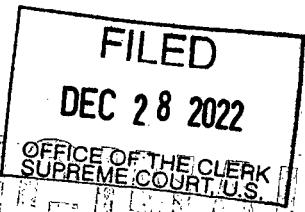


No.

22-6483



IN THE
SUPREME COURT OF THE UNITED STATES

ELI SLOAN-PETITIONER
VS.
UNITED STATES OF AMERICA-RESPONDENT

ON PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

ELI SLOAN
REG. NO. 49676-408
UNITED STATES PENITENTIARY MARION
P.O. BOX 1000
MARION, ILLINOIS 62959-7500

QUESTION PRESENTED

1. Whether the voir dire selection was partial or prejudicial, in violation of Petitioner, Eli Sloan's Sixth Amendment right to an impartial jury.

LIST OF PARTIES

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

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: N/A

RELATED CASES

Sloan v. United States, 2021 U.S. Dist. LEXIS
238804 (D. Az., Dec. 14, 2021)

3:20-cv-08133-DLR (D. Az., Jan. 7 2022)(unpublished)

Sloan v. United States, 3:20-cv-08133-PCT-DLR (DMF)
(D. Az., Feb. 7, 2022)(unpublished)

3:20-cv-08133-PCT-DLR (D. Az., Apr. 12, 2022)(unpublished)

Sloan v. United States, 3:20-cv-08133-PCT-DLR (DMF)
(D. Az., May 4, 2022)(unpublished)

Sloan v. United States, 3:20-cv-08133-PCT-DLR (DMF)
(D. Az., May 18, 2022)(unpublished)

United States v. Sloan, 21-17137 (9th Cir. 2022)(unpublished)

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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 1 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[] is unpublished.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 United States district court appears at Appendix 1-2 to the petition and is

[] reported at 2021 U.S. Dist. LEXIS 238804 (D. AZ, Dec. 14, 21); 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[] is unpublished.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 Sept. 30, 2022.

[] 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: Sept. 30, 2022, and a copy of the order denying rehearing appears at Appendix 9.

[] 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).

JURISDICTION ON WRIT OF CERTIORARI

The Supreme Court of the United States, has jurisdiction, pursuant to Rule 10 (c) and 12.2, to review the order from the Court of Appeals for the Ninth Circuit, denying Petitioner's Motion For Reconsideration and Motion For Reconsideration En Banc, to determine the answer of the question presented. The Court of Appeals for the Ninth Circuit, has jurisdiction pursuant to 28 U.S.C. § 1291,

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

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Sixth Amendment of the United States

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

STATEMENT OF THE CASE

On September 15, 2016, after a trial by jury, Petitioner Eli Sloan, was found guilty of Kidnapping, in violation of 18 U.S.C. §§ 1153 and 1201 (count 1); Assault with Intent to Commit Aggravated Sexual Abuse or with Intent to Commit Murder, in violation of 18 U.S.C. §§ 1153 and 113 (a)(1) (count 2); Aggravated Sexual Abuse (vaginal) in violation of 18 U.S.C. §§ 1153 and 2241 (a)(1) (count 4); Assault of a Spouse or Intimate Partner Resulting in Substantial Bodily Injury, in violation of 18 U.S.C. §§ 1153 and 113 (a)(7) (count 5); and Assault of a Spouse or Inmate Partner by Strangling or Suffocating, in violation of 18 U.S.C. §§ 1153 and 113 (a)(8) (count 6). Case No. 3:15-cr-08232-DLR-1. Petitioner was sentenced on September 12, 2017, and immediately filed a Notice of Appeal. United States v. Sloan, 2017 U.S. Dist. LEXIS 65824 (D. Az., Sept. 12, 2017). On March 8, 2019, the Court of Appeals for the Ninth Circuit, Affirmed Petitioner's conviction. United States v. Sloan, 756 Fed. Appx. 739 (9th Cir. 2019). On October 7, 2019, The Supreme Court of the United States, denied a Writ of Certiorari to the Court of Appeals for the Ninth Circuit. Sloan v. United States, 2019 U.S. LEXIS 5795 (2019). On May 5, 2020, Petitioner filed a 28 U.S.C. § 2255 petition in the District Court. On December 14, 2021, that district Court denied Petitioner's § 2255 petition. Sloan v. United States, 2021 U.S. Dist. LEXIS 238804 (D. Az., Dec. 14, 2021). On January 7, 2022, the District Court Denied

Petitioner's Certificate of Appealability. Sloan v. United States, 3:20-cv-08133-DLR (D. Az., Jan. 7, 2022). On February 7, 2022, the District Court denied Petitioner's Motion for Reconsideration of his § 2255. Sloan v. United States, 3:20-cv-08133-PCT-DLR (DFM)(D. Az., Feb. 7, 2022). On April 12, 2022, the Court(s) denied Petitioner's Motion under Federal Rules of Civil Procedure 60 (b)(4). Sloan v. United States, 3:20-cv-08133-PCT-DLR (D. Az., Apr. 12, 2022).

