In this brief, the prosecution aims to set out the arguments of precedent and policy to uphold the 6th Circuit Court of Appeals decision to refuse to grant a new trial to Lawrence DeLisle in DeLisle vs Rivers (1989).

The prosecution will first discuss the shape of the case and emphasize the legal importance of the issue at hand. We will then restate the essential facts of this case, including additional information in favor of the prosecution, before transitioning to the legal precedent and policy arguments, in terms of the impact of the decision in this case on society and the future legitimacy of the law, to support the Supreme Court’s would-be holding.

While the DeLisle vs Rivers case is interesting for the Hollywood-esque style of its facts (an unhinged character’s awful murder of his family), it is also noteworthy for its implications on the free speech vs free trial debate, the development of access to judicial proceedings over time and the relationship between the First Amendment of the US Constitution and the media.

As the Court will read, neither the defense's interpretation of the facts of the case nor Delisle's myriad claims of an unfair trial impact at all on the 6th Circuit Court of Appeals decision in favor of the prosecution to answer the question, “Is it possible for a juror to bias their decision in a trial by knowing about a previous confession?” with a firm no.

The Supreme Court's holding, naturally following this argument, will be that publicity does not create a presumption of bias, in the context of the principles of a fair trial for criminal defendants as embodied in the Sixth Amendment of the US Constitution and as ruled by the US 6th Circuit Court of Appeals.

The prosecution will first address the facts of the case. On August 3, 1989, shortly after 9:00 p.m., with his wife and four children as passengers, Lawrence DeLisle drove the family's station wagon down Eureka Road in Wyandotte, Michigan, at an increasingly high rate of speed, through a barrier and into the Detroit River. Although DeLisle and his wife, Suzanne, survived the incident, all four of their young children, Bryan, Melissa, Kathryn and Emily, drowned.

A few days later, at the request of Wyandotte police, DeLisle agreed to take a polygraph test. Accordingly, on August 10, police officials took him to a Michigan State Police facility. The exam began shortly after 10:00 a.m. and continued until about 5:30 p.m., with a break for lunch. These sessions were videotaped. On the day following this interrogation, DeLisle was arraigned on four counts of first-degree murder and one count of attempted first-degree murder. DeLisle's confession of intentionally driving his family into the Detroit River and the tapes of him taking the polygraph test were released to the media by an agent of the court, and his admissions were widely publicized in stories including police accounts.

DeLisle was convicted in Wayne County Circuit Court, Detroit, Michigan, of the premeditated murder of his four children and the attempted murder of his wife. When his appeals within the Michigan appellate courts proved fruitless, he applied for a writ of habeas corpus alleging numerous constitutional defects in his conviction. The district court denied DeLisle's application. DeLisle then renewed his argument that he was denied due process, alleging that some of the jury members that convicted him were biased, the evidence against him was insufficient to prove premeditation and intent, and the trial court improperly denied his request for a bench trial. The defense argued that the jury was biased against DeLisle. They argued that he should have been permitted to have any prospective juror with knowledge of his statement to police, which while released to the media had been excluded from the trial, removed from the jury pool.

The United States 6th Circuit Court of Appeals correctly affirmed the district court's judgment, ruling against Delisle. Splitting 8-7, the appellate court rejected the defense's argument and refused to grant a new trial to DeLisle. Although the court expressed distaste for the role and circumstances of the media attention in this case, the court stated that it found no circumstances that gave it a reason to believe the jurors, who had explicitly and firmly stated their lack of bias, were biased. Although this was a close decision, the prosecution encourages the Court to note that despite criticism of the release of the confession tapes, the 6th Circuit Court of Appeals still upheld the decision, arguing that the appeal was based explicitly on the presumption of prejudice, not any actual evidence of juror hostility.

While the prosecution believes that the central facts in this case do little to aid Lawrence DeLisle's claims of innocence, it is crucial to compound further the arguments in favor of upholding the ruling of the US 6th Circuit Court of Appeals with critical points of additional information about the case and the essential legal arguments surrounding precedent and policy.

Lawrence DeLisle's behavior was not that which could be expected of a man who had just crashed his wife and killed his four young children in the Detroit River by 'accident.' DeLisle embraced the media coverage of this case, holding a press conference alongside his wife only five days after the incident had occurred, and seemingly basking in the attention that it brought.

