

03-9659 MILLER-EL V. DRETKE

DECISION BELOW: 361 F3d 849

LOWER COURT CASE NUMBER: 00-10784

QUESTION PRESENTED:

Whether the Court of Appeals--in reinstating on remand from this Court its prior rejection of petitioner's claim that the prosecution had purposefully excluded African-Americans from his capital jury in violation of *Batson v. Kentucky*, 476 U.S. 79 (1986)--so contravened this Court's decision and analysis of the evidence in *Miller-El v. Cockrell*, 537 U.S. 322 (2003), that "an exercise of this Court's supervisory powers" under Supreme Court Rule 10(a) is required to sustain the protections against invidious discrimination set forth in *Batson* and *Miller-El* and the safeguards against arbitrary fact-finding set forth in 28 U.S.C. §§ 2254(d)(2) and (e)(1).

CERT. GRANTED 6/28/2004