On May 4, 2022, the Court(s) denied Petitioner's Motion for Reconsideration of Denial of Rule 60 (b)(4). Sloan v. United States, 3:20-cv-08133-PCT-DLR (DFM)(D. Az., May 4, 2022). On May 18, 2022, Petitioner filed a request, and was denied, a Certificate of Appealability. Sloan v. United States, 3:20-cv-08133-PCT-DLR (DMF)(D. Az., May 18, 2022). On September 30, 2022, the Court of Appeals for the Ninth Circuit, denied Petitioner's Motion For Reconsideration and Motion for Reconsideration En Banc. United States v. Sloan, 21-17137 (9th Cir. 2022).

The petitioner, Eli Sloan, now brings this Writ before the Supreme Court of the United States, on one question of a violation of Petitioner's Sixth Amendment rights.

REASONS FOR GRANTING THE PETITION

In order for an accused to establish a denial of a right to impartial jury, the accused must show either actual jury partiality or circumstances inherently prejudicial to that right

The Court in Batson established what must be shown in order to prove a discrimination in jury selection.

First, the defendant...must show that he is a member of a cognizable racial group, and that the prosecutor has exercised peremptory challenges to remove from the venire members of the defendant's race.

Batson v. Kentucky, 476 U.S. 79, 96 (1986).

At trial, the parties stipulated that Petitioner, Eli Sloan, was a member of the Navajo Nation. Prospective Jurors 15 and 26, were members of the Navajo Nation. Prospective Juror 15, was issued a hearing aid device by the Court. Another prospective juror, who was Caucasian, was similarly issued a hearing aid device by the Court, and was subsequently selected to be seated on the petit jury. Yet, the last remaining Native American, Prospective Juror 15, was dismissed for "noises" which the hearing aid device makes when it is clicked or activated.

Second, the defendant is entitled to rely on fact, as to which there can be no dispute, that peremptory challenges constitute a jury selection practice that permits "those to discriminate who are of a mind to discriminate."

Batson, at 96.

If, assuming for the sake of argument, Petitioner, Eli Sloan were African American, and an all-white jury found him guilty,

would this not then be a violation of the ruling in Flowers?

Flowers held :

In criminal cases involving black defendants, the "both-sides-can-do-it" argument overlooks the percentage of the United States population that is black (about 12 percent) and the cold reality of jury selection in most jurisdictions, prosecutors often have more peremptory strikes than there are black prospective jurors on a particular panel.

Flowers v. Mississippi, 588 U.S. at 655, 139 S. Ct. 2228 (2019).

Arguing from the lesser to the greater, according to the 2020 Census Data (Source : Decennial Censuses, U.S. Census Bureau, U.S. Dept. of Commerce), American Indians comprise a mere 1.3 percent of the total population (accounting for only 3,727,135 individuals), in contrast to the African American population, comprising of around 13 percent of the total U.S. population (accounting for 41,104,200 individuals) respectfully.

If Flowers' reasoning is applicable for African Americans, then surely one could infer that Flowers ought to have a greater applicability when one considers the Native American population in connection with defendants and prospective jurors. If it would be unacceptable in 2016 for an all-white jury to convict an African American, it should be considered even less acceptable in 2016 for an all-white jury to convict an American Indian, given the history of countless broken treaties, genocide, and racist ideologies against the Native Americans in the United States.

With the approval of the Prosecutor, the Court struck every Native American from the prospective Jury panel. This "raise(s)

an inference that the prosecutor used that practice to exclude the veniremen from the petit jury on account of their race." Batson v. Kentucky, 476 U.S. 79, 96 (1986).

This, therefore, "raises the necessary inference of purposeful discrimination." *Ibid* at 96.

CONCLUSION

Consistent with this Court's rulings in Batson and Flowers, Petitioner, Eli Sloan, asks the Supreme Court of the United States, to grant his Writ of Certiorari, to the Court of Appeals for the Ninth Circuit.

Respectfully submitted by,

(ES) Eli Sloan 12/27/2022
/s/ Eli Sloan