

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

JOHN C. DEPP, II, )

Plaintiff, )

v. )

CL-2019-2911

AMBER LAURA HEARD, )

Defendant. )

ORDER

**THIS CAUSE** came before the Court upon Defendant Amber Laura Heard's Post-Trial Motions.

**AFTER REVIEW** of Defendant's Post-Trial Motions, Plaintiff's Opposition, and the relevant statutes and caselaw; it is therefore

**ORDERED** as follows:

Defendant Amber Laura Heard's Post-Trial Motions I through VI are **DENIED** for the reasons stated on the record.

Defendant Amber Laura Heard's Post-Trial Motion VII is likewise **DENIED** for the reasons outlined below.

The purpose of *voir dire* is to obtain a fair and impartial jury.<sup>1</sup> *Voir dire* is necessary to ascertain "whether any juror has any interest in the case, or any bias or prejudice in relation to it, and that he in fact stands indifferent in the cause."<sup>2</sup>

The Summons issued to Juror Fifteen listed his legal name and address and no birth date was noted. The Court has pulled Juror Fifteen's Jury Questionnaire (attached as redacted; filed under seal). Juror Fifteen completed the Jury Questionnaire as himself filling in his proper birth date. The information presented

<sup>1</sup> *Turner v. Commonwealth*, 221 Va. 513, 522 (1980), cert denied, 451 U.S. 1011, 101 S. Ct. 2347, 68 L.E.2d 863 (1981).

<sup>2</sup> *Rust v. Reid*, 124 Va. 1, 16 (1918).

on the Jury Questionnaire matches the information Juror Fifteen provided to the Court. Juror Fifteen was vetted by the Court on the record and met the statutory requirements for service. The parties also questioned the jury panel for a full day and informed the Court that the jury panel was acceptable. Therefore, Due Process was guaranteed and provided to all parties in this litigation. *Voir dire* was conducted in a fair and impartial manner, with the Court and both parties examining the potential jurors. There is no evidence of fraud or wrongdoing.

Further, the Defendant was provided the jury list five days prior to the commencement of trial and knew or should have known about the mistake at any time during the seven-week pendency of this trial. She had every opportunity to object to or to *voir dire* on the issue. Parties generally must make objections at the time a ruling or order is made to put the Court on notice that an issue is meant to be preserved.<sup>3</sup> Despite Defendant's assertion in footnote 9 of her Motion, Va. Code § 8.01-353(A) clearly states:

“Any error in the information shown on such copy of the jury panel shall not be grounds for a mistrial or assignable as error on appeal, and **the parties in the case shall be responsible for verifying the accuracy of such information.**”

(emphasis added). Consequently, Defendant (as well as Plaintiff) had an affirmative obligation to ensure the accuracy of the information provided for the jury panel. A party cannot wait until receiving an adverse verdict to object, for the first time, on an issue known since the beginning of trial. The issue has been waived.

Even if, *arguendo*, the objection has not been waived, objections to any alleged discrepancies in jury lists and any legal disabilities of potential jurors must be made in accordance with Virginia Code Section 8.01-352. That Section provides, in relevant part:

“Unless objection to such irregularity or disability is made pursuant to subsection A herein and unless it appears that the irregularity was intentional or that the irregularity or disability be such as to probably cause injustice . . . in a civil case to the party making the

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<sup>3</sup> See, e.g., *Campbell v. Commonwealth*, 12 Va. App. 476, 477 (1991) (en banc).

objection, then such irregularity or disability shall not be cause for summoning a new panel or juror or for setting aside a verdict or granting a new trial.”

Va. Code § 8.01-352(B). Furthermore, while parties must make this objection while following the above procedure, the party moving under this Code Section must provide some evidence of prejudice. Defendant has neither followed the proper procedure nor shown evidence of prejudice.

Defendant does not allege Juror Fifteen’s inclusion on the jury prejudiced her in any way. The juror was vetted, sat for the entire jury, deliberated, and reached a verdict. The only evidence before this Court is that this juror and all jurors followed their oaths, the Court’s instructions, and orders. This Court is bound by the competent decision of the jury.<sup>4</sup>

ENTERED this 13<sup>th</sup> day of July, 2022.



The Honorable Penney S. Azcarate

**THIS ORDER IS FINAL.**

ENDORSEMENT OF THIS ORDER BY COUNSEL OF RECORD FOR THE PARTIES IS WAIVED  
IN THE DISCRETION OF THE COURT PURSUANT TO RULE 1:13 OF THE SUPREME COURT OF VIRGINIA.

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<sup>4</sup> See *Yellow Cab Corp. of Abingdon v. Henderson*, 231 Va. 260, 265 (1941) (noting that possibilities of prejudice are not sufficient to overturn a jury verdict and the orderly administration of justice should not be overturned absent a clear showing of prejudice). See, e.g., *Mighty v. Commonwealth*, 17 Va. App. 495, 498 (1993) (sustaining the judgment of a trial court’s decision where two felons sat on the jury because the defendant made no showing of “probable injustice”).

