

No. _____

19-6839

IN THE

SUPREME COURT OF THE UNITED STATES

ORIGINAL

PATRICK RICARDO SMITH

(Your Name)

PETITIONER 2RD SE

FILED

OCT 24 2019

OFFICE OF THE CLERK
SUPREME COURT, U.S.

vs.

BARBARA UNDERWOOD ET AL

RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS SECOND CIRCUIT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

PATRICK RICARDO SMITH 0378802

(Your Name)

P.O. Box 155

(Address)

BUNN, N.C. 27508

(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

- 1) Did the courts below undermine the integrity of this Court's ruling in BATSON V. KENTUCKY AND FLOWERS V. MISSISSIPPI, thus violating ALTON CRISHOLM AND JASMINE JACKSON, two potential African American jurors's right as well as the petitioner's rights under the 5th and 14th Amendments of the United States Constitution?
- 2) Did the District Court err in ordering a reconstruction hearing be held twelve (12) years after the trial, to obtain a race neutral explanation, thus violating ~~two~~ ~~potential~~ ~~jurors~~ ~~rights~~ as well as the petitioner's rights under the 5th and 14th Amendments of the United States Constitution AND BATSON Id at 96 emphasis added?
- 3) Did Prosecutor Fredric Green's race-neutral explanation, "that he didn't believe that JASMINE JACKSON had enough life experience to make a decision of this magnitude" in contrast to Justice THURGOOD MARSHALL's concurrence in BATSON Id at 104-105 and in violation of JASMINE JACKSON's AND PETITIONER's 5th and 14th Amendments of the United States Constitution?

4) WAS THE DISPARATE QUESTIONING OF POTENTIAL JUROR JASMINE JACKSON IN COMPARISON TO VICTOR WATSON, KENNETH JOHNSON AND SABAH WALKMAN, WHO ARE WHITE AND SIMILARLY SITUATED, CLEAR AND CONVINCING ENOUGH EVIDENCE TO ESTABLISH PRETEXTUAL DISCRIMINATION IN VIOLATION OF THE 14TH AMENDMENT OF THE UNITED STATES CONSTITUTION?

5) DID THE LOWER COURTS FAIL TO UPHOLD THE EQUAL PROTECTION RIGHTS OF THE PETITIONER, THUS FURTHERING THE VIOLATION OF THE UNITED STATES CONSTITUTION & AND THE RULING HELD IN BATSON?

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

PATRICK RICARDO SMITH PRO SE PETITIONER -
APPELLANT.
BARBARA LINDERWOOD ATTORNEY GENERAL FOR THE
STATE OF NEW YORK, TIMOTHY MCKOY ADMINIS-
TRATOR OF FRANKLIN CORRECTIONAL CENTER, NORTH
CAROLINA RESPONDENTS - APPELLEES.

RELATED CASES

BATSON V. KENTUCKY 1
FLOWERS V. MISSISSIPPI
FOSTER V. CHATMAN
MILLER EL V. DRETKE
POWERS V. OHIO
PURKET V. ELEM
SNYDER V. LOUISIANA
TEXAS DEPT OF COMMUNITY AFFAIRS V. BURDINE

TABLE OF CONTENTS

OPINIONS BELOW	1
JURISDICTION.....	
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	
STATEMENT OF THE CASE	
REASONS FOR GRANTING THE WRIT	
CONCLUSION.....	

INDEX TO APPENDICES

APPENDIX A	UNITED STATE DISTRICT COURT ORDER AND OPINION ADOPTING IN PART AND DENYING IN PART WRIT OF HABEAS CORPUS PURSUANT TO 28 USC 2254 DATED 9-5-17
APPENDIX B	U.S. DISTRICT COURT ORDER AND OPINION DENYING THE REMAINING BATSON CLAIM IN HABEAS CORPUS PURSUANT TO 28 USC 2254 DATED 12-7-18
APPENDIX C	U.S. DISTRICT COURT ORDER ASSIGNING COUNSEL FOR RECONSTRUCTION HEARING PURSUANT TO CRIMINAL JUSTICE ACT DATED 9-11-17
APPENDIX D	U.S. DISTRICT COURT'S ENDORSEMENT GRANTING IFP STATUS FOR APPEAL TO U.S. COURT OF APPEALS. DATED 1-8-19
APPENDIX E	2ND CIRCUIT COURT OF APPEALS MANDATE AND ORDER DENYING CERTIFICATE OF APPEALABILITY DATED 8-1-19 AND MANDATED 10-8-19
APPENDIX F	2ND CIRCUIT COURT OF APPEALS ORDER DENYING RECONSIDERATION DATED 10-1-19
APPENDIX G	LETTER REQUESTING INSTITUTIONAL TRUST FUND STATEMENT AND LETTER IN RESPONSE TO REQUEST.
APPENDIX H	NEW YORK STATE COURT OF APPEALS ORDER AND OPINION DATED 12-4-12