Regarding the incident itself, the prosecution finds the evidence of premeditation and planning hard to ignore. DeLisle and his wife visited the river for the first time on August 1. They would return the next day before the incident on August 3 when DeLisle drove the station wagon into the river. He claimed it had been an accident brought on by a lower leg cramp and a long-running technical fault with the car. However, Beverly Lake and her mother testified to having seen the vehicle on both prior dates.

Similarly, his behavior in the water arouses suspicion regarding the likelihood of an accident and DeLisle's true intentions. Bryan Ross was seated in his boat on the Detroit River and saw the DeLisle’s car go into the water. Ross testified that the car went under in a matter of seconds and that DeLisle surfaced quickly. Ross added that DeLisle did not initially say anything and that he never went under the water again, remaining on the surface and calmly treading water. Suzanne DeLisle, on the other hand, was hysterical. Ross testified that she started screaming for her children and diving underwater. Eric Stoneburner, another boater, eventually pulled DeLisle and Suzanne from the river. He testified that DeLisle did not say anything when Stoneburner pulled him into the boat, but that Suzanne was still screaming for her children.

Finally, it is important to include that during his interview with police, DeLisle said that eight years earlier in 1981, he had attempted to blow up his home by leaving a candle burning near a gas leak in the basement while his wife and son were asleep. While the prosecution concedes that this information is not necessarily relevant and arguably inadmissible to this trial, the prosecution is not willing to disregard these admissions completely, given the valuable psychological insights they offer on a clearly troubled man with murderous intent.

Turning to the existence of the confession, its inadmissibility, and the role, if any, that it played in the case at hand, the prosecution entreats the Court to uphold the ruling of the 6th Circuit Court of Appeals regarding DeLisle's inaccurate claims of jury prejudice.

DeLisle contended that any juror who read of his supposed confession during the videotaped polygraph sessions must be presumed partial because a confession is unlike any other piece of information. But, the 6th Circuit Court of Appeals disagreed, and the prosecution concurred with that decision. Thus, not only did the 6th Circuit Court of Appeals not find support in this case for the claim that juror knowledge of an inadmissible confession leads to a presumption of prejudice, but they also wrote that a confession is not the gold standard for criminal evidence as often assumed, for example, compared to another type of evidence such as DNA, and therefore harder to establish as the defining issue in a criminal case that may lead to an influenced, prejudicial jury.

The prosecution would also like to refer the Court to the fact that the judge in this trial had already granted a significant concession to DeLisle by ruling his confession to be inadmissible, a decision of rare and potentially debilitating impact on the prosecution. Therefore, it is evident that despite DeLisle's appeals, the legal processes in this case were not biased against him. Many courts across the nation, rightly or wrongly, would have assessed the black and white nature of the facts in this case and ruled more quickly and accordingly for the prosecution.

There was defensible precedent for this decision to support the claim that DeLisle had not been mistreated in this trial, namely a [1976 case in Virginia where Simnant murdered the Kellie family](https://www.nytimes.com/1976/03/21/archives/a-crime-and-its-aftershock-aftershock.html). This was a similar case, with no restrictive order on the media but even higher press attention. Chief Justice Burger wrote the Court's opinion that if the information at hand in the trial is legally obtained, the state may not punish its publication. This ruling, in favor of freedom of the press, is relevant to the decision by the trial judge in this case to make DeLisle's confession inadmissible, a highly favorable decision towards the defense. Furthermore, it was a significant concession in favor of DeLisle by the judge. The fact that a polygraph took place and ended up being inadmissible was a common occurrence at the time. Polygraph tests are a notoriously inaccurate form of evidence gathering, meaning the non-admittance of the confession was not a rare phenomenon nor valuable for the defense in this case as an argument for a mistrial. After all, the prosecution proceeded without it, arguably the essential element of 99% of prosecution cases.

Given the nature or volume of the defense’s appeals on behalf of DeLisle, one would assume some disappointment at the state of the trial or its conditions, even with this concession. However, at oral argument, the defense explicitly declined to take the position that the Court's role in disseminating DeLisle's statements bore any significance to the trial. Indeed, DeLisle did not make a single reference to the voir dire examination of the persons who eventually served on the jury but asked the Court to presume that the jurors' ability to consider only fairly and impartially the evidence presented at trial with knowledge of the case was damaged. How can the defense, therefore, suggest that the Court must presume bias on the part of these jurors while taking the position that the absence of verifiable evidence of bias is not crippling to their case? The illogical nature of these appeals give rise to a powerful feeling of nostalgia regarding the defense's explicit duplicity throughout this case, and the prosecution urges the Court to keep this in mind while considering the dichotomy between the confession and the judge's concession.

