



MAY 16, 2017

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Ricks v. State

The Georgia Supreme Court Rules that Fulton County's Method of Creating Its Jury Lists is in Violation of the Jury Composition Rule

In *Ricks v. State*, S17A0465 (5/15/17), appellant was indicted for murder and other related charges and the State filed a notice of intent to seek the death penalty. Appellant filed a motion asking the trial court to issue an order declaring Fulton County's method of selecting trial jurors to be in violation of the Supreme Court's Jury Composition Rule (herein after "JCR"). The trial court held a series of evidentiary hearings and then upheld Fulton County's method of jury management under the JCR. The Supreme Court granted interim review and in a lengthy, 43-page opinion, a unanimous Supreme Court reversed and held that the trial court erred by denying appellant's claim that the list from which Fulton County jurors are summoned is produced in a manner that violates O.C.G.A. §15-12-40.1 and the JCR.

The Court found that Fulton County uses an outside vendor to manage its countywide jury list compiled by the Council of Superior Court Clerks (herein after "Clerks Council"). Noting at the outset that the evidence produced at the hearings was "uncertain and incomplete," the Court nevertheless found that the vendor's manipulation of the Clerks Council county master jury list clearly violated the JCR in many ways: First, the vendor added names to the Clerks Council list from "so-called 'legacy data.'" Legacy data was described as data the vendor maintained over a 10-year period on jurors which indicated that jurors have died, have undeliverable addresses, have filed affidavits to be removed for being at least 70 years old, are mentally incompetent, are convicted felons, or are not citizens.

Second, the vendor used the same "legacy data" to remove tens of thousands of names that were locally flagged as ineligible for jury service. The Court held that the Clerk's Council has the duty and authority to purge – using strictly defined protocols – names from the master list and the legislature's specific delegation of this duty to the Clerk's Council precludes counties from exercising the same authority. Nevertheless, the Court approved *temporary* records as a means of inactivating jurors, but the county is not permitted to *permanently* remove people (presumably for any reason).

Third, the vendor eliminated potential duplicate records from the Clerks Council list in a manner unexplained in the record. The Court held that the JCR does not authorize Fulton County or its vendor to attempt to eliminate duplicates from the Clerks Council county master list. In so holding, the Court noted that "[i]f Fulton County or other counties believe that the Rule is not working as well as it might, they may ask for the Rule to be revised or temporarily suspended.... But a county may not simply disregard the mandates of the Rule."

Finally, the Court found that the vendor improperly inactivated names on the Clerks Council's county master list associated with undeliverable addresses by submitting all the addresses to the National Change of Address database. The Court found that the JCR "clearly delegates

State Prosecution Support Division



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such wholesale, automated screenings for undeliverable addresses to the [Clerk's] Council, which must follow a specific protocol." The county may inactivate based upon actual summons mail that is returned as undeliverable, but instead of automatically screening, the names should be included on the next county exception list to the Clerk's Council.

Accordingly, the Court held, the trial court erred in not granting appellant's motion and remanded the case to ensure that the prospective jurors for appellant's trial are drawn from a list that is produced and managed in a manner that complies with O.C.G.A. §15-12-40.1 and the JCR.