No. 20-5036

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

JERMOND PERRY — PETITIONER
(Your Name)

vs.

JEFFERY WOODS — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

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

PETITION FOR WRIT OF CERTIORARI

JERMOND PERRY
(Your Name)

MUS. CORR. FAC./2400 S. SHERIDAN DR
(Address)

MUSKEGON, MICHIGAN 49442
(City, State, Zip Code)

N/A
(Phone Number)

QUESTIONS PRESENTED

A. INTRODUCTION

In this case, the prosecutor used consecutive peremptory challenges to remove three African American jurors during the jury selection Process of petitioner's trial. After the dismissal of the third African American female (Ms. Holley), counsel objected pursuant to Batson v Kentucky, 476 U.S. 79 (1956), arguing that the prosecutor had engaged in a pattern of discriminatory strikes.

Every court to address the Batson issue below, from the trial court, to the Michigan Court of Appeals, Federal District Court sitting on habeas review, and the Sixth Circuit Court of Appeals all confined the Batson inquiry to Ms. Holley. In doing so, the courts accepted the prosecutor's race-neutral explanation for striking Ms. Holley --- without even considering whether the explanation was credible in the face of the pattern of strikes.

The Questions Are:

> I. Was counsel's objection at the moment the pattern emerged sufficient to warrant a full Batson inquiry withrespect to all strikes in the alleged pattern?
>
> II. When a court allows earlier peremptory challenges in a pattern of strikes to stand without taking remedial action; does it potentially endorse purposeful discrimination contrary to Batson?

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CONSTITUTIONS, COURT RULES, STATUTES

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The Sixth Circuit Court of Appeals Opinion is Unpublished, App'x A. The Eastern District of Michigan Federal Court's Opinion is Unpublished, App'x B. The Michigan Court of Appeals Direct Review Opinion in Unpublished, App'x C. The Michigan's Supreme Court's Order Denying Leave To Appeal on Direct Review can be found at 490 Mich (2011)), App'x D. The Trial Court's Opinion Denying Relief From Judgment, App'x E. The Michigan Court of Appeals Order Denying Leave To Appeal on Post-Conviction Review is Unpublished, App'x F. The Michigan Supreme Court's Order Denying Leave To Appeal on Post-Conviction Review can be found at 497 Mich 1023 (2015) App'x G.

JURISDICTION

The Sixth Circuit Court of Appeals entered its judgment on May 6, 2020. The instant petition is timely as it has been submitted within Ninety (90) calendar days from the date the Sixth Circuit Court of Appeals entered its judgment. Thus, this Court has jurisdiction over the matter pursuant to 28 U.S.C. §§ 2254(1); John v United States 524 U.S. 236 (1996).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Equal Protection Clause of the Fourteenth Amendment commands that "No state shall ... deny to any person within its jurisdiction the equal protection of the law". U.S. Const. Amend. XIV, §§ 1.

28. U.S.C. §§ 2254(d) Provides:

That a Federal Court may not grant a state prisoners application for writ of Habeas Corpus unless the State Court's adjudication of the prisoner's claim on the merits:

> (1). Resulted in a decision that was contrary to, or involved an unreasonable application of clearly established law as determined by the Supreme Court of the United States, or
>
> (2) Resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the state court proceedings.

However, where a petitioner's habeas claim was not adjudicated on the merits in state court the provisions of 28 U.S.C. §§ 2254(d) are inapplicable, and the claim is reviewed de novo, Kernan v Hinajoso, 136 S.Ct 1603, 1604 (2016).

STATEMENT OF THE CASE

(1). Petitioner's convictions arose from the shooting deaths of Dennis and Andrea Perry, both of whom are not related to Petitioner. According to the information obtained from the investigators and the state's witnesses, on May 9, 2003, Petitioner, Donte Hamilton, and Thomas Young drove to the Perry's home with intentions to rob them. See Testimony of Lenora Jenkins, 3/16/2004, Trial Transcript, at 58-96; Burell, 3/16/2004, Trial Transcript, at 108-147; Jason Lindsey, 3/16/2004, Trail Transcript, at 1540161. And, after gaining access into the Perry's home, Petitioner and the two men ordered the Perry's children to their bedroom and force the couple down to the basement where they were shot and killed. ID.