Similarly, regarding due process and the judge's concessions for DeLisle in this case, the defense's claim of an unfair trial due to judicial prejudice rings hollow. Part of the 14th Amendment of the US Constitution reads, "-nor shall any State deprive any person of life, liberty, or property, without due process of law..." DeLisle's right to a fair trial was repeatedly protected and upheld. He was constitutionally entitled to, and granted, due process of the law in this case. Many judges have viewed this case, and each one upheld the conviction, despite the defense's numerous arguments and appeals. For example, the initial trial judge granted 10 of DeLisle's 15 challenges, a significantly higher accommodation rate of challenges to the trial process than is ordinary in the US judicial system.

The constitutional amendment argument in this case is a strong one for the prosecution. The language of the 6th Amendment reads, “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed,” essentially that a trial should be public for the benefit of the defendant, not to their detriment. The media ecosystem of 1989, in all its forms, cannot be restricted therefore in a court or trial setting to supposedly protect the defendant's rights to a fair trial because of its role as the public's information gatherer and disseminator, and the constitutionally granted benefit of this right for the defendant. In this case, the prosecution argues in its interpretation of the 6th Amendment that the media becomes the public. Therefore, it cannot be abridged not to abridge DeLisle's right to a genuinely public trial.

Before discussing Supreme Court precedent decisions that favor a ruling to uphold the 6th Circuit Court of Appeals decision in this instance, the prosecution offers the rigorous jury selection process efforts by the Judge and the Court in this case as an integral part of the reality that in fact this was a fair, unbiased trial, without prejudice, that delivered an impartial, accurate and just outcome.

Essentially, the judge in this case does his absolute best in the circumstances, interviewing 68 potential jurors in the voir dire process and specifically warning those that were chosen of the potential perils of any media coverage. The trial judge realized the potential problem of an inadmissible yet publicly known confession and tried to do everything in his power to get an impartial jury. Once the jury was empaneled, he reminded those chosen that media accounts may be inaccurate or incomplete and contain matters intended to influence the jury as part of an explicit instruction to consume no news media.

In line with the above information, it is also crucial for the Court to note that a drafted juror in the United States is not required to be free of all knowledge or impressions about the case at hand. They must simply set aside this pre-existing knowledge or opinion and decide the case based on the evidence presented at trial. This is what happened in this case, as evidenced by each juror explicitly denying that they had formed any opinion regarding DeLisle's guilt, even a tentative one. In today's world of varied and popular communication mediums, an emotive case such as this can be expected to arouse the public's interest, and none of those best qualified to serve as jurors will not have formed some impression or opinion as to the merits of the case. To suggest that the mere existence of any preconceived notion as to the guilt or innocence of Delisle leads to a partial jury would be to establish an impossible standard. Therefore, it is sufficient if the juror can lay aside his impression or opinion and render a verdict based on the evidence presented in Court.

In line with this, the time that had elapsed in this case, over five months before the jury sat to deliberate, is important to consider when equating knowledge of the confession with any potential prejudice. The court understood DeLisle's argument to be that the jury was exposed to his inadmissible confession through the media to such a great extent that they could not be expected to set aside such knowledge and deliberate fairly in his case. But the prosecution believes it is vital to counter this assertion by noting that all the jurors who heard the case clearly indicated that their memories were vague because of the lapse of time.

Turning to legal precedent, the prosecution recommends that the Court uses the following cases and their rulings to guide in the task of determining that it would be improper to presume prejudice on the part of the jury under the circumstances of DeLisle's case, as is the prosecution's argument.

