

No. 19-8798

IN THE
SUPREME COURT OF THE UNITED STATES

RAFEEQ QADEER SALAHUDDIN - PETITIONER

- vs -

DAVID SHINN, DIRECTOR,

ARIZONA DEPARTMENT OF CORR. et. al. - RESPONDENT(S)

APPENDIX

Rafiq Qadeer Salahuddin
Pro se Petitioner

APPENDIX A

AFFIDAVIT OF VERIFICATION

STATE OF ARIZONA)
COUNTY OF Maricopa) ss.

PETER S. BALKAN, being first duly sworn upon his oath,
deposes and says:

1. That he was the trial attorney for the Defendant RANDY JEROME HARRIS, in the trial in CR-144541A, in Maricopa County Superior Court on a charge of Murder in the First Degree.
2. That the Court was notified by him, following the exercise of pre-emptory jury strikes and the impaneling of the trial jury, that affiant did desire to object to the racial composition of the jury and the misconduct of the prosecution in using their pre-emptory strikes to exclude black jurors.
3. That affiant's notification to the Court was made at the first opportunity the said affiant could observe the actual jury panel and determine, from said observation, that the jury contained no black jurors.
4. That by the process of elimination, in that affiant did not strike any black, prospective jurors, it was determined that the State has so eliminated two black prospective jurors through the use of its pre-emptory challenges.
5. That affiant was advised, by the court, that he would be allowed to make his record in chambers at a later time, prior to opening arguments and before the calling of witnesses.

6. That affiant did make such a record; that John Birkemeier, Deputy Maricopa Attorney did admit that he had eliminated the subject black jurors by use of his pre-emptory juror strikes.

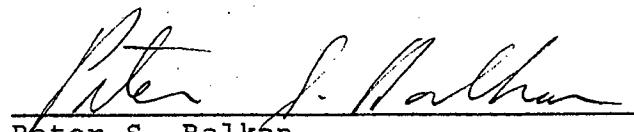
7. That affiant, at that time, had no legal authority for the proposition that such use of pre-emptory strikes was improper; that the objection and Motion of Mistrial was denied.

8. That following the above hearing, the actual jury portion of the trial begun.

9. That to the best of affiant's memory, his objection to the racial composition of the jury panel was made immediately upon his ability to observe the selected panel in the jury box, following the announcement of those jurors selected for the trial.

10. That no other legal proceedings, before the jury, occurred prior to the formal, on record proceedings, concerning the racial composition of the jury.

11. That "cure" of any defect in racial composition of the jury was not discussed, advanced, or considered by any party because of the lack, at that time, for any legal authority proscribing the subject conduct or suggesting appropriate remedies.


Peter S. Balkan
Peter S. Balkan
Affiant

SUBSCRIBED AND SWORN, to before me, the
undersigned Notary Public, this 8 day of July, 1988.

Julia Devlin
Notary Public

My Commission Expires:

6-19-90
(JULY1\aff-pb)



APPENDIX B

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

THE STATE OF ARIZONA,)
Plaintiff,)
vs.) No. CR 144541
RANDY JEROME HARRIS,)
Defendant.)

PUBLIC DEFENDER
SEP 4 - 1991

APPEALS RECEIVED

Phoenix, Arizona
July 26, 1991

BEFORE: HONORABLE DAVID R. COLE, Judge

EVIDENTIARY HEARING ON
MOTION FOR POST-CONVICTION RELIEF

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Reported by: Barbara L. Jackson

COPY

6 1 A. It might have been just a touch lower,
2 perhaps 75 to 80 percent.

3 Q. In 1985, did you have occasion to represent
4 Randy Harris?

5 A. I did.

6 Q. And were you his attorney in a jury trial
7 that took place before Judge D'Angelo?

8 A. I was.

9 Q. At some point in time during those trial
10 proceedings, did you make a motion for a mistrial based
11 upon the fact that two black prospective jurors did not
12 end up on the jury that heard the evidence at his trial?

13 A. I did.

14 Q. Do you recall when you first made that
15 motion?

16 A. I recall not only when I made the motion
17 for the record, but I recall discussing the matter with
18 Judge D'Angelo, and certainly in the presence of Mr.
19 Birkemeier, on the previous day.

20 Q. Mr. Balkan, the record reflects that the
21 jury was empaneled on the afternoon of November 5, 1985,
22 and that the Court swore them, excused them for the day,
23 and then took a recess until the following day. On the
24 morning of November 6, 1985, the record reflects you
25 then making your motion for a mistrial, candidly

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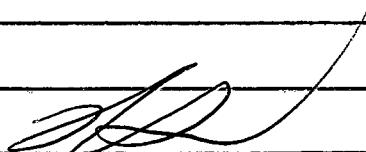
DAVID SHINN, DIRECTOR

ARIZONA DEPARTMENT OF CORR. et. al. — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The petitioner asks leave to file the attached petition for rehearing on the merits without prepayment of costs and to proceed in forma pauperis.

Petitioner has previously been granted leave to proceed in forma pauperis in this Court in this cause No. 19-8798.



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OFFICE OF THE CLERK
SUPREME COURT, U.S.

DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED IN FORMA
PAUPERIS

I, Rafeeq Q. Salahuddin, am the petitioner in the above-entitled case. In support of my motion to proceed in forma pauperis, I state that because of my poverty I am unable to pay the costs of this case or give security therefor; and I believe that I am entitled to redress.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: October 27 2020

