

(ORDER LIST: 579 U.S.)

MONDAY, JUNE 20, 2016

CERTIORARI -- SUMMARY DISPOSITIONS

15-635 INNOVENTION TOYS, LLC V. MGA ENTERTAINMENT, ET AL.

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Federal Circuit for further consideration in light of *Halo Electronics, Inc. v. Pulse Electronics, Inc.*, 579 U. S. ____ (2016).

15-1085 WESTERNGECO LLC V. ION GEOPHYSICAL CORPORATION

The petition for a writ of certiorari is granted. The judgment is vacated, and the case is remanded to the United States Court of Appeals for the Federal Circuit for further consideration in light of *Halo Electronics, Inc. v. Pulse Electronics, Inc.*, 579 U. S. ____ (2016). Justice Alito took no part in the consideration or decision of this petition.

15-7553 FLOYD, CHRISTOPHER A. V. ALABAMA

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the Supreme Court of Alabama for further consideration in light of *Foster v. Chatman*, 578 U. S. ____ (2016).

Justice Alito, with whom Justice Thomas joins, dissenting from the decision to grant, vacate, and remand in this case: I would deny the petition for the reasons set out in my statement in *Flowers v. Mississippi*, 579 U. S. ____ (2016)

(Alito, J., dissenting from the decision to grant, vacate, and remand).

ORDERS IN PENDING CASES

15M131 WELCOME, JAMES R. V. MABUS, SEC. OF NAVY

The motion for leave to proceed as a veteran is denied.

15M132 JACKSON, MARK C. V. COLVIN, ACTING COMM'R OF SSA

15M133 L'GGRKE, KAREN L. V. ASSET PLUS CORP., ET AL.

The motions to direct the Clerk to file petitions for writs of certiorari out of time are denied.

15-1039) SANDOZ INC. V. AMGEN INC., ET AL.

15-1195) AMGEN INC., ET AL. V. SANDOZ INC.

15-1189 IMPRESSION PRODUCTS, INC. V. LEXMARK INTERNATIONAL, INC.

The Solicitor General is invited to file briefs in these cases expressing the views of the United States.

CERTIORARI GRANTED

15-1204 JENNINGS, DAVID, ET AL. V. RODRIGUEZ, ALEJANDRO, ET AL.

15-1251 NLRB V. SW GENERAL, INC.

The petitions for writs of certiorari are granted.

CERTIORARI DENIED

15-942 BLACK & DECKER (U.S.), ET AL. V. SD3, LLC, ET AL.

15-947 PRICE, SHARON, ET AL. V. PHILIP MORRIS, INC.

15-1028 FAZIO, COSMO V. UNITED STATES

15-1030 SHEW, JUNE, ET AL. V. MALLOY, GOV. OF CT, ET AL.

15-1033 DeJORIA, JOHN P. V. MAGHREB PETROLEUM EXPLORATION

15-1117 TURTURRO, JOSEPH N., ET AL. V. FAA, ET AL.

15-1138 BERNARDO, HENRY V. JOHNSON, SEC. OF HOMELAND

15-1140) BINDAY, MICHAEL V. UNITED STATES
)
 15-1177) KERGIL, JAMES K. V. UNITED STATES
)
 15-8582) RESNICK, MARK V. UNITED STATES

 15-1150 HUNTER, SONYA V. COLVIN, ACTING COMM'R OF SSA

 15-1157 DISTRIBUTED SOLUTIONS, INC. V. JAMES, SEC. OF AIR FORCE

 15-1203 GLOBUS MEDICAL V. BIANCO, SABATINO

 15-1270 M. C. V. T. W., ET AL.

 15-1278 GAGE COUNTY, NE, ET AL. V. DEAN, JAMES, ET AL.

 15-1279 FERNANDEZ, CARLOS M. V. LaSALLE BANK, ET AL.

 15-1284 HUTCHINSON, CARMEN M. V. WHALEY, ANDREW, ET AL.

 15-1288 LANO, PETER, ET AL. V. CARNIVAL CORPORATION, ET AL.

 15-1296 CHERRYHOLMES, CARL J. V. OHIO

 15-1298 HOLANEK, STEPHANIE J. V. NORTH CAROLINA

 15-1300 INTERTRANSFERS, INC. V. LUXOR AGENTES AUTONOMOS

 15-1302 AARON, AHDAWANTAZALAM V. CBS OUTDOORS, INC.

 15-1307 LORA, ALEXANDER V. SHANAHAN, CHRISTOPHER, ET AL.

