

No. _____

24-6866

ORIGINAL

IN THE

SUPREME COURT OF THE UNITED STATES

FILED

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OFFICE OF THE CLERK
SUPREME COURT, U.S.

ADRIAN LEE GUZMAN

— PETITIONER

(Your Name)

vs.

COLORADO COURT OF APPEALS

— RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Colorado COURT OF APPEALS

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Adrian Lee Guzman #153674

(Your Name)

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QUESTION(S) PRESENTED

- 1.) Whether the decision in *People v. Guzman* 2020CA1111 regarding a "family members' Prior Conviction as the reason for a Peremptory Strike. Conflicts with *Miller-El v. Dretke*, 545 U.S. 231 and Washington General Rules 37.1(h)(iii)?
- 2.) Whether the decision in *People v. Guzman* 2020CA1111 regarding Step 3 of Batson framework is in conflict with the intent of *Batson v. Kentucky* 476 U.S. 79?
- 3.) Whether Peremptory strikes are an official state source of invidious racial discrimination, and are in direct conflict with Equal Protection Clause of the Fourteenth Amendment to the United States Constitution?
- 4.) Whether *People v. Beauvais* 2017 CO 34 Conflicts with *Snyder v. Louisiana*, 552 U.S. 472 regarding "express" credibility findings at Step 3 of Batson Framework?
- 5.) Whether *Batson v. Kentucky* 476 U.S. 79 Conflicts with the the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. When systematic purposeful discrimination can be disregarded by state courts of last resort with a "face-neutral" explanation?
- 6.) Whether Batson decisions in Colorado Courts conflict with Batson decisions in Washington and Arizona?

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:

Colorado Supreme Court Case Number 2024SC461
Colorado Court of Appeals Case Number 2020CA1111
District Court, Larimer County, Case Number 2018 CR2520

RELATED CASES

— None —

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CASES	PAGE NUMBER
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STATUTES AND RULES

Colorado Revised Statutes § 16-10-104 (2023)
Colo. Rules of Criminal Procedure 24(d)
Wash. Rules of Gen. Application, WA GR 37(h)

OTHER

Batson' Blind Spot, 85 B.U.L. Rev. 155	Pg. 7
The Jury Sunshine Project, 2018 U.Ill.L. Rev. 1407	—
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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 _____ 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 _____ to the petition and is

- ☐ reported at _____; 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 A 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 Colorado Supreme court appears at Appendix B 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 _____.

☐ 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 November 18, 2024.
A copy of that decision appears at Appendix B.

☐ 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 Amendment V,

No Person shall be deprived of life, liberty, or Property, without due Process of law.

United States Constitution Amendment VI

In all criminal Prosecutions, the accused shall enjoy the right to trial by an impartial jury, and to have the assistance of Counsel.

United States Constitution Amendment XIV

No State shall deprive any Person of life, liberty, or Property without due Process of law; nor deny to any Person within its Jurisdiction the equal Protection of the laws.

Colorado Criminal Procedure

Rule 24(d) Peremptory Challenges

Colorado Revised Statutes

16-10-104 Peremptory challenges.

STATEMENT OF THE CASE

The defendant Adrian Lee Guzman had a Colorado trial in March 2020 for first degree murder and Attempted first degree murder.

During Voir dire Juror Martinez responded to a court question, that she had a "very distant nephew" who she'd met one time when he was one, and that he had been involved in a completely separate murder case. Juror Martinez answered "No" when asked if "that situation" would bias her. Then she repeated "he's very distant". Ms. Martinez said she would listen to evidence and be fair. She expressed excitement about serving as a Juror. She thought "everybody should be treated equally."

During a subsequent discussion about bias, Guzman's Mexican heritage, and another Juror's belief that Mexicans commit a lot of crime, the defense asked Ms. Martinez for input because of her Hispanic name. Martinez stated, "..... something that crossed my mind last night was there's not a lot of Hispanics on this Selection. I did question why."

The Prosecution used its fourth Peremptory to strike Juror Martinez.

"Equal Justice under law requires a criminal trial free of racial discrimination in the jury selection process."