JUROR DATA



# JURY QUESTIONNAIRE

August, 2021

Q L

[REDACTED] CT  
[REDACTED] VA [REDACTED]

You must submit this information within 10 days

Submit online at <https://www.fairfaxcounty.gov/juror> **OR** mail this original form. See Special Instructions below

**PLEASE DO NOT CALL THE COURT WITH REQUESTS TO BE EXCUSED FROM JURY SERVICE AT THIS TIME.**

If this questionnaire is intended for someone who is away (college, overseas, etc.), they can submit the questionnaire online at <https://www.fairfaxcounty.gov/juror>

**Change of Address:**

**STREET ADDRESS** DO NOT write in your address below unless your printed address is incorrect

CITY

STATE ZIP + 4

In accordance with Virginia law, your name has been randomly selected as a prospective juror for the Fairfax County Circuit Court for next year's term of court. This is not a summons to appear. Please complete this **CONFIDENTIAL** questionnaire online or by mail within 10 days. If you are qualified, you may be summoned for jury duty within the next year. Failure to return a completed questionnaire online or by mail may result in your being summoned to complete the form in the Circuit Court Clerk's office.

### SPECIAL INSTRUCTIONS

**Online Option:**

1. Visit <https://www.fairfaxcounty.gov/juror> and fill in the criteria to log in. Follow the screen prompts to complete the questionnaire
2. You will need the Barcode Number which is located at the top of this form
3. If you choose this option, do not mail in the questionnaire

**Mailing Option:**

1. Complete in **Black** ink only
2. Complete by answering each question or checking the appropriate box, then sign and date this questionnaire. If incomplete, it will be returned to you
3. Return this questionnaire in the enclosed return envelope
4. If you choose this option, do not submit online

EMPLOYER

SELF

CELL PHONE

[REDACTED]

OCCUPATION

IT MANAGEMENT

DAYTIME PHONE

[REDACTED]

DATE OF BIRTH

[REDACTED] 1970

Do you own real estate in Fairfax County or the City of Fairfax?  Yes  No

CONTINUE ON BACK



**JURY QUESTIONNAIRE CONTINUED**

You must submit this information within 10 days.

Submit online at <https://www.fairfaxcounty.gov/juror> OR mail this original form.

**QUALIFICATIONS**

- Yes  No 1. I am a United States citizen.
- Yes  No 2. I have been a resident of Virginia for the past 12 months.
- Yes  No 3. I have been a legal resident of Fairfax  city  county for the past 6 months.
- Yes  No 4. I am 18 years of age or older.
- Yes  No 5. I am able to communicate in the English language.
- Yes  No 6. I have reported as a juror in a Circuit Court within the last 3 years.  
If yes, list the year \_\_\_\_\_ and Court Name \_\_\_\_\_
- Yes  No 7. I am unable to serve as a juror due to mental impairment. (Please include a doctor's explanation.)
- Yes  No 8. I have been convicted of treason or felony. If yes, please explain \_\_\_\_\_
- 9. If yes to question 8, I have had my civil rights restored  Yes  No, or I have had only my right to vote restored  Yes  No Date restored \_\_\_\_\_

**POSSIBLE EXEMPTIONS**

CHECK THE APPROPRIATE BOX IF YOU WISH TO CLAIM AN EXEMPTION.

- 1. I am 70 years of age or older and do not wish to serve. Date of birth **MUST** be provided on front.
- 2. I am necessarily and personally responsible during normal court hours for providing the continuous care required by (i) a child or children age 16 years or younger of whom I have legal custody, or (ii) a person having a physical or mental impairment. (Please include a written explanation.)
- 3. I am a mother breast-feeding a child.
- 4. I am a member of the armed services of the United States or the diplomatic service of the United States appointed under the Foreign Service Act, who will be serving outside of the United States.
- 5. Pursuant to Va. Code §8.01-341, I am a licensed practicing attorney, a judge of any court, a member of the State Corporation Commission, a member of the Virginia Workers' Compensation Commission.
- 6. Pursuant to Va. Code §8.01-341, I am a magistrate or sworn state/local law enforcement, state/local correctional or jail officer.
- 7. If I am required to serve on a jury, (i) a business, commercial or agricultural enterprise must close or cease to function because the services I provide are essential to the operations of the enterprise and I am the only person who performs those services, or (ii) a political subdivision will suffer undue hardship in carrying out essential services because I am the only firefighter as defined in § 85.2-102 who performs those services. (Please include a written explanation.)

**Medical Condition:** If you have a medical condition that potentially prevents your service as a juror, please include a request to be excused from your doctor for consideration by the jury commissioners.

For guidance on the questionnaire process, you may contact the Circuit Court at: 703-246-7690.

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THE ABOVE INFORMATION IS TRUE AND CORRECT.

SIGNATURE \_\_\_\_\_



DATE August 26, 2021

If ADA accommodations are needed, please call (703) 246-2292. TTY 711.