(2). Petitioner stood trial by himself on two counts of First Degree Murder in Michigan Court.[1] As with every jury trial, the proceeding began with the vior dire process. See 3/16/2004, Trail Transcript, at 3-130. During vior dire the prosecutor was awarded a number of peremptory challenges, 1 of which was used to excuse a non-African American, and 3 of which were used consecutively to excuse three African American female juror. Id. Loretta Holley was the last juror the prosecutor excused.

(3). After the prosecutor excused her, defense counsel asked for a side bar conference where he invoked this court's

1. Petitioner's co-defendants Thomas Young and Donte Hamilton took plea deals, which did not require them to testify against petitioner. After pleading guilty to reduced charges they were both sentenced to lengthy sentences for their participation in the crimes.

holding in Batson v Kentucky 476 US 79 (1986).

After jury selection ended, the trial court gave defense counsel an opportunity to explain the basis for his Batson objection on the record:

> Trial Counsel: Your Honor, the only issue is I was challenging the release of Loretta Hollery by the prosecutor, she was the African American. In fact, the third African American female that the prosecutor released.
>
> At that point in time he has one other individual he has released, and that was Mr. Mezo so that's why I'm making a challenge because he has released two other African Americans at the time he released Ms. Holley.

The trial court then allowed the prosecutor to respond to defense counsel's objection.

> The Prosecutor: Your Honor, I released Ms. Holley for several reasons.
> First, of all, understanding that she had several police officers relatives, Ms. Holley in the brief questioning had demonstrated to me a few things that I found to be unpredictable.
>
> I felt she was being over sympathetic because of her reference to childrens work. I always question motivational speakers to be honest with the court, and she called herself a motivational speaker. She referred to the relationship she was in, in a very odd way saying she was married but single. And, to be candid, she has classes Monday, Wednesday and Friday at 4:00 O'clock.
>
> I was trying to make a gesture to demonstrate to the jurors that I could be nice or that I would be accommodating by using one of my own.
>
> I've only use four peremptories, so I did think for all three reasons.
>
> In addition, there are at least, I don't recall now because I don't keep track that way, but at least two African American females on the jury, in addition to African American males...

See 3/16/ 2004 Trial Transcript, at 134136).

After the prosecutor explained his reasons for excusing Ms. Holley, counsel explained that " I made my argument, your Honor." Id. The trial court denied the motion ruling that the prosecutor "provided a race neutral explanation as to why Ms. Holley was excused" Id. The trial court also noted for the record that, the juror who ended up replacing her i.e. Ms. Holley in that particular seat was an African American. Id.

(4). Petitioner's case proceeded to trial, with the jury rejecting his claim of innocence and convicting him of two counts of First Degree Murder and two Fire-arm related offenses.[2]

After being sentenced to life in prison; petitioner sought vindication of his constitutional rights through his appeal of right and federal habeas proceedings.

However, every court below to review petitioner's racial discrimination claim before finding that the trial court did not commit constitutional error in his case --- misconstrued counsel's objection, and like the trial court, those court's failed to extend the Batson inquiry to the prior strikes of the other two African American female jurors identified by counsel as being a part of the pattern of strikes.

Even Mozse, the court never addressed the trial court's statement that "the juror who ended up replacing Ms. Holley was African American. Id. The statement sent the unmistakable message that Wayne County Prosecutors can, (1) get away with exercising discriminatory strikes against some African Americans

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[2] Defendant was sentenced to life imprisonment for the felony in possession of a firearm conviction, and a consecutive 2 years for the felony firearm conviction.

(and by extension, individuals from other ethnic backgrounds) on the venire; so long as a prosecutor doesn't discriminate against all such individuals, and (2) such strikes will be permitted and a prosecutor will never be required to explain them.

Most troubling of all, is the fact that the trial court apparently determined, itself that there were good reasons for excluding the other relevant jurors, and denied petitioners Batson challenge without even considering whether the prosecutor's explanation for striking Ms. Holley was credible in light of counsels argument. This was clear error. And the courts below should have found it to be so.

As this Court's precedent commands that "courts in this context" must consider all circumstance bearing on racial animosity". see Snyder v Louisiana, 552 U.S. 472, 478-79, (citing Miller-El v Dretke, 545 U.S. 231, 239, (2005); see also Flowers v Mississippi, 139 S.Ct 2228, 2244 (2019)(the trial court must "consider the prosecutor's race neutral explanations in light of relevant facts and circumstance and in light of the arguments of the parties").

