

U.S. Supreme Court Holds Defendant Was Not Denied a Fair Trial Due to Trial Court's Rejection of Defendant's Peremptory Challenge

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Following a jury trial in Illinois state court, Michael Rivera was convicted of first-degree murder and sentenced to an 85-year prison term. During *voir dire*, Rivera's counsel's request to exercise a peremptory challenge to excuse a female venire member was denied by the trial court out of concern that it was discriminatory and unconstitutional under *Batson v. Kentucky* and subsequent, related decisions.

The challenged juror, Deloris Gomez, was a woman who the trial court also believed was African American. The defense had already used three peremptory challenges, two of which had been exercised against women, one of whom was African American. After the defense's request to excuse Ms. Gomez, the court immediately called counsel to chambers and expressed concern that the defense was discriminating against Ms. Gomez. Without specifying the type of discrimination it suspected or the reasons for its concern, the court requested that defense counsel state the reasons for excusing Ms. Gomez. After conferring with counsel, the trial court rejected the defense's peremptory challenge against Ms. Gomez but allowed further questioning of her. Ultimately, Ms. Gomez was seated on the jury and served as the foreperson.

On appeal to the Illinois Supreme Court, Rivera argued that trial courts do not have third-party standing to raise *Batson* challenges *sua sponte*. The Illinois Supreme Court held that a trial court has the authority to raise a *Batson* issue *sua sponte*, but "only when a *prima facie* case of discrimination is abundantly clear." *People v. Rivera*, 852 N.E.2d 771, 791 (Ill. 2006). In the present case, the court determined that there was no evidence of a *prima facie* case of discrimination of any kind and that Rivera was improperly denied a peremptory challenge. However, following further analysis, the

Illinois Supreme Court also held that "[t]he evidence of defendant's guilt [was] overwhelming, and the error in denying defendant's peremptory challenge [was] thus harmless beyond a reasonable doubt." *People v. Rivera*, 879 N.E.2d 876, 887 (Ill. 2007). Furthermore, the court held that the denial of Rivera's peremptory challenge was not a structural error requiring automatic reversal.

The United States Supreme Court granted certiorari "to resolve an apparent conflict among state high courts over whether the erroneous denial of a peremptory challenge requires automatic reversal of a defendant's conviction as a matter of federal law." *Rivera v. Illinois*, 129 S.Ct. 1446, 1452 (2009). Rivera argued that due process requires reversal whenever a criminal defendant's peremptory challenge is erroneously denied. According to Rivera, failure to dismiss a lawfully challenged juror results in a jury that is an illegally constituted tribunal, and, therefore, any verdict rendered by the jury is *per se* invalid. Noting that the right to exercise peremptory challenges in state court is determined by state law and that "the mistaken denial of a state-provided peremptory challenge does not, without more, violate the Federal Constitution," the Court held that the trial judge's refusal to excuse Ms. Gomez did not deprive Rivera of his constitutional right to a fair trial before an impartial jury since none of the seated jurors were removable for cause. *Id.* at 1454. In addition, the Court determined that "it is not constitutionally significant that the seating of Gomez over Rivera's peremptory challenge was at odds with state law . . . [because] errors of state law do not automatically become violations of due process." *Id.* at 1455. The Court noted that "the trial judge's conduct reflected a good-faith, if arguably overzealous, effort to enforce the antidiscrimination requirements of our *Batson*-related precedents." *Id.*