Florida Law Review

Volume 1 | Issue 3 Article 12

March 2021

Constitutional Law: Blue-Ribbon Juries and the Constitution

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CONSTITUTIONAL LAW: BLUE-RIBBON JURIES AND THE CONSTITUTION

Moore v. New York, 68 Sup. Ct. 705 (1948)

Defendants Moore and Haughton were tried and convicted of first degree murder in a New York trial court before a special jury requested by the District Attorney, pursuant to state statute,[1] which provides for use of a special jury in cases in which the court finds the matter of such importance or intricacy as to necessitate a more particular selection of the panel. Motion by the state for such jury was granted over the objection of defendants, who then appealed on the ground that Negroes qualified for jury duty were deliberately excluded from the panel. The appellate court affirmed. On certiorari, HELD, Justices Murphy, Black, Douglas, and Rutledge dissenting, that a special, or "blue-ribbon," jury does not violate constitutional guarantees unless it is proved that prospective jurors are intentionally, systematically, and deliberately excluded therefrom solely on the basis of race or color.

The Federal Constitution assures every one, regardless of race or color, that he will not be deprived of life, liberty, or property without due process of law, or of equal protection under the law.[2]

The equal-protection and due-process clauses of the Fourteenth Amendment to the Constitution have been construed by the courts to mean, among other things, that an individual is entitled to a trial by a jury from which no race has been systematically or arbitrarily excluded,[3] but that he has no right to demand trial by a jury of his own race,[4] nor even by a mixed jury.[5] All that the accused may demand is that prospective jurors be not excluded solely because of race or color.[6] The term "nationality" has been distinguished from the term "race," and it has been held that a long uninterrupted failure to call members of a particular nationality for jury duty does not deprive a member of that nationality of due process.[7]

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[1]N. Y. JUDIC. LAW §749-aa.
[2]U. S. CONST. AMEND. XIV, §1.
[3]State v. Walters, 61 Idaho 341, 102 P.2d 284 (1940).
[4]Atkins v. Texas, 325 U. S. 398, 65 Sup. Ct. 1276, 89 L. Ed. 1692 (1945).
[5]Lawrence v. Commonwealth, 81 Va. 484 (1886).
[6]Haggard v. Commonwealth, 79 Ky. 366 (1881).
[7]Sanchez v. State, 147 Tex. Cr. R. 436, 181 S. W.2d 87 (1944).

The test of the constitutional validity of the selection of juries is whether the race claimed to be discriminated against was intentionally, systematically, and deliberately excluded,[8] and the burden of proving such wrongful exclusion is upon the party asserting it.[9] A jury drawn pursuant to a statute specifically excluding Negroes, or stating that only white citizens may serve as jurors, is invalid because it denies Negroes equal protection under the law,[10] but a statute not definitely specifying qualifications for jurors, and leaving the selection of the panel to the state or local officials is valid.[11] The fact that the representation of a particular race does not correspond to its percentage of the local population is not in itself conclusive; nor need every race in the community be represented.[12]

Under controlling organic provisions the accused is not deprived of constitutional rights solely because no members of his own race are selected on a panel,[13] nor has he any right to escape the mechanism of trial merely on the ground that some other means could be devised that would give him a better chance of acquittal.[14]

A state statute may require, in the selection of a jury panel, certain economic standing, tests of citizenship, understanding of English, and general intelligence, even though these tests may disqualify an otherwise disproportionate number of a particular group or class.[15] Since the qualifications for jurors vary considerably throughout the states, a jury that might be classified as a general jury in one state may meet the requirements for a special or "blue-ribbon" jury in another.

It is apparent that the selection of juries is reserved to the individual states, and the growing acceptance of the "blue-ribbon" jury system is indicated by a recent Florida decision[16] in which the court recognizes the value of this method of selecting juries with at least an average level of intelligence.

Even a casual observance of the professional hangers-on and other characters that are willing, and even eager, to "waste their time" on

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[8]Moore v. New York, 68 Sup. Ct. 705, 92 L. Ed. 637 (1948).
[9]Fay v. New York, 332 U. S. 261, 67 Sup. Ct. 1613, 91 L. Ed. 1517 (1947).
[10]Strauder v. West Virginia, 100 U. S. 303, 25 L. Ed. 664 (1879).
[11]Franklin v. South Carolina, 218 U. S. 161, 30 Sup. Ct. 640, 54 L. Ed. 980 (1910).
[12]Newman v. State, 148 Tex. Cr. R. 645, 187 S. W.2d 559 (1945).
[13]Moore v. New York, 68 Sup. Ct. 705, 92 L. Ed. 637 (1948).
[14]Hayes v. Missouri, 120 U. S. 68, 7 Sup. Ct. 350, 30 L. Ed. 578 (1887).
[15]Fay v. New York, 332 U. S. 261, 67 Sup. Ct. 1613, 91 L. Ed. 2043 (1947).
[16]*See* Florida Power & Light Co. v. Hargrove, 35 So.2d 1, 3 (Fla. 1948).