Simply put, the court's below were not steadfast in identifying, investigating, and correcting the improper bias that occurred during the jury selection process of petitioner state criminal trial.

a. Petitioner's Appeal of Right

The Michigan Court of Appeals first reviewed Petitioners racial discrimination claim and it found no error in the trial

court's denial of the Batson challenge. After reciting the relevant constitutional standard, the state court determined that petitioner had waived his pattern of strikes claim. It then concluded that the trial court was justified to require the prosecutor to provide an explanation only for the peremptory strike of Ms. Holley, and not for the other two female African American prospective jurors because defense counsel only raised a Batson challenge as to Ms. Holley. see Michigan Court of Appeals opinion Appx C. Id at 3-4.[3]

b. District Court Habeas Proceedings.

Applying AEDPA's defelential standard of review to petitioner's Batson claim, the district court found that the state court's decision was not unreasonable. The court further concluded that because defense counsel specifically limited his objection to the use of his challenge to excuse Ms. Holley, the trial court did not error in requiring the prosecutor to offer an explanation for the challenge of the other two jurors. District Court opinion, Appx B at 12-13.

For a number of reasons, this determination by the district court is clearly erroneous. First, the court erred in applying AEDPA to the Batson claim, see Michigan Court of Appeals Opinion Appx C, (concluding that defendant waived his Batson claim). Id. This determination by the state court is belied by the

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[3]. The state Court did acknowledge that the Michigan Supreme Court in People v Knight, 473 Mich 324,346 (2005) directed court's to apply the Batson analysis to all strikes in an alleged pattern, even if the prior strikes were not specifically objected to. However, the panel ignored the command in Knight and based on an erroneous view of the record found no pattern of strikes envincing a prima facie showing of discrimination. Id.

record.

Further, "when a state court as the Michigan Court of Appeals did here disposes of a constitutional claim on procedural grounds, it does not constitute an adjudication on the merits." Therefore, the strictures of AEDPA did not apply in this case. See Tyler v Anderson, 748 F3d 497, 508 (6th Cir 2014)("an" adjudication on the merits is best understood by stating what it is not; it is not a resolution of a claim on procedural grounds")(citing Johnson v Williams, 133 S.Ct 1008, 1011 (2013)(Scalia J. Concuring). Thus, the district court should have conducted a de novo review of the Batson claim. Id.

Second, even if AEDPA applied to the Batson claim --- the state court's failure to ask whether the prosecutor's explanation for striking Ms. Holley was credible in the face of the pattern of strikes amounted to an unreasonable application of Batson and it's progeny under 28 U.S.C. 2254(d)(1) see. eg. Sanchez v Roden, 753 F3d 279, 298-300 (1st Cir 2014)("Finding that the MAC unresaonably applied Batson's first prong in that it wholly failed to consider all of the circumstances bearing on potential racial discrimination").

Hence, the district court egregiousy misapplied this court's precedent and it's issuance of a certificate of appealability on the Batson claim, is evidence that the court was apparently aware of it's error and determined "reasonable jurors could find it's decision debatable, or wrong" MillerEl v Cockerll, 537 U.S. 322,336 (2003); Buck v Davis, 137 S.Ct 759 (2016).

c. Sixth Circuit Court of Appeals Proceeding

Unlike the district court, the Sixth Circuit panel conducted a de novo review of the Batson claim.[4] In doing so, despite counsel's legal objection being that Ms. Holley was involved in a pattern of strikes --- the panel without any discussion of the other strikes --- limited its Batson inquiry to Ms. Holley. see Sixth Circuit Court of Appeals opinion, App'x A of 4. Applying Batson's first-step, the court determined Petitioner had "arguably made the requisite showing with respect to Ms. Holley, because a pattern of strikes against black jurors involved in a particular venire might give rise to an inference of racial discrimination". Id.

