

State v. Urrea

Full Citation: State v. Urrea, 421 P.3d 153 (Ariz. 2018).

Date Filed: July 11, 2018

Opinion's Author: Justice Bolick

Joined By: Chief Justice Bales, Vice Chief Justice Brutinel, and Justices Pelander, Timmer, Gould, and Lopez joined.

Practitioners: For quick reference, please see the "Issue" and "Holding" sections.

Facts: Defendant Urrea was charged with and found guilty of transportation of a narcotic drug for sale. During jury selection, Urrea raised a *Batson* challenge, contending that five of the prosecutor's six preemptory strikes targeted potential jurors with "Hispanic ethnic background[s]."¹ The trial court conducted a *Batson* analysis and concluded that the prosecutor could not establish a race-neutral justification for striking three of the challenged jurors. The trial court also found that, while there was a *Batson* violation, the prosecutor did not commit misconduct. Finally, the trial court ruled that the prosecutor forfeited those three strikes and restored the three jurors to the venire. Urrea then moved for a mistrial and dismissal of the entire venire.

Procedural History: This case is currently before the Arizona Supreme Court. The trial court denied Urrea's motion and empaneled the first nine jurors who had not been struck, including two of the reinstated jurors. Urrea appealed this decision and the Arizona Court of Appeals confirmed the trial court's decision on divided lines.² The court of appeals held that reinstatement of the wrongfully excluded jurors to the venire was permissible under *Batson* and allowed in the circumstances of this case.³ The dissenting judge however, stated that restoring improperly challenged jurors to the venire, while permissible, was an incomplete remedy and expressed that the court should have restored defense counsel's preemptory challenges or started the jury process anew.⁴

The Arizona Supreme Court granted review as this was a case of first impression in Arizona and because the appropriate remedies to a *Batson* violation presented an issue of statewide concern.

Issue: Was the trial court's remedy of restoring the impermissibly excluded jurors to their prior places on the venire and forfeiting the State's preemptory challenges sufficient? Or, should the trial court have declared a mistrial and begun jury selection anew with a different venire?

Holding: Yes, the trial court's remedy of restoring the wrongfully excluded jurors to the venire was proper.

¹ State v. Urrea, 421 P.3d 153 (Ariz. 2018).

² State v. Urrea, 398 P.3d 584 (Ariz. Ct. App. 2017).

³ *Id.* at 591-92.

⁴ *Id.* at 595 (Miller, J., dissenting).

Disposition: Urrea’s conviction and sentence are affirmed and paragraphs 13–33 of the court of appeals’ opinion are vacated.

Rule: The court declined to adopt a bright-line rule that trial courts must follow in cases such as this but also stated that a deferential abuse-of-discretion standard is appropriate when reviewing appropriate remedies under circumstances such as this case.

Reasoning:

- ***Batson v. Kentucky*.** The court began its discussion section with an overview of the *Batson* case from the U.S. Supreme Court.⁵ In *Batson*, the U.S. Supreme Court held that the “Equal Protection Clause guarantees the defendant that the State will not exclude members of his race from the jury venire on account of race.”⁶ The Court in *Batson* articulated a three-step process to determine a violation.⁷ First, the defendant must show “purposeful discrimination, which may be demonstrated by circumstantial evidence of disproportionate impact.”⁸ Next, “the burden shifts to the State to come forward with a neutral explanation” for the juror strikes.⁹ Finally, the trial court has the “duty to determine if the defendant has established purposeful discrimination.”¹⁰ In this case, the State conceded the *Batson* violations.¹¹
- **Appropriate Remedies to a *Batson* violation.** The court next turned to discussing appropriate remedies to a *Batson* violation, noting that there were two options proposed by each party in the case: “the mistrial option,” sought by Urrea, and “the restoration option,” ordered by the trial court and approved by the court of appeals.¹² The court noted that in the *Batson* decision, the U.S. Supreme Court analogized the *Batson* inquiry to a discrimination claim under Title VII of the Civil Rights Act and stated that a “proper remedy makes the victim of discrimination whole by restoring the injured party to the situation that would have existed absent discrimination.”¹³ The Arizona Supreme Court reasoned that “restoring the wrongfully excluded jurors to the positions they previously occupied in the venire constitutes classic make-whole relief.”¹⁴ Next, the court cautioned that, while a majority of jurisdictions do allow trial courts to choose either restoration or mistrial based on the facts of each case, the key dividing line in that determination seems to be “whether the improper strikes were made in the challenged jurors’ presence,

⁵ *Batson v. Kentucky*, 476 U.S. 79 (1986).

⁶ *Id.* at 86.

⁷ *Urrea*, 421 P.3d at 155.

⁸ *Id.* (citing *Batson*, 476 U.S. at 93).

⁹ *Batson*, 476 U.S. at 97.

¹⁰ *Id.* at 98.

¹¹ *Urrea*, 421 P.3d at 155.

¹² *Id.* at 156.

¹³ *Id.*

¹⁴ *Id.*

which might affect their impartiality.”¹⁵ The court went on to clarify that in this case, “the strikes, *Batson* challenges, and trial court ruling occurred outside the juror’s presence” and that therefore the appropriate remedy is to restore the wrongfully excluded jurors to the venire.¹⁶ The court further reasoned that restoring the improperly excluded jurors is the correct remedy here as it “vindicates the rights of jurors to serve free from discrimination, and it advances the right of crime victims to a speedy trial.”¹⁷

- **Remedies Beyond Forfeit of Misused Challenges.** Finally, the court addressed if any additional remedies were appropriate beyond the trial court’s forfeit of the State’s misused challenges.¹⁸ The court reasoned that *Batson* does not “forbid different or additional remedies,” such as forfeiting misused preemptory challenges.¹⁹ The court here however, held that Urrea waived arguments for additional remedies “by exclusively seeking a mistrial” and that therefore, no additional remedies shall be granted.²⁰ The court further held that the trial court’s decision to forfeit the State’s challenges used in such a discriminatory fashion was correct.²¹

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.* at 157.

¹⁸ *Id.* at 155–56.

¹⁹ *Id.* at 157.

²⁰ *Id.*

²¹ *Id.*