GREENE v. GEORGIA 117 S. Ct. 578 (1996)
United States Supreme Court
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FACTS

Daniel Greene was convicted of murder, armed robbery, and aggravated assault and sentenced to death. Over the defendant’s objections at trial, the court excused for cause five jurors who expressed reservations about the death penalty. The Supreme Court of Georgia affirmed Greene’s death sentence, and cited Wainwright v. Witt2 as “controlling authority” for a rule that appellate courts must defer to trial courts’ findings concerning juror bias. Greene petitioned for certiorari, arguing that a state appellate court is not bound by the Witt standard of review when evaluating the dismissal of jurors for cause.4

HOLDING

The United States Supreme Court granted certiorari, holding that (1) Witt governed the determination of when a juror may be excused for cause because of his views on the death penalty,5 but that (2) the Witt standard of review, whereby federal habeas courts must accord a presumption of correctness to state courts’ findings of juror bias, did not govern the standard of review to be applied by state appellate courts reviewing trial courts’ rulings on jury selection.6

ANALYSIS/APPLICATION IN VIRGINIA

In holding that Witt was not controlling as to the standard for state appellate review of trial courts’ rulings on jury selection, the Court further stated that “[t]he Supreme Court of Georgia is free to adopt the rule laid down in Witt . . . but it need not do so.”7

It is difficult to ascertain whether the Supreme Court of Virginia sees itself bound by the presumption of correctness accorded by Witt with regard to trial court decisions on jury selection, or whether it has even chosen to adopt the Witt standard of review. For example, in a pre-Witt decision, LeVasseur v. Commonwealth,8 the Supreme Court of Virginia stated, “The trial judge must satisfy himself that the juror’s commitment against the death penalty is ‘unmistakably clear.’ This finding of fact cannot be disturbed on appeal unless we can say, upon consideration of the voir dire as a whole, that it was erroneous.”9

However, in post-Witt decisions, the Supreme Court of Virginia has stated that “[a]s an appellate court, we must give deference to the trial court’s decision whether to retain or exclude individual veniremen because the trial court ‘sees and hears the juror.’”10 This rule quotes a portion of Witt’s language. The court has also cited Witt for the proposition that “[d]eference must be paid to trial judges in deciding which juror will be unable to apply the law faithfully and impartially.”11 However, the court has also consistently stated that the trial court’s findings as to juror bias “will not be disturbed on appeal unless manifest error exists.”12 If Virginia appellate courts must give deference to trial court findings on juror bias, the Supreme Court of Virginia has not stated whether that decision was an independent one, or whether it believes Witt requires such deference.

Because a clear cut position on the applicability of Witt is lacking, appellate defense counsel in Virginia may use Greene to argue that, with regard to trial court rulings on juror bias, the Virginia state courts are not bound by the standard of review as announced in Witt. State appellate courts need not defer to trial court rulings on juror bias; rather, they may review the record as a whole and make an independent determination as to juror bias.

Summary and analysis by:
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3 Greene, 117 S. Ct. at 578.
4 Id.
5 Id. at 578-79. The Witt standard for determining whether a juror may be removed for cause because of his views on the death penalty is whether those views would “prevent or substantially impair the performance of his duties as a juror in accordance with his instructions and his oath.” Wainwright v. Witt, 469 U.S. at 424 (citation omitted).
6 Greene, 117 S. Ct. at 579.
7 Id. at 579. Note that Witt arose on federal habeas, where deference to state court findings is mandated by 28 U.S.C. § 2254(d).