TABLE OF AUTHORITIES CITED

CASES

PAGE NUMBER

<u>BATSON V. KENTUCKY</u>	476 U.S. 79, 94-98	SEE OTHER BELOW
<u>FLOWERS V. MISSISSIPPI</u>	588 U.S. —	2019
<u>FOSTER V. CHATMAN</u>	578 U.S. —, —	2016
<u>MILLER-EL V. DRETKE</u>	331, 154 L. Ed. 2d 931,	
	123 S. Ct. 1029	
<u>POWERS V. OHIO</u>	499 U.S. 400, 407 (1991)	
<u>PURKETT V. ELEM</u>	514 765, 769 (1995)	
<u>SNYDER V. LOUISIANA</u>	522 U.S. 472, 483	484
<u>TEXAS DEPT OF COMMUNITY AFFAIRS V. BURDINE</u>		

STATUTES AND RULES 28 USC 2101

43.C 28 USC 2254 AND 28 USC 1254(1)

U.S. CONSTITUTION 5TH AND 14TH AMENDMENTS

BATSON Rule

~~BATSON~~

OTHER BATSON V. KENTUCKY p. i, ii, iii, 3, 5, 7, 9, 11, 12, 13

FLOWERS V. MISSISSIPPI p. i, iii, 8

FOSTER V. CHATMAN p. iii, v, 9

MILLER-EL V. DRETKE p. iii, v

POWERS V. OHIO iii, v, 12

PURKETT V. ELEM iii, v, 6, 12

SNYDER V. LOUISIANA iii, v, 15

TEXAS DEPT. COMM. AFF. V. BURDINE iii, v, 11

OTHER (RHT) DENOTES RECONSTRUCTION HEARING TRANSCRIPT.

(TT) DENOTES TRIAL TRANSCRIPT

(DCO-1) DENOTES DISTRICT COURT INTERIM ORDER AND OPINION.

(DCO-2) DENOTES DISTRICT COURT FINAL ORDER AND OPINION

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix E - F to the petition and is

☒ reported at UNKNOWN; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix A - B to the petition and is Smith v. SCHNEIDERMAN, NO. 13-CV-8423

☒ reported at (NSR) 2017 WL 3917606 at SDNY
LETTER SENT SEPT. 5, 2017; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was OCTOBER 1, 2019
AUGUST

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: OCTOBER 1, 2019, and a copy of the order denying rehearing appears at Appendix F.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

UNITED STATES CONSTITUTION AMENDMENTS.

5TH AMENDMENT AND 14TH AMENDMENT

~~28 USC~~ 28 USC 2101, 28 USC 2254

BATSON Rule

STATEMENT OF THE CASE

THE ONLY PLAUSIBLE INTERPRETATION OF ALL THE EVIDENCE VIEWED CUMULATIVELY IS THAT WEST-CHESTER COUNTY PROSECUTOR FREDRIC GREEN BEGAN JURY SELECTION IN PATRICK SMITH'S SECOND TRIAL WITH AN UNCONSTITUTIONAL END IN MIND, AND THIS WAS TO SEAT AS FEW AFRICAN AMERICANS AS HE COULD OR NONE AT ALL.

