror 8 to the *voir dire* questions during jury selection would have led to the discovery that one of Juror 8’s kids was in school at the time with a (former) classmate of the

victim, Madison Sparrow. Moreover, Juror 8 specifically recalled that his wife was active on a “very one sided” social media campaign, “team Madison,” about the allegations. A293. It also would have revealed the fact that the juror had already “form[ed] [feelings] about the defendants and whether they were guilty”. A295. Thus, the undisclosed information was material as it was probative of bias.

More importantly, had Juror 8 satisfied his duty to disclose the aforementioned information during *voir dire*, this knowledge would have been the basis for a peremptory challenge for cause. *Dennis v. U.S.*, 339 U.S. 162 (1950). In fact, during jury selection, four potential jurors were excused for similar basis. Here, defense counsel would, as a matter of certainty, have exercised a peremptory challenge to strike Juror No. 8.

In this case, Juror 8 should have been excused from the case. Apparently, the juror thought the issue was important enough that he himself raised the issue in the middle of the trial. As commendable as it might be to come forward with significant concerns about one’s own impartiality, the trial court should not have been “impressed” (A302-303) with the fact that Juror 8 failed to be candid when he needed to in order to assure the integrity of the judicial process. *Jackson v. State*, 684 A.2d 745, 749 (Del. 1996). Despite the fact that Juror 8 felt that he could proceed and deemed it “awesome” (A303) when he was permitted to stay on the panel, the fact of

the matter was that he recognized his own bias and impartiality that should have been raised during jury selection.

The Court erred in denying Sharp's motion to strike Juror 8, therefore allowing a biased juror to deliberate. This error deprived Sharp of the inalienable right to an impartial jury. Therefore, the verdict should be reversed and Sharp granted a new trial.

CONCLUSION

For the foregoing reasons and upon the authority cited herein, the undersigned respectfully submits that Noah Sharp's convictions should be reversed.

Respectfully submitted,

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