

STATE OF MICHIGAN LAW DAY 2005 ESSAY CONTEST
“THE AMERICAN JURY: WE THE PEOPLE IN ACTION”
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Should a unanimous jury be required in order to convict someone of a crime?

I believe that a unanimous jury decision should not be required to convict someone of a crime, except when the consequence of the crime is capital punishment. In Johnson v. Louisiana, 406 U.S. 356 (1972), the principal question was whether less-than-unanimous verdicts are valid under the Due Process and Equal Protection Clauses of the Fourteenth Amendment. The Fourteenth Amendment states:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

In this case, nine jurors found Johnson guilty of armed robbery, but three voted to acquit him. Johnson was found guilty, but his attorney argued on appeal that the prosecution had not satisfied the reasonable-doubt standard because three jurors voted to acquit.

Johnson's attorney's argument has two parts, "first, that nine individual jurors will be unable to vote conscientiously in favor of guilt beyond a reasonable doubt when three of their colleagues are arguing for acquittal, and second, that guilt cannot be said to have been proved beyond a reasonable doubt when one or more of a jury's members at the conclusion of deliberation still possess such a doubt." The Supreme Court of Louisiana decided that neither argument was persuasive. The case was appealed to the U.S. Supreme Court, which upheld the ruling of the state Supreme Court.

With respect to the first argument, the U.S. Supreme Court concluded that the jurors followed the directions concerning the need for proof beyond a reasonable doubt and those nine jurors reflected an honest belief that guilt had been proven. The Court also concluded that the nine jurors did not ignore the views of the other three, but discussed the issues until there was no more "persuasive effect." Therefore, the U.S. Supreme Court found the first part of the appeal to have no basis.

With respect to the second argument, the U.S. Supreme Court concluded that the disagreement of three jurors "does not alone establish reasonable doubt," when such a large majority of the jury remain convinced of guilt after considering the views of the three dissenting jurors.

I believe, like the Supreme Court of Louisiana and the U.S. Supreme Court, that we should not require unanimous jury decisions in non-capital cases. I further believe that a significant majority of the jury, who have followed the instructions to consider reasonable doubt and who have spoken extensively with other jurors who disagree, should be enough to convict a criminal. Unanimity of the jury is not required in order to give the accused a fair trial.