pering with a jury, or the creation of circumstances raising the dangers thereof, is not to be condoned.[136] When the locality of the trial has been saturated with publicity about a defendant, so that it is unlikely that he can obtain a disinterested jury, he is constitutionally entitled to a change of venue.[137] It is undeniably a violation of due process to subject a defendant to trial in an atmosphere of mob or threatened mob domination.[138]

Because it is too much to expect that jurors can remain uninfluenced by evidence they receive even though they are instructed to use it for only a limited purpose and to disregard it for other purposes, the Court will not permit a confession to be submitted to the jury without a prior determination by the trial judge that it is admissible. A defendant is denied due process, therefore, if he is convicted by a jury that has been instructed to first determine the voluntariness of a confession and then to disregard the confession if it is found to be inadmissible.[139] Similarly invalid is a jury instruction in a joint trial to consider a confession only with regard to the defendant against whom it is admissible, and to disregard that confession as against a co-defendant which it implicates.[140]

In *Witherspoon v. Illinois*,[141] the Court held that the exclusion in capital cases of jurors conscientiously scrupled about capital punishment, without inquiring whether they could consider the imposition of the death penalty in the appropriate case, violated a defendant's constitutional right to an impartial jury. "A man who opposes

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360 U.S. 310 (1959). Essentially, the defendant must make a showing of prejudice into which the court may then inquire. Chandler v. Florida, 449 U.S. 560, 575, 581 (1981); Smith v. Phillips, 455 U.S. 209, 215–18 (1982); Patton v. Yount, 467 U.S. 1025 (1984).

[136] Remmer v. United States, 347 U.S. 227 (1954). *See* Turner v. Louisiana, 379 U.S. 466 (1965) (placing jury in charge of two deputy sheriffs who were principal prosecution witnesses at defendant's jury trial denied him his right to an impartial jury); Parker v. Gladden, 385 U.S. 363 (1966) (influence on jury by prejudiced bailiff). *Cf.* Gonzales v. Beto, 405 U.S. 1052 (1972).

[137] Irvin v. Dowd, 366 U.S. 717 (1961) (felony); Rideau v. Louisiana, 373 U.S. 723 (1963) (felony); Groppi v. Wisconsin, 400 U.S. 505 (1971) (misdemeanor). Important factors to be considered, however, include the size and characteristics of the community in which the crime occurred; whether the publicity was blatantly prejudicial; the time elapsed between the publicity and the trial; and whether the jurors' verdict supported the theory of prejudice. Skilling v. U.S., No. 08–1394, slip op. at 16–18 (June 24, 2010).

[138] Frank v. Mangum, 237 U.S. 309 (1915); Irvin v. Dowd, 366 U.S. 717 (1961); Sheppard v. Maxwell, 384 U.S. 333 (1966).

[139] Jackson v. Denno, 378 U.S. 368 (1964) (overruling Stein v. New York, 346 U.S. 156 (1953)).

[140] Bruton v. United States, 391 U.S. 123 (1968) (overruling Delli Paoli v. United States, 352 U.S. 232 (1957)). The rule applies to the states. Roberts v. Russell, 392 U.S. 293 (1968). *But see* Nelson v. O'Neil, 402 U.S. 622 (1971) (co-defendant's out-of-court statement is admissible against defendant if co-defendant takes the stand and denies having made the statement).

[141] 391 U.S. 510 (1968).