MR. GREEN DISPLAYS THIS DISCRIMINATION WITH THE STRIKES OF AFRICAN AMERICAN, THE DISPARITY QUESTIONING OF PERSPECTIVE JURORS, FAILURE TO VOIR DIRE OTHER PERSPECTIVE JURORS SIMILARLY SITUATED TO STRICKEN AFRICAN AMERICANS AND HIS PRETEXTUAL REASONS FOR STRIKING THE TWO REMAINING AFRICAN AMERICANS PANELISTS, THUS, DEPRIVING THE PETITIONER THE FULLEST PANOPLY OF HIS UNITED STATES CONSTITUTIONAL RIGHTS AND VIOLATING PETITIONER'S 5TH AND 14TH AMENDMENT RIGHTS.

IN THE DISTRICT COURT'S OPINION AND ORDER IT ADDRESSED PETITIONER'S 28 USC 2254 AND IT WAS DETERMINED THAT THE TRIAL COURT (emphasis added) HAD ERRED IN FAILING TO PERFORM THE THIRD STEP OF THE THREE STEP BURDEN-SHIFTING FRAMEWORK FOR THE EVIDENTIARY INQUIRY INTO WHETHER THE PEREMPTORY CHALLENGE OF

JASMINE JACKSON WAS RACE BASED AS REQUIRED PURSUANT TO BATSON V. KENTUCKY 476 U.S. 79, 96-98 (1986)

MORE SPECIFICALLY, THE DISTRICT COURT HELD THAT:

"IT WAS INDEED ERROR FOR THE TRIAL JUDGE TO FAIL TO PERFORM THE THIRD STEP OF BATSON AND THERE IS NO CREDIBILITY FINDING FOR REVIEW." *Id.* at (DCD-1) 17

AT THE THIRD STEP OF BATSON ANALYSIS IN DETERMINING WHETHER THE EXERCISE OF A PEREMPTORY CHALLENGE WAS RACE BASED IF THE PARTY SEEKING TO STRIKE THE JUROR TENDERS A RACE-NEUTRAL EXPLANATION, THE TRIAL JUDGE HAS A DUTY TO DETERMINE IF THE OBJECTING PARTY HAS ESTABLISHED PURPOSEFUL DISCRIMINATION.

HERE, THE TRIAL COURT APPARENTLY SATISFIED THAT THE DEFENSE COUNSEL HAS MADE A PRIMA FACIE SHOWING THAT THE PROSECUTION'S EXERCISE OF A PEREMPTORY CHALLENGE; CHALLENGING JASMINE JACKSON TURNED TO THE PROSECUTION FOR A RACE-NEUTRAL REASON. (T.T. 525)

FOLLOWING DEFENSE COUNSEL'S ARGUMENT THAT MR. JACKSON HAS EQUIVOCALLY EXPRESSED HER ABILITY TO MAKE HARD DECISIONS, THE TRIAL JUDGE STATED: "I'VE HEARD ENOUGH. I'LL DEBUT THE CHALLENGE OVER DEFENDANT'S OBJECTION" (T.T. 527)

This Court in *Pluchett v. Elam*, 514 U.S. 765, 768, held that it is not until the third step that the persuasiveness of the justification becomes relevant.

Whereas here, the trial court determines whether the opponent of the strike, the petitioner has carried his burden of proving purposeful discrimination.

Since the trial court made no credibility finding for review, the District Court ordered a reconstruction hearing to determine de novo whether the promissory strikes of the prospective Tabor, Tammie Jackson violated petitioner's constitutional rights.

The reconstruction hearing was held on October 23, 2018 in the District Court and the petitioner's petition for a writ of Habeas Corpus was denied on December 7, 2018 (see Appendix B).

Petitioner therefore appealed to the U.S. Court of Appeals for the 2nd Circuit and was denied issuance of certificate of appealability. (see Appendix E and F).

Whereas, the petitioner seeks certiorari from this Court, the United States Supreme Court pursuant to 28 USC 2101

REASONS FOR GRANTING THE PETITION

The testimony of Assistant District Attorney Fredric Green during the reconstruction hearing conducted October 23, 2018 twelve (12) years after the petitioner's second trial, considered in its totality, demonstrates a pattern of purposeful discrimination intended to exclude African-Americans from sitting as jurors in the petitioner's trial.

The dubious proffered race-neutral explanation that prospective juror Jasmine Jackson did not have enough life experience to render a decision in the case should be closely evaluated in determining the credibility of the prosecutor's exercise of the challenge pursuant to Batson.

