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STATE OF MARYLAND, FOR THE USE OF CHARLES H. MILLER, SR., v. MAUD M. WELSH.

No. 27

COURT OF APPEALS OF MARYLAND

160 Md. 542; 154 A. 51; 1931 Md. LEXIS 106

March 20, 1931, Decided

PRIOR HISTORY: [*1]** Appeal from the Baltimore City Court (**ULMAN,** J.).

Action by the State, for the use of Charles H. Miller, Sr., against Maud M. Welsh, on account of the death of Charles H. Miller, Jr. From a judgment for defendant, plaintiff appeals. Affirmed.

DISPOSITION: Judgment affirmed, with cost to the appellee.

LexisNexis(R) Headnotes

HEADNOTES: *Jury — Examination on Voir Dire.*

The court may properly refuse to allow a party to examine the members of the panel on their *voir dire*, when the party states that the purpose of the examination would be to ascertain whether any members of the panel are acquainted with the parties, since such acquaintance is not a cause for disqualification, and an examination of members of the panel is permissible only to ascertain causes for disqualification.

COUNSEL: W. LeRoy Ortel and H. Mortimer Kremer, for the appellant.

William D. Macmillan, with whom were Semmes, Bowen & Semmes on the brief, for the appellee.

JUDGES: The cause was argued before BOND, C. J., PATTISON, URNER, ADKINS, OFFUTT, DIGGES, PARKE, and SLOAN, JJ.

OPINIONBY: BOND

OPINION:

[51] [*543]** BOND, C. J., delivered the opinion of the Court.

In a suit at law for damages from death by negligence, the trial court denied a motion made by the plaintiff, now appellant, before striking any names from a list of twenty jurors supplied him, to examine the entire panel of jurors to ascertain whether cause for disqualification of any of them existed. In answer to a question by the court, the appellant announced that the purpose of the examination would be to ascertain whether any of the panel were acquainted with the parties. The court then denied the motion, and, instead, asked, after the parties **[***2]** had struck from the list, whether any of the remaining twelve jurors were so acquainted with the parties. That action is the sole ground of appeal from a judgment for the defendant.

Either party has a right to have a list of twenty names of qualified persons supplied to him for striking off four, and as a means of ascertaining the existence of any ground of disqualification has a right to have the members of the full panel examined on their *voir dire. Lee v. Peter, 6 G. & J. 447, 452; Edelen v. Gough, 8 Gill 87, 90; Hamlin v. State, 67 Md. 333, 337, 10 A. 214, 301; Lockhart v. State, 145 Md. 602, 613, 125 A. 829; Beck v. State, 151 Md. 615, 617, 135 A. 410;* Code, art. 51, sec. 13. "Each party is authorized, without any cause of challenge, for reasons confined to his own bosom, to strike from the list of twenty jurors, the four persons whom he is least willing should sit in judgment upon his rights. To secure the full enjoyment of this valuable franchise, it is manifest that the panel, before it is stricken from, should present twenty names beyond the reach of challenge, * * * We think, therefore, **[***3]** that the county court erred in refusing to hear and determine the causes of challenge to the polls, made by the plaintiff below, until he had **[*544]** stricken the jury." *Lee v. Peter, supra.* But the examination which the party is thus entitled to have made is only a means to the end of ascertaining the existence of cause for disqualification, **[**52]** and is not permitted for any other purpose. And here examination was demanded to ascertain facts which would not be cause for disqualification. Acquaintance of prospective jurors with parties

does not disqualify them from serving in cases involving those parties. See *Whittemore v. State, 151 Md. 309, 316, 134 A. 322*. The appellant restricted the purpose of the motion to an irrelevant inquiry, one for which the right of examination is not intended; and there is no error in overruling a motion directed to such an end.

Judgment affirmed, with cost to the appellee.