In addressing the claim that the Constitutional provisions protecting a right to an impartial jury conflict with the Rule, the Court concluded that an earlier case foreclosed this argument; but rather than say that the Rule applied universally to exclude any evidence of jurors lying about prejudice during the *voir dire*, the Court included a footnote saying: "There may be cases of juror bias so extreme that, almost by definition, the jury trial right has been abridged. If and when such a case arises, the Court can consider whether the usual safeguards are or are not sufficient to protect the integrity of the process. We need not consider the question, however, for those facts are not presented here."

News reports detail the increased frequency of juror lies at *voir dire* and practitioners must be prepared by understanding the rules as well as cautioned to do sufficient background checks on jurors before a verdict is rendered to discover those lies.

http://www.supremecourt.gov/opinions/14pdf/13-517_7l48.pdf (last accessed Dec. 17, 2014)

Carroll v Carman – knock and talk, 4th Amendment

This case involves the question of when the police can use the "knock and talk" exception to the warrant requirement to enter a person's property to speak with occupants. The Third Circuit held that the police must use the front door to the property for the exception to apply and denied qualified immunity to officers in this case. The Supreme Court summarily reversed in a per curiam decision.

The police believed a man had stolen a car and had two loaded handguns. They heard he might be at the Carman's home and went there to see if they could find him. The Carmans' home sat on a corner lot with the front facing a main street and the side of the house facing a side street. When they arrived at the home in the middle of the afternoon the police discovered that there was no parking available in the front and went up the side street. They saw a gravel parking area with several cars parked there and they parked in the first available spot towards the rear of the house. As they approached the house, they saw a small outbuilding with a light on and the door open and one of the officers went to the door and announced his presence but no one was there. They continued along the side of the house and saw a sliding glass door that opened onto a ground level deck and Officer Carroll felt that the sliding glass door looked like a customary entryway and went to knock on the door. As they approached a man came out and belligerently approached them. The officers explained who they were and why they were there but the man refused to answer any of their questions, such as who he was and if the suspect was on the property. The man turned away and reached for his waist and the officer grabbed his arm and the man fell off the deck.

At that point, a woman came out of the house and asked what was happening. The officers explained that they were looking for a suspect in a car theft. She told them her name, that she and her husband were the occupants of the home and identified the man the police had first encountered as her husband and told the officers that the suspect was not there. The officers asked for permission to search the house for the suspect and she consented. The officers searched the house, but did not find the suspect and left. The Carmans were not charged with any crimes. The Carmans later sued Officer Carroll in Federal District Court under 42 U. S. C. §1983. The Carmans alleged that the officer unlawfully entered their property in violation of the Fourth Amendment when he went into their backyard and onto their deck without a warrant.

The Third Circuit concluded that the officer was not entitled to immunity. The Supreme Court discussed immunity and reminded us that for a court to deny immunity the law must be clearly established, saying "Here the Third Circuit cited only a single case to support its decision that Carroll was not entitled to qualified immunity—*Estate of Smith v. Marasco*, 318 F. 3d 497 (CA3 2003). Assuming for the sake of argument that a controlling circuit precedent could constitute clearly established federal law in these circumstances, see Reichle v. Howards, 566 U. S. ___, ___ (2012) (slip op., at 7), *Marasco* does not clearly establish that Carroll violated the Carmans' Fourth Amendment rights." As the Supreme Court pointed out, the Third Circuit's reliance on language in Marasco that "entry into the curtilage after not receiving an answer at the front door might be reasonable" converted a discussion of reasonableness to a requirement that officers must first go to the front door. The Supreme Court found no basis for the Third Circuit reaching that conclusion found the officer should be entitled to immunity but did not decide whether police must first go to the front door for the "knock and talk" exception to apply.

http://www.supremecourt.gov/opinions/14pdf/14-212_c07d.pdf (last accessed Dec. 17, 2014)

Heien v. North Carolina – probable cause, mistake of law

In *Heien v. North Carolina*, the court concluded that an officer's reasonable mistake of law can support reasonable suspicion to make a traffic stop. In the case, the officer believed that a North Carolina law requiring vehicles to maintain rear lights in factory installed condition meant that the rear brake lights had to be in working order. The officer saw a driver who appeared to be acting suspiciously and followed him. When the driver slowed, the officer noticed that only one brake light operated and the officer pulled the vehicle over. After a few minutes talking with the occupants, the officer asked if he could search the vehicle and was granted permission and found a bag of cocaine. The occupants were arrested and challenged the search, but the lower court found the search reasonable and did not exclude the evidence. Heien agreed to plead guilty but reserved his right to appeal. On appeal, the North Carolina intermediate appellate court concluded that the law only required one brake light to be in working order, so when the officer stopped a vehicle with one brake light working, but the other not, the officer was