It must be noted that of the 102 prospective jurors in the two panels called in petitioner's trial, there were only 11 African-Americans (RHT 40). In the first panel comprising of 44 jurors, there was only 1 African-American, Alton Christolm. Mr Christolm was so concerned about the possibility that he might become the sole African-American to deliberate in the petitioner's trial, that he addi-

RESSED THIS CONCERN PRIVATELY WITH THE COURT AND COUNSEL AT SIDEBAR (RHT 30).

RATHER THAN MAKING ANY INQUIRY AT SIDEBAR ON THE ISSUE, MR. GREEN INSTEAD CHALLENGED PERCEPTIVE JUROR Chisholm AND THE COURT DENIED THE CHALLENGE AT SIDEBAR AND SEATED MR. Chisholm IN THE PANEL FOR INDIVIDUAL VOIR DIRE. THE COURT INVITED THE PROSECUTOR TO EXPLORE IT MORE (TT 87).

SIGNIFICANTLY, FREDRIC GREEN MADE NO SUCH INQUIRY NOR DID HE RENEW HIS CHALLENGE AT THE END OF THE FIRST ROUND OF VOIR DIRE, MR. GREEN EXERCISED A PEREMPTORY CHALLENGE ON MR. Chisholm, THE SOLE AFRICAN AMERICAN JUROR AT THIS POINT. (TT 279-282)

FOLLOWING A RENEWED BATSON CHALLENGE, THE COURT DENIED COUNSEL'S REQUEST TO PROVIDE A RACE-NEUTRAL REASON FOR THE CHALLENGE BY STATING "I'LL ALLOW THE PEOPLE TO EXERCISE THE CHALLENGE. IT'S THE FIRST CHALLENGE THEY ARE EXERCISING (RHT 38-39) AND MAKING NO FURTHER INQUIRY (RHT 40) HOWEVER, THIS WAS A FALSE STATEMENT BY THE COURT, FOR MR. Chisholm HAD ALREADY BEEN DENIED THIS ONCE AT SIDEBAR.

HERE AND ANALOGOUS TO FLOWERS V. MISSISSIPPI 588 U.S. — 2019, THE PROSECUTION DISPARATE QUESTIONING OF ALTON Chisholm AND JASMINE JACKSON WAS AT AN ALARMING ENOUGH PROPORTION TO GIVE RISE TO THE COURT TRIAL

COURT THAT DISCRIMINATORY INTENT WAS EVER PRESENT, AND THE COURT CLEARLY ERRED IN LIGHT OF SEVERAL BATSON CHALLENGES BY THE DEFENSE BY DOING ABSOLUTELY NOTHING TO ADDRESS THE ISSUE OR MAKE A DETERMINATION AS REQUIRED BY BATSON (SEE FOSTER V. CHATMAN 578 U.S.

—, — 2016

ADA GREEN'S MIND HAD BEEN PREDISPOSED EARLY ON THAT, WERE THERE TO BE A SINGLE AFRICAN AMERICAN JUROR, THE ISSUE OF ETHNICITY MIGHT AFFECT SUCH A JUROR'S PARTICIPATION IN DELIBERATIONS, GIVEN THE HISTORY OF THE PRIOR HISTORY OF MISTRIAL IN THE CASE AND THE HOLD-OUT OF ONE JUROR (JUAN ALVAREZ) WHO HAD REFUSED TO PARTICIPATE IN THE DELIBERATION PROCESS. SUCH CONCERN WAS IMPLICITLY CITED AS A FACTOR BY MR. GREEN WHEN HE BEGAN PLANNING FOR THE JURY SELECTION PROCESS OF THE PETITIONER'S SECOND TRIAL. (RHT 104-109)

MR. GREEN EXPLAINED AT THE RECONSTRUCTION HEARING, DURING QUESTIONING BY ADA LISA DENIS THAT MR. JACKSON'S AGE AND LIFE EXPERIENCE (emphasis added) STOOD OUT TO HIM AND MADE HER DIFFERENT FROM THE OTHERS (RHT 132-135)

IN BATSON, IT HAS BEEN HELD THAT "EXCLUSIONS OF BLACKS FROM A JURY, SOLELY BECAUSE OF RACE, CAN NO MORE BE JUSTIFIED BY A

belief that blacks are less likely than whites to consider fairly or sympathetically the state's case against a black defendant" such as the petitioner, Patrick Smith, who is black and accused of robbing Talner's Jewelry Store with all white employees, "than it can be justified by the notion that blacks lack the intelligence, experience, (emphasis added) or moral integrity to be entrusted with that rule" Id.) at 104-105 internal quotation marks and citations omitted.

