

The Supreme Court of the State of Louisiana

STATE OF LOUISIANA

No. 2025-KK-01173

VS.

DEMOND FRANKLIN

IN RE: State of Louisiana - Applicant Plaintiff; Applying For Writ Of Certiorari, Parish of Jefferson, 24th Judicial District Court Number(s) 23-0595, Court of Appeal, Fifth Circuit, Number(s) 25-K-421;

September 17, 2025

Stay lifted. Writ application granted. See per curiam.

CRC

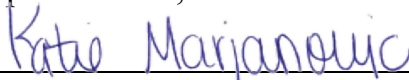
JDH

WJC

JBM

Weimer, C.J., dissents and would grant and docket.
Griffin, J., dissents and would grant and docket.
Guidry, J., dissents and would grant and docket.

Supreme Court of Louisiana
September 17, 2025



Chief Deputy Clerk of Court
For the Court

SUPREME COURT OF LOUISIANA

No. 2025-KK-01173

STATE OF LOUISIANA

VS.

DEMOND FRANKLIN

On Writ of Certiorari to the Court of Appeal, Fifth Circuit, Parish of Jefferson

PER CURIAM

Stay lifted. Writ granted. Based upon inconsistency among the circuits with respect to the issue of whether prospective jurors may be informed that a penalty provided by law is mandatory, we find merit in the State’s writ application. *See, e.g., Lavigne v. Louisiana*, 24-403 (La. App. 5 Cir. 1/16/25) 2025 WL 211137, *writ denied*, 408 So. 3d 196 (La. 5/26/25) (finding the prosecutor was “entitled to discuss the mandatory sentence during *voir dire* in order to determine whether the mandatory sentence would affect the ability of any potential juror to find [defendant] guilty of the charge of second degree murder.”). As this Court has stated, “the purpose of *voir dire* is to determine the qualifications of prospective jurors by testing their competency and impartiality and to assist counsel in articulating intelligent reasons for exercise of cause and peremptory challenges.” *State v. Ball*, 00-2277, p. 23 (La. 1/25/02), 824 So. 2d 1089, 1110 (internal citation omitted). *See, e.g., State v. Frey*, 568 So. 2d 576, 577 (La. App. 4 Cir. 1990) (finding the trial court did not abuse its discretion in allowing the State to challenge jurors who indicated they could not consider a verdict of guilty due to a mandatory life sentence being required upon conviction). Fundamental fairness requires the State be allowed to *voir dire* the jury as to whether they will be able to follow the law, notwithstanding a mandatory penalty or sentence.

La.C.Cr.P. art. 774 instructs that argument to the jury is restricted to the evidence admitted, to the lack of evidence, to conclusions of fact, and ***to the law applicable to the case***. La.C.Cr.P. art. 802(1) likewise directs the trial court to charge the jury “as to *the law applicable to the case*.” In *State v. Jackson*, 450 So.2d 621 (La. 1984) and *State v. Milby*, 345 So.2d 18 (La. 1977), this Court announced that when the penalty is mandatory, the law requires the trial judge to inform the jury, on the request of the defendant, of the penalty and to permit argument relating to the sentence. Because the *Jackson/Milby* rule is premised upon these statutory rules allowing argument and instruction on “all law applicable to the case,” we find there is no legal reason why a rule that a jury be instructed on the actual law should be jurisprudentially limited to only when one side requests it. The role of *voir dire* is important to both sides, and it is a proper scope of inquiry to ascertain if jurors are willing to follow the law applicable to the case.

We find no interpretation of the relevant provisions that logically limits the use of these statutory provisions only for the defense to the exclusion of the State. Thus, regardless of whether the defense desires to have the issue of whether the penalty is mandatory be addressed, the State is permitted to address the issue during *voir dire*, as it entails “all law applicable to the case.”