

U.S. Supreme Court Sends Message To Federal Courts That When In Doubt Deny A State Prisoner's Habeas Petition

In 2004 Steven Frank Jackson was convicted in Sacramento County, California of charges related to the sexual assault in 2002 of a 72-year-old woman who lived in his apartment complex. He was sentenced to 25 years to life in prison.

During jury selection, Jackson who is black, objected to the prosecutor's peremptory challenges to two of the three blacks in the jury pool. Jackson's lawyer argued there was no valid reason for their exclusion from his jury except for their skin color. In 1986 the US Supreme Court ruled it violates a defendant's right to equal protection of the law for a juror to be excluded based on their race. That case was *Batson v. Kentucky*, 476 U. S. 79 (1986) and when a defendant challenges the prosecution's exclusion of a juror based on race it is known as a "*Batson* challenge."

The prosecutor claimed the exclusion of the two jurors was for "race-neutral" reasons.

The prosecutor justified striking Juror J, a black woman with a master's degree in social work, "based on her educational background." Jackson's lawyer countered that several white prospective jurors with educational backgrounds were not challenged by the prosecutor. The prosecutor did not ask Juror J a single question while the white jurors were asked questions about their educational backgrounds.

The prosecutor justified striking Juror S, a black man, because he had been "frequently stopped by California police officers." Jackson's lawyer countered that several white prospective jurors who had "negative experiences with law enforcement" were not challenged by the prosecutor.

Jackson raised his *Batson* challenge as an issue in his direct appeal to the California Court of Appeal that affirmed his conviction, and the California Supreme Court denied his petition for review.

Jackson filed a federal petition for a writ of *habeas corpus* that included his *Batson* challenge to exclusion of the two black jurors. The Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) governs the review of a state prisoner's federal habeas

petition, and under it relief may not be granted unless the state court adjudication "resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." 28 U.S.C. §2254(d)(2). The U.S. District Court judge determined that the Court of Appeal's finding that the black jurors were not excluded because of their skin color was not unreasonable.

Jackson appealed that ruling to the Ninth Circuit Court of Appeals, which in July 2010 reversed the lower court's ruling. In their unpublished memorandum the three judge panel unanimously ruled:

"The prosecutor's proffered race-neutral bases for peremptorily striking the two African-American jurors were not sufficient to counter the evidence of purposeful discrimination in light of the fact that two out of three prospective African-American jurors were stricken, and the record reflected different treatment of comparably situated jurors." *Jackson v. Felkner*, 389 Fed. Appx. 640, 641 (2010).

The U.S. Supreme Court agreed to review the Ninth Circuit's ruling. On March 21, 2011 the Court unanimously ruled in favor of granting the California Attorney General's writ of *certiorari*. The Court's opinion in *Felkner v. Jackson*, 562 U.S. ____ (2011) states in part:

The *Batson* issue before us turns largely on an "evaluation of credibility." The trial court's determination is entitled to "great deference," *ibid.*, and "must be sustained unless it is clearly erroneous," *Snyder v. Louisiana*, 552 U. S. 472, 477 (2008).

That is the standard on direct review. On federal habeas review, AEDPA "imposes a highly deferential standard for evaluating state-court rulings" and "demands that state-court decisions be given the benefit of the doubt." *Renico v. Lett*, 559 U. S. ____, ____ (2010) Here the trial court credited the prosecutor's race-neutral explanations, and the California Court of Appeal carefully reviewed the record at some length in upholding the trial court's findings. The state appellate court's decision was plainly not unreasonable. There was simply no basis for the Ninth Circuit to reach the opposite conclusion, particularly in such a dismissive manner.

The U.S. Supreme Court reviewed the same evidence related to Jackson's jury selection and applied the same legal standard to analyzing that evidence as the Ninth Circuit, but the Supreme Court decided that more

Duke Lacrosse Hoax Rape Case Accuser Charged With Murder

Crystal Gail Mangum is the woman who falsely accused three Duke University lacrosse players of raping her during a party in 2006 that she and another woman were hired to dance at while scantily clad.

The media firestorm about the case was initially focused on the angle that the accused white players were from wealthy families while the black Mangum was a struggling single mother who had to take demeaning jobs to make ends meet.

Based on Mangum's accusation Reade Seligmann, Collin Finnerty, and David Evans were charged in May 2006 with rape, sexual offense and kidnapping.

When details of the case became publicly known — including that Mangum gave six different accounts of the alleged incident, that she had a history of making made false sexual assault allegations, and that DNA tests of the sperm recovered from her didn't match either the three accused players or any of the other 43 men at the party — Durham County DA Mike Nifong dismissed the rape charges against the three men on December 22, 2006. However, Nifong refused to dismiss the sexual offense and kidnapping charges.

North Carolina's Attorney General took over the case in January 2007. After reviewing the case the AG dismissed the remaining charges against Seligmann, Finnerty and Evans in April 2007.

It was reported that at the time the charges were dismissed the families of the three young men had spent over \$1 million in legal fees.

In September 2007 Seligmann, Finnerty and Evans filed a federal civil rights lawsuit that named a number of defendants, including Duke University, and the city of Durham and its police department.

Duke University settled with the three men

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extreme deference should be given to upholding the state court's ruling. The decision in *Felkner v. Jackson* sent the strong message to all federal district and appeals courts that when in doubt to deny the *habeas corpus* petition of a state prisoner.