Significantly, Mr. Green professed similar concerns with a number of other jurors concerning their life experiences, such as Victor Watson, Kenneth Johnson and Sarah Waldman, all of whom are white. (RHT 69) He however, did not question a single one of them individually whether they had to make an important decision. Indeed he did not question a single other juror in this manner.

Mr. Green's pretextual opposition of petitioner's challenge of Ms Toki Grace an African American who petitioner challenged for cause was only to undermine the trial court that he had no discriminatory intent.

HOWEVER, TOTI GRACE WAS EXCUSED FOR
CAUSE DUE TO HER EXTENSIVE ASSOCIATIONS
WITH THE FAMILY OF THE OWNER OF THE BUSI-
NESS THAT PETITIONER IS ACCUSED OF ROBBING.

MOREOVER, MR. GREEN, DESPITE HIS CONCERNS
WITH A NUMBER OF JURORS LIFE EXPERIENCE,
DID NOT CHALLENGE ANY REMAINING JURORS
AFTER MR GRACE AND MR JACKSON WERE CHA-
LLENGED AND EXCUSED, DESPITE THE FACT
THAT HE HAD RETAINED 8 SUCH CHALLENGES,
AND IRONICALLY WHEN THERE WERE NO MORE
BLACKS REMAINING TO CHALLENGE.

THE PROponent OF A STRIKE "MUST GIVE
A CLEAR AND REASONABLY SPECIFIC EXPLANATION
OF HIS LEGITIMATE REASONS FOR EXERCISING THE
CHALLENGE" BATSON, 476 U.S. AT 98, N 20 (QUO-
TING TEXAS DEPT. OF COMMUNITY AFFAIRS V.

BURDINE, 450 U.S. 248, 258, 67 L. Ed 2d
207, 101 S. Ct. 1089 (1981) AND THE REASON
MUST BE RELATED TO THE PARTICULAR CASE TO
BE TRIED," 476 U.S. AT 98 SEE 25 F. 3d AT
682, 683. THIS WARNING WAS MEANT TO RE-
FUTE THE NOTION THAT A PROSECUTOR COULD
SATISFY HIS BURDEN OF PRODUCTION BY MERELY
DENYING THAT HE HAD A DISCRIMINATORY
MOTIVE OR BY MERELY AFFIRMING GOOD FAITH.
WHAT IT MEANS BY "LEGITIMATE REASON" IS
NOT A REASON THAT MAKE SENSE BUT A REA-

SON THAT DOES NOT DENY EQUAL PROTECTION. SEE PURKETT V. ELEM, 514 U.S. 765, 769 (1995) SUPRA

IN CONSIDERING A BATSON CHALLENGE OR REVIEWING A RULING CLAIMED TO BE BATSON ERROR, ALL OF THE CIRCUMSTANCES THAT BEAR UPON THE ISSUE OF RACIAL ANIMOSITY MUST BE CAREFULLY CONSULTED. THIS SHOULD NOT BE LIMITED TO, OR EXCLUDE THE POTENTIAL JURORS WHO WERE DISCRIMINATED AGAINST. BESIDES VOTING, SERVING ON A JURY IS THE MOST SUBSTANTIAL OPPORTUNITY THAT MOST CITIZENS HAVE TO PARTICIPATE IN THE DEMOCRATIC PROCESS. SEE POWERS V. OHIO, 499 U.S. 400, 407 (1991)