—Flowers v. Mississippi, 139 S. Ct. 2228 (2019)—

The defense objected under Batson, noting that Martinez was "the sole Hispanic person left on the jury."

Moving into step two of Batson the Prosecution responded, "The reason she was struck is because of 'her emotional stance' in connection with the previous murder case with her nephew." "Her nephew had been charged with murder. That raised a

2. Significant Question for the People."

Juror Martinez was not close to her nephew and knew little about the case. Similar to the circumstances in *Miller-El v. Dretke*, 545 U.S. 231 (A State's failure to engage in any meaningful voir dire examination on a subject the state alleges it is concerned about is evidence suggesting that the explanation is a sham and a pretext for discrimination)

Ms. Martinez's comment about the lack of Hispanics and the other Juror's belief that Mexicans commit a lot of crime was likely the testimony considered by the Prosecutor.

The Prosecution continued its explanation, "I would note, with regard to the racial make up of the Jury Pool. The People certainly did not strike the gentle lady who was from Spain. Nor have any of these decisions been made on a racial decision."

The Prosecution cannot satisfy its burden by denying discriminatory motive or by pointing to other Hispanic Jurors who weren't struck - *Batson*, 476 U.S. at 94-96

The defense then pointed out Ms. Martinez's concern about the lack of Hispanics. And the Prosecution responded:

"I guess I could simply make the record that the People don't choose a racial demographic of the Jury Pool, and the numbers called into that Pool with racial demographics, but there's a difference between the court making a strike based upon a racial profile."

At step three of *Batson* the court overruled the challenge as follows:

"The court finds the list of Jurors was generated randomly. There's numerous minorities on the Jury Panel."

Mrs. Martinez did raise the issue regarding her nephew who had been charged with murder, and the court appreciates the challenge by the defense, but overrules that challenge.

A State Courts failure to consider all relevant circumstances at Batsons third step is an unreasonable application of Batson under 28 U.S.C. § 2254(d)(1)

— Adkins v. Warden, 710 F.3d 1241 (11th Cir. 2013) —

Mrs. Martinez's race became an issue along with Guzman's Mexican heritage during voir dire first, and for the second time when Batson was raised. When a Jurors and the defendants race is acknowledged during jury selection, both explicit and implicit bias are present.

Therefore the 5th, 6th, and 14th Amendments to the United States Constitution are violated, and Guzman is entitled to relief.

REASONS FOR GRANTING THE PETITION

By granting this Petition, the United States Supreme Court will have authority to address the federal questions: whether Peremptory challenges violate the Constitutional rights of an impartial jury (U.S. Const. Amend. 6) and/or Equal Protection of the law (U.S. Const. Amend. 14) and therefore should be abolished.

Judge Morris B. Hoffman writes in A Trial Judges Perspective 64 U. Chi. L. Rev. 809 (1997) "The very notion of Peremptory challenges is in hopeless conflict with our ideals of what an impartial jury is and how it should be selected." Peremptories today continue their reputation for purposeful discrimination. "Far from a novel innovation, the recent state of reforms to Peremptory strikes falls within a long tradition of conflict over rulemaking and the control of American criminal procedure" See The End of Batson? 124 Colum. L. Rev. 17-22 (2024)

"After more than thirty-five years of Batson, [states] have had ample opportunity to observe the ineffectiveness of the Batson test." See A Blueprint for Change 98 Chi.-Kent L. Rev. 65, 79-101 (2023)

The difficulty involved in assessing a strike for purposeful discrimination has led to conflict between courts.

"In our society race and gender, because they are highly salient characteristics, still unconsciously form and trigger the use of stereotypes." See Batson's Blind Spot 85 B.U.L. Rev. 155

The Batson test asks a trial court to recognize implicit and explicit bias. Unfortunately race neutral reasons are much too often a cloak for conscious and unconscious bias. The Batson test fails to eliminate racial discrimination from jury selection.

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Lastly. (The only way to 'end the racial discrimination that Peremptories inject into the Jury-Selection Process'..... [is] to 'eliminate] Peremptory challenges entirely.' (second alteration in original quote). (quoting Batson, 476 U.S. at 102-103 (Marshall, J concurring)))

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

Adrian Guzman

Date: 2/1/25