 15-1354 WEBB, STEPHEN C. V. TEXAS

 15-1382 KANOFSKY, ALVIN S. V. CIR

 15-1390 CURRY, HAKEEM V. UNITED STATES

 15-1396 RIVAS, QIANA V. UNITED STATES

 15-1403 KIM, JOY U. V. AHN, YEONG K.

 15-7005 AZIZ, ABDUL V. NEW JERSEY

 15-7384 CAZARES, FERNANDO, ET AL. V. UNITED STATES

 15-7475 GIBSON, JONATHAN E. V. UNITED STATES

 15-7834 LYLE, ALEX V. AIKEN, SABRINA, ET AL.

 15-7850 DELGADO, SERGIO C. V. UNITED STATES

 15-7855 FISK, RAYMOND E. V. UNITED STATES

 15-8050 BELL, ALBERT D. V. ARKANSAS

15-8307 MORGAN, EDWARD V. UNITED STATES
15-8563 HERNANDEZ, MICHAEL A. V. FLORIDA, ET AL.
15-8601 MOORE, RONALD M. V. UNITED STATES
15-8603 VILLEGAS-RODRIGUEZ, BULMARO V. UNITED STATES
15-8635 YEOMANS, JAMES D. V. ALABAMA
15-8704 KAMPFER, DOUGLAS E. V. CUOMO, GOV. OF NY
15-8779 BROWN, DAVID V. LOUISIANA
15-8929 BELL, RENEE D. V. U.S. BANK NAT'L ASSN., ET AL.
15-8930 AMBROSE, SAMUEL V. TRIERWEILER, WARDEN
15-8931 MORROW, ROBERT A. V. PASH, WARDEN
15-8932 LAMPKIN, ESAW V. TEXAS
15-8936 TETREAU, KEVIN L. V. CAMPBELL, WARDEN
15-8940 KARNAZES, ELIZABETH M. V. USDC CD CA, ET AL.
15-8944 McCAIN, MATTHEW M. V. ILLINOIS
15-8945 PROCTOR, ANTHONY E. V. BURKE, SGT., ET AL.
15-8954 BUYCKS, JANEL V. LBS FINANCIAL CREDIT UNION
15-8956 SABBY, DAVID R. V. HAMMER, WARDEN
15-8957 HUPP, PAUL V. PETERSEN, MARK E., ET AL.
15-8959 GABB, TYRONE V. ILLINOIS
15-8964 TURNER, MATTIE V. WRIGHT, MOSES, ET AL.
15-8966 CARTER, JOYCE L. V. WOZUZU ACHOLONU, FELIX N., ET AL.
15-8971 JOHNSON, BILLY J. V. CALIFORNIA
15-8972 MORGAN, BERNEL W. V. HATTON, WARDEN
15-8992 KLEIN, CHAD M. V. PRINGLE, WARDEN
15-8993 LeBOON, STEVEN V. ALAN McILVAIN CO.
15-8994 WHIPPLE, WILLIAM L. V. JONES, SEC., FL DOC
15-9062 MAYS, RICHARD T. V. WHITENER, SUPT., MARION, ET AL.
15-9125 ZARAZU, HENRY V. SPEARMAN, WARDEN

15-9167 SURATOS, MILAGROS R. V. FOSTER, WARDEN
15-9201 GUNDERSON, DAVID V. KIRKEGARD, WARDEN, ET AL.
15-9219 MANNING, TROY V. ROCK, SUPT., UPSTATE
15-9237 LUSTER, GEORGE V. LAXALT, ATT'Y GEN. OF NV, ET AL.
15-9240 TANGUAY, ALLAN J. V. UNITED STATES
15-9281 BOWMAN, ELMER K. V. FLORIDA
15-9290 McCARY, TOMMY B. V. UNITED STATES
15-9294 BADINI, FRANCO V. UNITED STATES
15-9296 COLTON, LAWRENCE L. V. UNITED STATES
15-9302 FAULDS, JAMES V. UNITED STATES
15-9305 MANGO, CARRICK V. UNITED STATES
15-9308 CARMONA-RAMOS, ALEJANDRA A. V. UNITED STATES
15-9331 DUPREE, COURTNEY V. UNITED STATES
15-9333 RICHMOND, DEWAYNE L. V. UNITED STATES
15-9338 LOWE, LINELL D. V. UNITED STATES
15-9341 MEZA, JAVIER M. V. UNITED STATES
15-9347 BUCHANAN, JEFFREY A. V. UNITED STATES
15-9357 FLORES-RODRIGUEZ, RAMON L. V. UNITED STATES
15-9358 SMITH, RONALD M. V. UNITED STATES
15-9360 FULLMAN, ANDREW V. PENNSYLVANIA
15-9380 MAUNTECA-LOPEZ, FRANCISCO V. UNITED STATES
15-9384 THOMPSON, DAVID B. V. UNITED STATES
15-9387 VASILOFF, GARY S. V. UNITED STATES
15-9391 CARMONA, JOSE A. V. UNITED STATES
15-9403 SUAREZ-GUZMAN, JUAN J. V. UNITED STATES
15-9406 HIGH, JERRY L. V. UNITED STATES
15-9407 HASKINS, LENNY P. V. UNITED STATES
15-9408 MILLER, RALPH J. V. UNITED STATES