Applying Batson's second and third step, the panel concluded that the prosecutor had offered a race-neutral explanation for the strike against Ms. Holley, and that the trial court did not error in finding the prosecutor's explanation justified, or in excluding the other two jurors from its Batson inuqiry." Id. Like the district court, the Sixth Circuit committed "two" serious errors when adjudicating the Batson claim. To begin with, the court did not even mention Petitioner's argument that Ford v Georgia, 498 U.S. 411 (1989), plainly demonstrated that

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[4]. Although the court did not expound on its reasoning; the panel's application of de novo review; instead of AEDPA to the Batson claim, is evidence that the court agreed with Petitioner's argument that the state court did not adjudicate the Batson claim on the merits. And, as a result, the district court incorrectly applied AEDPA in this context. see Kernan v Hinajoso, 136 S.Ct 1603, 1604 (2016)("when a claim has never been adjudicated on the merits." in state court, the claim does not fall under 28 U.S.C. §§ 2254(d)). see Petition for Writ of Habeas Corpus filed below in the Sixth Circuit p.12-14. (Court File).

the state and district court erroneously found that Petitioner waived the portion of his Batson claim related to the earlier strikes, much less explain why it credited the district court's factual findings in light of Ford's explicit holding.

Next, in adjudicating the Batson claim the panel wholly disregarded Miller-El's command that "in considering a Batson objection, or reviewing a ruling claimed to be a Batson error, all circumstance that bear on the issue of racial animosity must be consulted." Miller-El, 545 U.S, at 239, United States v Atkins, 843 F3d 625,631 (6th Cir 2016). Consequently, the Sixth Circuit's misguided approach resulted in critical inquiries that served to protect fundamental constitutional rights going unaddressed.

REASONS FOR GRANTING CERTIORARI

1. The Sixth Circuit's Failure To Extend Its Batson Inquiry To All Jurors Involved In The Pattern Of Strikes Conflicts With The Directives Of The Court's Precedent.

This court's precedent has long established that the "Equal Protection Clause of the U.S. Constitution prohibits a prosecutor from using a peremptory challenge to excuse members of the jury because of race, ethnicity, or sex". Boston v Kentucky, 476 U.S. 74,89 (1986). The Batson court formulated a three part inquiry for evaluating whether a prosecutor has exercised discriminatory intent when using a peremptory challenge to excuse a perspective juror. Id 96-98.

First, "the court must determine whether the defendant made a prima facie showing that the prosecutor exercised a peremptory challenge on the basis of race". 467 U.S. Id at 97-98.

"A pattern of strikes in a particular venire might give rise to an inference of discrimination." Id. When addressing this prong "all circumstances bearing an racial animosity must be considered". Snyder, supra 532 U.S. at 428.

Second, if the showing is made, the burden shifts to the prosecutor to provide a race neutral explanation for striking the juror. Id at 97-98. Third, "if a race-neutral explanation is offered the court must then determine whether the defendant carried the burden of proving purposeful discrimination". 467 U.S. at 97.

To invoke Batson, a defendant must timely object on racial discrimination grounds. This court's precedent indicates that an objection, in this context is timely, if it is made before the jury is sworn. In Batson, for example, the challenge to the prosecutor's use of the peremptory strikes against African American jurors was deemed timely, because before the jury was sworn the defendant moved to discharge the jury as unconstitutionally selected. 467 U.S. at 83,100.

A few years after Batson, the court considered the application of a procedural rule adopted by the Supreme Court of Georgia requiring that, "any claim under Batson should be raised prior to the time the jurors selected to try the case are sworn." Ford supra, 498 U.S. at 422 (1991)(quoting State v Sparks, 257 Ga. 97, 355 SE 2d 655, 659 (1987). This court observed that requiring "any Batson claim to be raised not only before trial, but in the period between the selection of the jurors and the administration of their oath, is a sensible rule".

Ford, 498 U.S. 422-23. The Michigan Supreme Court has also adopted a similar method for preserving a Batson claim. See Knight, supra 473 Mich at 345-346.

As is apparent from the record, defense counsel's Batson challenge was indeed made in the period between the selection of the jurors and the administration of their oath. See Trial Transcript 3/18/2004 at 124-131. When given the opportunity to explain the legal basis for the objection counsel stated, "So that's my challenge because he released two African Americans at the time he released Ms. Holley." Trial Transcript 3/18/2004, 133-135.

That said, the timing of counsel's objection, the nature of the objection, along with the Sixth Circuits observation that it was lodged to show a pattern of discriminatory strikes, Sixth Circuit Opinion, Appx A at 4, make the court's decision not to extend the Batson inquiry to the other two jurors -- inexcusable, in light of the proscribed approach endorsed by this Court's settled precedent. See Batson, 476 U.S. at 96-100 ("indicating that the revelent inquiry should be applied to all jurors identified as being involved in a pattern of strikes"), Snyder, 532 U.S. at 428 (engaging in separate Batson analysis for each relevant juror.") Foster v Chatnan, 136 S.Ct 1737 (2016) ("conducting a Batson inquiry for each juror identified by counsel during his objection.") Miller-EL, 545 U.S. 231 (2005)(sane).

