

FILED

January 6, 2000

**DEBORAH L. McHENRY, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA**

RELEASED

January 7, 2000

**DEBORAH L. McHENRY, CLERK
SUPREME COURT OF APPEALS
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Starcher, C. J., concurring:

I agree with the Court's opinion. I write separately to state my appreciation for this Court's willingness to reverse a criminal conviction because a defendant didn't get a fair jury panel.

In several recent cases, I have dissented because a majority of this Court was willing to tolerate a jury panel that I thought was arguably unfair. I believe that in the instant case, we have taken the proper approach.

Ideally, we want our criminal justice process to be so even-handed that even a convicted defendant's family will have to agree that a trial was fair -- although that is probably too much to expect in most cases. One of the easiest and cheapest things we can do to further this goal is to only use jurors who are not even arguably suspect because of possible bias. That was our standard in the instant case, and it is one to which trial courts must adhere.