15-9416 RAMIREZ, ISIDRO P. V. UNITED STATES

15-9418 BARTOLO-GUERRA, JOSE P. V. UNITED STATES

The petitions for writs of certiorari are denied.

15-1020 NTSEBEZA, LUNGISLIE, ET AL. V. FORD MOTOR CO., ET AL.

The petition for a writ of certiorari is denied. Justice Sotomayor took no part in the consideration or decision of this petition.

15-1049 M. A. V. PADILLA, JUDGE, ETC., ET AL.

The motion of respondent Christopher Allen Simcox for leave to proceed *in forma pauperis* is granted. The motion of Defenders of Children for leave to file a brief as *amicus curiae* is granted. The motion of Child Justice, Inc., et al. for leave to file a brief as *amici curiae* is granted. The motion of Arizona Voice for Crime Victims, et al. for leave to file a brief as *amici curiae* is granted. The petition for a writ of certiorari is denied.

15-9200 NGHIEM, LOI N. V. KERESTES, SUPT., MAHANOY, ET AL.

The motion of petitioner for leave to proceed *in forma pauperis* is denied, and the petition for a writ of certiorari is dismissed. See Rule 39.8.

15-9402 LEWIS, MARTIN V. UNITED STATES

The petition for a writ of certiorari is denied. Justice Sotomayor took no part in the consideration or decision of this petition.

HABEAS CORPUS DENIED

15-9476 IN RE ANTHONY BODNAR

The petition for a writ of habeas corpus is denied.

MANDAMUS DENIED

15-9166 IN RE HAROLD B. MASON

15-9330 IN RE M. JULIA HOOK

The petitions for writs of mandamus are denied.

REHEARINGS DENIED

15-878 CHINWEZE, INNOCENT O. V. BANK OF AMERICA, N.A.

15-1065 CHAPARRO, ALVARO, ET UX. V. U.S. BANK NAT. ASSN.

15-6345 ROGERS, REGINALD L. V. PERRY, SEC., NC DPS

15-7872 LEWIS, GORDON R. V. TEXAS

15-7893 MATTHISEN, GRANT V. UNITED STATES

15-7993 WILLYARD, PHILLIP L. V. KELLEY, DIR., AR DOC

15-8040 CONSTANT, JOSEPH V. DTE ELECTRIC COMPANY

15-8098 WALKER, LARRY T. V. MEMPHIS, TN, ET AL.

15-8224 SMALL, BRUCE L. V. FLORIDA

15-8314 SOLERNORONA, CARLOS A. V. MICHIGAN

15-8379 INTA, SEUN V. USDC ED MO

15-8398 JEHOVAH, JESUS E. V. CLARKE, DIR., VA DOC, ET AL.

15-8437 SHELLMAN, LISA E. V. COLVIN, ACTING COMM'R OF SSA

15-8500 DAVIS, TROY V. ROUNDTREE, JONATHAN A., ET AL.

The petitions for rehearing are denied.

GINSBURG, J., concurring

SUPREME COURT OF THE UNITED STATES

JABARI WILLIAMS *v.* LOUISIANA

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF
APPEAL OF LOUISIANA, FOURTH CIRCUIT

No. 14–9409. Decided June 20, 2016

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the Court of Appeal of Louisiana, Fourth Circuit for further consideration in light of *Foster v. Chatman*, 578 U. S. ____ (2016).

JUSTICE GINSBURG, with whom JUSTICES BREYER, SOTOMAYOR, and KAGAN join, concurring in the decision to grant, vacate, and remand.

“The Constitution forbids striking even a single prospective juror for a discriminatory purpose.” *Foster v. Chatman*, 578 U. S. ____, ____ (2016) (slip op., at 9) (internal quotation marks omitted) (citing *Batson v. Kentucky*, 476 U. S. 79 (1986)). *Batson* “provides a three-step process for determining when a strike is discriminatory:

“First, a defendant must make a prima facie showing that a peremptory challenge has been exercised on the basis of race; second, if that showing has been made, *the prosecution* must offer a race-neutral basis for striking the juror in question; and third, in light of the parties’ submissions, the trial court must determine whether the defendant has shown purposeful discrimination.” *Foster*, 578 U. S., at ____ (slip op., at 9) (internal quotation marks omitted; emphasis added).