IN MILLER-EL V. DRETKE, THE SUPREME COURT STATES THE NUMBERS DESCRIBING THE PROSECUTION'S USE OF PEREMPTORIES ARE REMARKABLE. OUT OF 20 BLACK MEMBERS OF THE 108-PERSON VENIRE PANEL FOR MILLER-EL'S TRIAL, ONLY 1 SERVED. ALTHOUGH 9 WERE EXCUSED FOR CAUSE BY AGREEMENT, 10 WERE PEREMPTORILY STRUCK BY THE PROSECUTION. ID., AT 331, 154 L. ED. 2D 931, 123 S.Ct. 1029. THE PROSECUTOR USED THEIR PEREMPTORY STRIKES TO EXCLUDE 91% OF THE ELIGIBLE AFRICAN AMERICAN VENIRE MEMBERS. HAPPENSTANCE IS UNLIKELY TO HAVE PRODUCED THIS DISPARITY. ID. AT 342.

HERE, THE COMPOSITION OF THE VENIRE IS EVEN MORE GLARING. Out of 102 PROSPECTIVE JURORS ONLY 11 WERE AFRICAN-AMERICAN, NONE SERVED (emphasis added) AND ALTHOUGH IT APPEARS 9 WERE EXCLUDED ON CONSENT FOR CAUSE AND ONE BY THE DEFENSE DUE TO CLEAR BIAS, THE REMAINING TWO WERE STRUCK BY THE PROSECUTION.

MORE POWERFUL THAN THESE BARE STATISTICS, HOWEVER, ARE SIDE BY SIDE COMPARISONS OF MS JACKSON THE BLACK VENIRE PANELIST WHO WAS STRUCK AND WHITE PANELISTS ALLOWED TO SERVE. IF A PROSECUTOR'S PROFFERED REASON FOR STRIKING A BLACK PANELIST APPLIES JUST AS TO AN OTHERWISE SIMILAR NON-BLACK WHO IS PERMITTED TO SERVE, THAT IS EVIDENCE TENDING TO PROVE PURPOSEFUL DISCRIMINATION TO BE CONSIDERED AT BATSON'S THIRD STEP.

THERE IS VERY LITTLE IF ANY DIFFERENCE BETWEEN SARAH WARDMAN AND KENNETH JOHNSON, BOTH OF WHOM ARE WHITE AND WERE KEPT BY THE PROSECUTION AND JASMINE JACKSON. ALL THREE ARE SINGLE, LIVE AT HOME WITH THEIR PARENTS AND HAVE NO CHILDREN.

ALTHOUGH THE PROSECUTOR TOOK GREAT PAIN TO DESCRIBE THEIR DIFFERENCES, THE BOTTOM LINE WAS THERE WERE NONE SAVE MS JACKSON BEING YOUNGER AND AFRICAN AMERICAN.

Indeed, if anything the close questioning of Mrs. Jackson revealed more information supportive of her being able to make hard decisions based on life experience than either of the other two in question, who were allowed to serve. She decided to make a the difficult decision to leave home to attend college in another state. She had the resolve and determination to succeed there graduating cum laude. And she had an uncle who was a retired detective and another an attorney.

In contrast, since these type of questions were never asked of Waldman or Johnson, we have no idea if they ever left their family home or what, if any, life decisions they had to make.

If a prosecutor's proffered reason for striking a black panelist applies just as well to an otherwise white panelists who is permitted to serve, this should have been more than enough evidence for the lower courts to conclude that discrimination has occurred and was intentional.

It is no less inappropriate to exclude someone black due to her race as to exclude someone black for fear that

A SOLE BLACK JUROR MIGHT INTERFERE WITH
THE JURORS ABILITY TO DELIBERATE WITH
ELEVEN WHITES IN THE TRIAL OF AN AFRICAN
AMERICAN. SEE SNYDER V. LOUISIANA 552
US 472, 483 - 484

WHEREFORE, FOR THE ABOVE MENTION
REASONS, THE PETITIONER PATRICK SMITH
REQUESTS THAT HE BE GRANTED A NEW AND
FAIR TRIAL, AND TO FORTIFY THE PUBLIC'S
CONFIDENCE THAT THEIR RIGHT AS CITIZENS
TO PARTICIPATE IN OUR DEMOCRACY WILL
NOT BE COMPROMISED BY RACIAL DISCRIMINATION.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Patrick Smith

thurs.
Date: OCTOBER 24, 2019