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SCOTUS Opinion: Court Vacates Murder Conviction Under Batson Challenge

21 Jun 2019

In *Flowers v. Mississippi*, Curtis Flowers, a black man, was tried six times for allegedly murdering four people in a small town furniture store. The first three times, he was sentenced to death but the convictions were overturned. The fourth and fifth trials ended in mistrials. Throughout those trials, the prosecution used their peremptory strikes to remove all black jurors from the jury pool. In the sixth trial, the prosecution struck five prospective black jurors, and allowed one to be seated in the jury. Flowers raised a challenge under *Batson v. Kentucky*, 476 U.S. 79 (1986) that the strikes were based on race, but the trial court found there to be race-neutral reasons for the strikes. Flowers was convicted and sentenced to death. The Mississippi Supreme Court narrowly affirmed. The Court, in a 7-2 decision by Justice Kavanaugh, reversed, holding that the prosecution's decision to strike a black prospective juror who was similarly situated to other white jurors violated *Batson*, but also noted the apparent racial discrimination in the history of the prosecutions (in which the prosecution struck 41 of 42 prospective black jurors), and the disparate questioning of black jurors in the sixth trial to find pretextual reasons to strike. The Court made pains to note that it was not breaking new legal ground, but simply applying *Batson* to the facts of an admittedly "extraordinary" case. Justice Alito filed a concurrence noting that he would have affirmed the conviction but for "the unique combinations of circumstances present here," including the actions of prosecutor that handled all six trials. Justice Thomas, joined by Justice Gorsuch in part, dissented, arguing that the majority opinion was "manifestly incorrect" because all of the prosecution's strikes in the sixth trial were for race-neutral grounds. A link to the opinion is here.

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