This case concerns a Louisiana procedural rule that permits the trial court, rather than the prosecutor, to supply a race-neutral reason at *Batson*’s second step if “the court is satisfied that such reason is apparent from

GINSBURG, J., concurring

the voir dire examination of the juror.” La. Code Crim. Proc. Ann., Art. 795(C) (West 2013). Louisiana’s rule, as the Louisiana Supreme Court has itself recognized, does not comply with this Court’s *Batson* jurisprudence. *State v. Elie*, 05–1569 (La. 7/10/2006), 936 So. 2d 791, 797 (citing *Johnson v. California*, 545 U. S. 162, 172 (2005)). At *Batson*’s second step, “the trial court [must] demand an explanation from the prosecutor.” *Johnson*, 545 U. S., at 170; see *id.*, at 172 (“The *Batson* framework is designed to produce actual answers [from a prosecutor] to suspicions and inferences that discrimination may have infected the jury selection process. . . . It does not matter that the prosecutor might have had good reasons; what matters is the real reason [jurors] were stricken.” (internal quotation marks and alterations omitted)); *id.*, at 173 (improper to “rel[y] on judicial speculation to resolve plausible claims of discrimination”).

The rule allowing judge-supplied reasons, nonetheless, remains operative in Louisiana and was applied in petitioner’s 2012 trial. On remand, the appropriate state court should reconsider petitioner’s argument that the rule cannot be reconciled with *Batson*. A Louisiana court, “like any other state or federal court, is bound by this Court’s interpretation of federal law.” *James v. Boise*, 577 U. S. ___, ___ (2016) (*per curiam*) (slip op., at 2). See also App. to Pet. for Cert. 19a (Belsome, J., dissenting) (“[T]he United States Supreme Court has made clear . . . that the State is obligated to offer a race-neutral reason. The judge is an arbiter not a participant in the judicial process. Allowing the court to provide race-neutral reasons for the State violates [the Constitution].”).

ALITO, J., dissenting

SUPREME COURT OF THE UNITED STATES

JABARI WILLIAMS *v.* LOUISIANA

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF
APPEAL OF LOUISIANA, FOURTH CIRCUIT

No. 14–9409. Decided June 20, 2016

JUSTICE ALITO, with whom JUSTICE THOMAS joins, dissenting from the decision to grant, vacate, and remand.

For the reasons set out in my statement in *Flowers v. Mississippi*, No. 14–10486, I would deny the petition.

The concurring statement calls upon the appropriate state court on remand to consider petitioner’s argument that the trial judge did not comply with the second step of the procedure mandated by *Batson v. Kentucky*, 476 U. S. 79 (1986), because the judge, in accordance with a state procedural rule, rejected a defense challenge on the ground that a race-neutral reason for the strike was apparent from the *voir dire* of the juror in question. But whether petitioner is entitled to relief on this ground has nothing to do with *Foster*, which “address[ed] only *Batson*’s third step.” *Foster v. Chatman*, 578 U. S. ____, ____ (2016) (slip op., at 10).

ALITO, J., dissenting

SUPREME COURT OF THE UNITED STATES

CURTIS GIOVANNI FLOWERS *v.* MISSISSIPPI

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF MISSISSIPPI

No. 14–10486. Decided June 20, 2016

The motion of petitioner for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated, and the case is remanded to the Supreme Court of Mississippi for further consideration in light of *Foster v. Chatman*, 578 U. S. ____ (2016).

JUSTICE ALITO, with whom JUSTICE THOMAS joins, dissenting from the decision to grant, vacate, and remand.

This Court often “GVRs” a case—that is, grants the petition for a writ of certiorari, vacates the decision below, and remands for reconsideration by the lower court—when we believe that the lower court should give further thought to its decision in light of an opinion of this Court that (1) came after the decision under review and (2) changed or clarified the governing legal principles in a way that could possibly alter the decision of the lower court. In this case and two others, *Williams v. Louisiana*, No. 14–9409 and *Floyd v. Alabama*, No. 15–7553, the Court misuses the GVR vehicle. The Court GVRs these petitions in light of our decision in *Foster v. Chatman*, 578 U. S. ____ (2016), which held, based on all the circumstances in that case, that a state prosecutor violated *Batson v. Kentucky*, 476 U. S. 79 (1986), by striking potential jurors based on race. Our decision in *Foster* postdated the decision of the Supreme Court of Mississippi in the present case, but *Foster* did not change or clarify the *Batson* rule in any way. Accordingly, there is no ground for a GVR in light of *Foster*.