Moreever, notwithstanding the Sixth Circuit's obligation to act pursuant to the timing and nature of counsel's objection

this Court's precedent, as stated above, required the Sixth Circuit panel to "consider whether the prosecutor's explanation for excluding Ms. Holley was credible in the face of the pattern of strikes" See Flowers, 139 S.Ct at 2243; Miller-EL; 545 U.S. a 282; Atkins; 843 F3d at 631 (citing Snyder, 532 U.S. at 428). However, the Sixth Circuit's Opinion reflects that no such inquiry was every conducted. See Sixth Circuit Court's Opinion, Appx A. Id.

In all, the Sixth Circuit's failure to include the other two African American Female jurors in the Batson inquiry and adhere to the command of Miller-El is inconsistent with the proscribed approach endorsed by this Court's precedent and amounts to an egregious misapplication of settled law.

2. The Sixth Circuit's Failure To Extend It's Batson Inquiry To Each Juror Involved In The Pattern Of Strikes In This Case Conflicts With Other Circuit's And It's Own Precedent.

In the United States v Tomlinson, 764 F3d 535 (6th Cir (2014), the central issue before the court was whether Tomlinson raised a timely objection under Batson, to the Governments use of it's first five peremptory strikes to remove African Americans from the jury. Id, at 536-537. Relying on the approach taken by this Court in Batson and the holdings of Ford, the Court determined that Tomlinson's Batson objection to the Governments use of it's first five peremptory strikes to remove African Americans from the jury was timely, even though defendant did not object until a sixth strike was used against an African American juror. Id at 537-39. In concluding such, the panel

reversed the district court's ruling that Tomlinson waived his Batson challenge by failing to raise it at a point earlier in the voir dire, and remanded his case for a Batson hearing. Id at 539-40.

In the United States v Ross, 508 Fed. Appx. 371 (6th Cir 2012), the district court employed a jury selection procedure that allowed jurors to leave the courtroom after being stuck. After the Government's third peremptory challenge, defense counsel objected to the removal of two jurors, but the court "faulted defense counsel for failing to object while the jurors were still in the courtroom". Id at 379-383.

On appeal the Sixth Circuit concluded, that it was evident that the district court "completely short-circuited the Batson analysis" because the court deemed the defense objection untimely. Id Citing to Batson and Ford the court reversed and remanded the case for further proceedings. Id at 386; See also Rice v White, 660 F3d 242,255 (6th Cir 2011)("addressing argument that peremptory strike considered in context with two prior strikes violated Batson without commenting on the timeliness of the objection".)

The First Circuit has also had occasion to expound on the matter. In Brewer v Marshell, 114 F3d 93 (1st Cir 1997), the petitioner argued that "he should not have had to object to the strikes of the four black jurors in the group of a pattern of racial discrimination, If he did not see a pattern until the strike of the fourth black juror". Id at 1001-02. The Court stated "if that were what happened, we would have considerable

sympathy for the argument. But thats not what happened. As the state trial court said in it's clarification motion, any pattern emerged at the latest with the strike of the fourth juror, defense counsel should have made the objection at that time. Id at 1001-1002.

Moreover, almost every Circuit has adhered to Miller-EL's command that "in considering a Batson objection, or when reviewing a ruling claimed to Batson error, all of the circumstances that bear on the issue of racial animosity must be consulted". See e.g. Scott v Gelb, 810 F3d 94, 101-102 (1st Cir. 2016); Williams v Beard, 637 F3d 216 (3rd Cir 2011); United States v Barnette, 644 F3d 192,204 (4th Cir 2011); Stevens v Epps, 618 F3d 489,493 (5th Cir 2010); Atkins, supra 843 F3d at 631; United States v Brown, 809 F3d 371, 374 (7th Cir 2016); Strong v Ropper, 737 F3d 506,511 (8th Cir 2013); Briggs v Grounds, 682 F3d 1165,1177 (9th Cir 2012) The Second, Eleventh, and D.C, Circuits have no authority addressing the matter.

a. The Adverse Effect Of The Sixth Circuirt's Limited Batson Analysis.

