

EXAMINERS' ANALYSIS OF QUESTION NO. 10

The 14th Amendment to the United States Constitution states in pertinent part:

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.

The right to a fair trial is a fundamental liberty secured by the 14th Amendment to the United States Constitution. *Estelle v Williams*, 425 US 501, 503 (1976). An integral component in that fair trial is that the accused is presumed to be innocent. Courts must be vigilant in the administration of trials to guard against undermining that presumption and in turn what its abrogation has on the fairness of the accused's trial.

Being obligated to stand trial in jail or prison garb is precisely one of those, at the very least, insidious undermining factors. *Estelle*, 425 US at 504. While an accused may choose to be so attired for trial, infringement of his trial right springs from compulsion, not his election.

An additional reason, emanating from the 14th Amendment's call for equal justice for preventing the accused from being required to wear jail garb, concerns the unequal footing those in jail endure from those on bond. By mere detention, one obligated to wear jail garb comes from the jail to the trial because of a financial inability to post bond, the inmate has foisted upon him or her a condition vitiating his or her presumption of innocence not attendant to his out-on-bond counterpart. As stated in *Estelle*, "To impose the condition on one category of defendants, over objection, would be repugnant to the concept of equal justice embodied in the *Fourteenth Amendment*." *Estelle*, 425 US at 505-506, citing *Griffin v Illinois*, 351 US 12 (1956).

Applying the foregoing to the facts at hand yields the conclusion that Dapper has a significant issue on appeal for a

number of reasons. First, in contrast to *Estelle*, defense counsel forcefully pressed the issue of Dapper's attire, not once but twice. Voicing an objection likely would have prompted a different result than *Estelle* and certainly pursuant to post-*Estelle* cases in Michigan. See *People v Lee*, 133 Mich App 299, 300-301 (1984); *People v Turner*, 144 Mich App 107, 109-111 (1985), citing *People v Shaw*, 381 Mich 467 (1969) and *Estelle*, 425 US 501, all standing for the proposition that, where the accused makes a timely request not to appear before his or her jury in jail or prison garb, it is error to reject that request.

The intertwined concepts of the presumption of innocence, the right to a fair trial, and equal protection under the law necessitate the conclusion Dapper has merit to his claim.