The first to consider is the case of Sheppard vs Maxwell 384 US 333 (1966), and the Supreme Court’s ruling that public attention and freedom must not be so broad as to divert the trial away from its primary purpose. There was no allegation by DeLisle that his trial took place under the conditions of chaos that prevailed in Sheppard. On the contrary, the prosecution in the Sheppard case had been conducted in a circus atmosphere, due in large part to the intrusions of the press, which was allowed to sit in a prominent location in the courtroom and to overrun it with television equipment. In this case, the Court wrote that the trial judge had failed to protect Sheppard from the massive prejudicial publicity. It is the intense media coverage of the trial itself, combined with a jury that had not been adequately instructed not to read or listen to anything concerning the case, that separates the Sheppard and DeLisle cases. As the prosecution has said, the trial in the DeLisle case was well-run and tightly controlled by a skilled and careful presiding judge. There was no suggestion to the contrary by the defense, and the great pains to which the Court went to attempt to warn the jurors of the potential pitfalls of the media coverage of the trial were apparent. Therefore, it is evident that when compared to the Sheppard case, public attention and the media's extremes in the Delisle case were far from diverting the trial from its true purpose, as was the Supreme Court's ruling. The prosecution urges the Court to look at the comparisons between the facts of the judicial proceedings in both cases, and ask "Which is worse? To which, in the true and honest interpretation of the Sheppard ruling, is it most relevant?"

Beck v. Washington 369 US 541 (1962) is a similarly relevant Supreme Court case. The Court ruled that intensive news coverage in the area where the defendant was indicted and tried did not violate a defendant's right to due process per the Fourteenth Amendment. This precedent supports the prosecution's previous note that DeLisle's trial was not prejudiced by media coverage of his confession influencing the jury, particularly given the fact that the defense did not challenge the fact that there was substantial evidence that the jurors selected were not biased and had not formed any opinions as to DeLisle's guilt.

The prosecution would reiterate that press coverage isn't necessary or sufficient for an unfair trial and that researchers have found a severe lack of evidence that even intensive press coverage of a particular case can harm the defendant through a prejudiced jury nor seriously damage the defendant’s fair trial rights. In addition, many social scientists are beginning to believe that people tend to remember far less about what they read in the news or watch on television than previously thought.

The prosecution would also like to cite Irvin v. Dowd 366 US 717 (1961) as a Supreme Court decision with relevant precedent to this case because it is important to note that the Court has on occasion presumed prejudice on the part of the jury when a defendant has been able to provide evidence as to its existence. In this case, Irvin was accused of murdering a family of six, a crime that aroused a similar media frenzy to the Delisle case in a similar small community. However, despite the similarities, the venire in the Irvin case exhibited far more prejudice against the defendant than the venire in the case against DeLisle, an illuminating difference. The Court interviewed 430 potential jurors and excused 268 of those for having fixed opinions about Irvin's guilt․ Furthermore, 90% of the prospective jurors had some opinion about this guilt, and even eight of the 12 seated thought the defendant was guilty. In the DeLisle case, however, as previously stated, only 15% of the potential jurors interviewed had any fixed opinion about DeLisle's guilt, and none of those seated on the jury expressed any fixed opinion at all about DeLisle's guilt, let alone the intensely negative view that almost all the jurors in the Irvin case shared.

In addition, the category of cases where prejudice has been presumed in the face of juror attestation to the contrary is extremely narrow, as was decided in Nebraska Press Association vs Stuart 427 US 539 (1976). The Court ruled that pretrial publicity itself does not inevitably lead to an unfair trial. In this case, the Supreme Court cautioned that those cases in which pretrial publicity causes damage to a defendant's right to an impartial jury trial are relatively rare. The prosecution reiterates that the DeLisle case is not one of those rare occasions for the following reasons: namely that the jurors explicitly and firmly stated their lack of bias and that any potential threats to DeLisle's right to a fair trial were carefully managed by the judge who took great care at every step of the trial to ensure DeLisle received every due-process protection that he was due.

Lawrence DeLisle murdered his family with calculated planning and emotionless reaction. The courts afforded him every privilege of justice and luxury of the law our system can offer, with accommodations far beyond normal in similar cases. He received a due process fair trial as per the 14th Amendment of the US Constitution. Neither his confession nor the media prejudiced the decision in this case. The prosecution believes that the bar for prejudicial judicial proceedings should not be forged so low as to both discredit the efforts of trial judges and jurors to guarantee the right to due process of the law and provide leeway for those cases where the media do play a role in distorting the facts, disseminating mistruths, and clouding judgements. In this case, ruling in favor of the defense would set a dangerous legal and societal precedent and allow those courses of action to disturb the long history of equality in justice and the future legitimacy of law promised by the United States, its Constitution, and the Supreme Court.

In conclusion, therefore, the prosecution urges the Supreme Court of the United States to uphold the ruling of the US 6th Circuit Court of Appeals in the case DeLisle vs Rivers (1989) in line with the comprehensive precedent rulings and policy arguments detailed.