The Sixth Circuit's failure to extend the Batson inquiry to the other two African American female jurors involved in the pattern of strikes, is cause for this court to have serious concerns regarding the outcome reached during Petitioner's habeas proceedings.

Because, by allowing earlier peremptory challenges in a pattern of strikes to stand without taking remedial action --- that Court in turn permitted a conviction to remain intact that was procured by a jury that was selected through a process

of purposeful discrimination. This the Constitutional forbids. See Snyder, 552 U.S. at 478 ("The constitution forbids striking a single juror for discriminatory purpose")(quoting United States v Vasquez-Lopez, 23 F3d 900,992 (9th Cir 1984)).

3. The Court's Intervention Is Warranted To Offer Guidance For The Lower Court's In This Context, And To Preserve The Public's Confidence In The Fairness Of The Judicial System.

The questions presented in the instant petition are jurisprudentially significant with for reaching constitutional implications that are worthy of this court's attention and time. Absent clarity on the questions presented by this court[5] --- when confronted with similar circumstances --- lower courts will continue to pick and choose[6] --- when to deem counsel's Batson objection timely, and when to apply the relevant inquiry to earlier peremptory challenges in an alleged pattern of strikes. This poses serious concerns regarding the fairness of the judicial system and without this Court's intervention lower courts will surely become more divided on these critical points of law.

Beyond that, the misguided approach by the lower courts

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5. Respondent did not raise a procedural defense in it's opening brief in the federal district court. And the federal court's below did review not invoke any state law grounds "independent of the merits of Petitioner's constitutional challenge. See Harrison v Reed, 489 U.S. 255,262 (1989). As a result, this Court has jurisdiction to review the Sixth Circuit's resolution of federal law. See Rippo v Baker, 137 S.Ct 905,907 (2017)(quoting Foster, 136 S.Ct at 1737).

6. For example, compare the conclusions reached by the Sixth Circuit in Tomlinson, supra, 764 F3d at 530-539, to the panel's finding in Petitioner's case. See Appx A at 4.

when applying Batson in this case sets precedent that may provoke prosecutors to engage in purposeful discrimination during the jury selection process. And, when those actions are challenged later, the state as it has done in this case, --- can hide behind the "enormous contention" that specific or contemptuous objections are necessary to warrant the application of Batson to all jurors involved in a pattern of strikes.

Therefore, for the reasons articulated above, the Court should grant plenary review to explicitly clarify, (1) What specific number of jurors have to be excused by a prosecutor before a pattern emerges, (2) Whether it is appropriate for an attorney to allow a pattern of strikes to develop first before objecting on racial discrimination grounds, and (3) Once Batson is invoked, whether the inquiry extends to earlier strikes in a pattern that were not specifically objected to?

If the court determines that it's precedent plainly answers the questions presented and that the lower court's procedural holdings and application of Batson to Petitioner's racial discrimination claim, is inconsistent with the Court's procedural holdings and the directives of Batson and its progeny; Petitioner asks that this Court in the alternative to summarily reverse the Sixth Circuit's Opinion. See Wearry V Cain, 136 S.Ct 1002 (2010)("explaining inter alia, that summary reversal is appropriate where there is controlling Supreme Court precedent demonstrating that the lower court's result is clearly erroneous."), and remand the instant case for further proceedings consistent with those articulated in the remand order issued

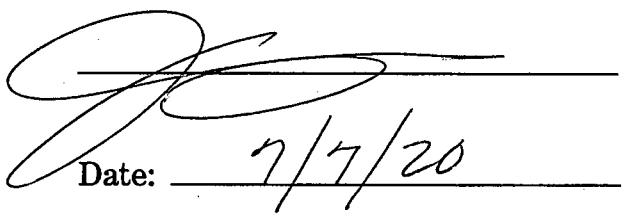
by the Court in Batson 467 U.S. at 100.

Such actions by the Court serves to protect the integrity of the judicial process and ensures that Petitioner was not tried and convicted by a jury that was unconstitutionally selected. 499 U.S. at 404. As the Sixth Circuit can take the necessary steps to order a hearing in the appropriate court, which will permit the prosecutor to offer race neutral explanations for the earlier strikes against the other two African American females, and give the designated court an opportunity to make a determination as to whether the prosecutor's explanations for excusing Ms. Holley are credible in the face of the pattern of strikes.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: 7/7/20