

FILED

JUL 03 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

ORIGINAL

No.

24-5072

IN THE

SUPREME COURT OF THE UNITED STATES

Juan Rangel-Rubio *pro se* — PETITIONER
(Your Name)

vs.

United States of America — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Courts of Appeals for the Eleventh Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Juan Rangel-Rubio #21207-379
(Your Name)

P.O. Box 3900
(Address)

Adelanto, CA 92301
(City, State, Zip Code)

(Phone Number)

QUESTION(S) PRESENTED

Did the district courts dearly err by denying Mr.Rangel-Rubio's Batson Challenge to the government's peremptory strike of juror number 31 where the government race-neutral reasons included that the potential juror was not attentive during voir dire? Also, where the government did not use its Last Strict thus allowing other minorities to remain on the jury panel?

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:

RELATED CASES

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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 A to the petition and is

☒ reported at The Eleventh Circuit No. 23-11386; 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☐ is unpublished.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 B to the petition and is

☒ reported at D.C. NO-4-18:cr-274-2-LGW; 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☐ is unpublished.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☐ is unpublished.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☐ is unpublished.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 04/25/2024.

☐ 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: _____, 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. § 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

The use of peremptory challenge to exclude persons from the jury based on race or gender violates the Equal Protection Clause of the Fourteenth Amendment.

The Supreme Court outlined a three-step test for evaluating whether a prosecutor's use of peremptory challenge is a constitutional violation and erroneous strike deprives defendant of statutory right.

STATEMENT OF THE CASE

Juan Rangel-Rubio was charged with 8 U.S.C. § 1324 (a)(1)(A)(v)(1) 18 U.S.C. 1956 (h) and 18 U.S.C. §1512 (k) to hire and conceal who were unlawfully present in the United States. Eliud Montoya, one of those individuals, reported the illegal scheme to his employer and the EEOC. Mr. Rangel-Rubio proceeded to trial and was found guilty. During the jury selection process, the government exercised only five of its six peremptory challenges. Once the jury was seated (with two black members) the District Court asked the attorneys if there was any reason to believe that it was not fairly and impartially selected (Doc. 715 at 92-94) Mr. Rangel-Rubio raised a Batson challenge, that four of the government's five peremptory strikes were against either black females, Hispanic females or black males (Doc 715 at 93; 94-96). As a result, Mr. Rangel-Rubio ended up with only two black people on his jury panel. In which the District Court found Mr. Rangel-Rubio made his Prima Facia showing (Doc 715 at 96).

REASONS FOR GRANTING THE PETITION

Because the Eleventh Circuit panel's decision conflicts with the decision of the United States Supreme Court in *Batson v. Kentucky* 476 U.S. 78, 89 (1986) and the Eleventh Circuits own precedent in *United States v. Compa* 529 F. 3d 980, 992 (11th Cir 2008). Because the use of peremptory strikes in even a single case to remove blacks from the jury on account of their race violates the Equal Protection Clause. It is not necessary that the defendant share the identity of the excluded minority see *Powers v. Ohio* 499 U.S. 400 (1991) if the challenging party demonstrates a Prima Facie case of racial discrimination. Petitioners did just that (Doc 715). The District Court didn't reach the part to determine whether the explanation is facially race neutral and whether the opponent of the prematurity challenge has proven purposeful racial discrimination the appellate court will uphold the trial courts finding unless it is clearly erroneous accordingly the government said they're peremptory strike because you're 31 was inattentive but no other juror that was struck because of the inattentiveness so therefore the government did not satisfy Step 2 see *Ala Dept. of Corr.* 560 F. 3d 1252, 1266 (11th Cir 2009) where prosecutor did not present race neutral explanation for striking African American by offering only protestation of good faith and general reasons such as low intelligence the Eleventh Circuit panel had missed this very important part because the district reversed itself when it found that Mr. Rangel-Rubio indeed made a Prima Facie showing and didn't order a new trial. This court should remand back to District Court on a Batson violation.