

The Conscience of a Jury is Alive!

By: Monte E. Hester; Jan 2006

The analysis and observations found in State of Washington v. Roberta J. Elmore, Washington Supreme Court Docket No. 75637-6, filed November 10, 2005, in my humble opinion are wonderful.

The Court in dealing with the challenged dismissal of a juror stated that “Law defining by juries is no more, but the jury’s right to acquit for conscience’s sake lives on. And jury discretion -- the ability to make the law make sense, to temper the law’s iron logic with fairness, moderation, and mercy -- endures and thrives.”

The above language springs out of the Supreme Court’s agreement with the Appellate Court’s finding that a juror was improperly removed after being challenged by other jurors based upon an allegation that the juror was refusing to follow the Court’s instructions.

Take a look at the facts of the case which, in essence, involve a claim that a particular juror was not willing to follow the instructions, which allegation was denied by the juror who stated, amongst other things, that his problem was that the evidence being considered was insufficient.

The Court said that adopting holdings by the Ninth and Eleventh Circuits require that in considering a challenge to a juror the evidentiary standard is that if the record evidence discloses “any reasonable possibility that the impetus for a juror’s dismissal stems from the juror’s views on the merits of the case, the court must not dismiss the juror.” However, once a trial court has applied the correct evidentiary standard, an abuse of discretion standard applies and the resulting findings of fact are reviewable only for clear error.

This case is a great guideline for what must be done by a court regardless of the complaining jurors’ views or that of the prosecutor before a juror can be removed.

End

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