The ultimate issue in *Batson* is a pure question of fact—

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whether a party exercising a peremptory challenge engaged in intentional discrimination on the basis of race. 476 U. S., at 93–94. If the party contesting a particular peremptory challenge makes out a prima facie case (that is, points out a pattern of strikes that calls for further inquiry), the party exercising the challenge must provide a legitimate race-neutral reason for the strike. *Id.*, at 97. If that is done, the trial judge must then make a finding as to whether the party exercising the peremptory challenge is telling the truth. *Id.*, at 98. There is no mechanical formula for the trial judge to use in making that decision, and in some cases the finding may be based on very intangible factors, such as the demeanor of the prospective juror in question and that of the attorney who exercised the strike. *Snyder v. Louisiana*, 552 U. S. 472, 477 (2008). For this reason and others, the finding of the trial judge is entitled to a very healthy measure of deference. *Id.*, at 479.

Foster did not change the *Batson* analysis one iota. In *Foster*, the Court’s determination that the prosecution struck jurors based on race—a determination with which I fully agreed, 578 U. S., at ___ (ALITO, J., concurring in judgment) (slip op., at 9)—was based on numerous *case-specific factors*, including evidence that racial considerations permeated the jury selection process from start to finish and the prosecution’s shifting and unreliable explanations for its strikes of black potential jurors in light of that evidence.

In particular, evidence of racial bias in *Foster* included the following facts revealed to be a part of the prosecution’s jury selection file, which the Court held undermined the prosecution’s defense of its strikes: copies of a jury venire list highlighting the names of black jurors; a draft affidavit from a prosecution investigator ranking black potential jurors; notes identifying black prospective jurors as “B#1,” “B#2,” and “B#3”; notes suggesting that the pros-

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ecution marked “N” (for “no”) next to the names of all black prospective jurors; a “definite NO’s” list that included the names of all black prospective jurors; a document relating to one juror with notes about the Church of Christ that stated “NO. No Black Church”; the questionnaires filled out by jurors, in which the race of black prospective jurors was circled. *Id.*, at ___–___ (majority opinion) (slip op., at 3–5). But this overwhelming evidence of race consciousness was not the end of the Court’s analysis in *Foster*. The Court also discussed evidence that the prosecution’s stated reasons for striking black jurors were inconsistent and malleable. The prosecution’s various rationales for its strikes “ha[d] no grounding in fact,” were “contradicted by the record,” and simply “cannot be credited,” according to the Court. *Id.*, at ___, ___ (slip op., at 12, 15, 17). Some of the purported reasons for striking black prospective jurors “shifted over time” and could not withstand close scrutiny. *Id.*, at ___ (slip op., at 18). And other reasons, “while not explicitly contradicted by the record, [we]re difficult to credit” in light of the way in which the State treated similarly situated white jurors. *Id.*, at ___–___ (slip op., at 15–17). In sum, the Court’s decision in *Foster* relied on substantial, case-specific evidence in reaching its conclusion that the prosecution’s proffered explanations for striking black prospective jurors could not be credited.

In the three cases in which the Court now GVRs in light of *Foster*, what the Court is saying, in effect, is something like this. If we granted review in these cases, we would delve into the facts and carefully review the trial judge’s findings on the question of the prosecution’s intent. That is what we did in *Foster*. But we do not often engage in review of such case-specific factual questions, and we do not want to do that here. Therefore, we will grant, vacate, and remand so that the lower court can do—or, redo—that hard work.

ALITO, J., dissenting

This is not a responsible use of the GVR power. In this case, the Supreme Court of Mississippi decided the *Batson* issue. It found insufficient grounds to overturn the trial judge's finding that the contested strikes were not based on race. If the majority wishes to review that decision, it should grant the petition for a writ of certiorari, issue a briefing schedule, and hear argument. If the majority is not willing to spend the time that full review would require, it should deny the petition.

The Court's decision today is not really a GVR in light of our factbound decision in *Foster*. It is, rather, a GVR in light of our 1986 decision in *Batson*. But saying that would be ridiculous, because the lower courts fully considered the *Batson* issue this petition raises. By granting, vacating, and remanding, the Court treats the State Supreme Court like an imperious senior partner in a law firm might treat an associate. Without pointing out any errors in the State Supreme Court's analysis, the majority simply orders the State Supreme Court to redo its work. We do not have that authority.

I would deny the petition. I respectfully dissent.