

UNAUTHORIZED COMMUNICATION WITH THE JURY

“The settled rule is that before a jury verdict will be set aside because of an unauthorized communication with the jury, it is necessary for the defendant to show prejudice.

In our State the rule has judicially evolved that a jury verdict will not be set aside where it is apparent that no injury or prejudice resulted from a communication to the jury either by the court or by third persons outside the presence of the defendant.

People v. Mills, 40 Ill. 2d 4, 14–15, 237 N.E.2d 697, 703 (1968)

After the guilty verdict was returned, the defendant's attorney presented an affidavit to the trial court in which he described the bailiff-juror communication to which he was a witness, and he argued the incident as a ground for granting a new trial. In his affidavit defense counsel states that after the jury had adjourned to the jury room he heard a buzzer ring, and he went to the anteroom adjacent to the courtroom where he observed the bailiff enter a door leading to the jury room and ask the jury what they wanted. Defense counsel's affidavit continues that he heard someone from within the jury room say either ‘We want further instructions’ or ‘We want to ask a question.’ The bailiff's response which defense counsel claims he heard was either ‘You are not entitled to more instructions’ or ‘You can't ask any questions.’

During the argument on defendant's motion for a new trial the bailiff testified that when he answered the jury buzzer, he opened the outer door to the jury room and asked the jury if they had reached a verdict. The bailiff testified that one of the jurors responded ‘I would like to ask you a few questions.’ The bailiff stated that his reply to this request was ‘I am only the bailiff. I cannot answer any questions, and there is nothing I can do for you. I can't talk to you.’

We cannot accept the defendant's argument that we should reverse his conviction...”. In the case presently before us there was neither an intent to influence the jury's decision nor the occurrence of any injury or prejudice to the rights of the defendant, and we find no cause for reversal on this score.

People v. Mills, 40 Ill. 2d 4, 13, 237 N.E.2d 697, 702 (1968)

Bailiff inquiry of juror as to outcome of case did not deny defendants their right to impartial jury absent showing by defendants that they were prejudiced by the inquiry.

People v. Cart, 102 Ill.App.3d 173, 187, 57 Ill.Dec. 655, 429 N.E.2d 553 (1981)

A jury verdict will not be set aside because of a communication with a juror by court personnel or a third party unless it is apparent that prejudice resulted from the exchange.

People v. Cart, 102 Ill.App.3d 173, 187, 57 Ill.Dec. 655, 429 N.E.2d 553 (1981)

Communications between judge and juror did not warrant reversal of verdict absent provable claim or proof of specific prejudice.

People v. Veal, 58 Ill.App.3d 938, 969–71, 16 Ill.Dec. 188, 374 N.E.2d 963 (1978)
