

BATSON CHALLENGE

The United States Constitution forbids a prosecutor from using a peremptory challenge to excuse a venireperson solely based on race. See *Batson*, 476 U.S. at 85, 106 S.Ct. 1712 (“racial discrimination in jury selection offends the Equal Protection Clause”).

In *Batson*, the United States Supreme Court created a three-step process for evaluating whether the State improperly used its peremptory challenge to dismiss a potential juror.

First, the defendant must make a prima facie showing that the State exercised a challenge on the basis of race. That is, defendant must produce sufficient evidence for the court to infer that discrimination has occurred.

Second, the State must provide a race-neutral reason for striking the venireperson in question. Defendant then has an opportunity to rebut the State's explanation as pretextual.

Third, the court must determine whether defendant has shown that the State purposefully discriminated in excusing the venireperson.

At this step, the court weighs the evidence in light of the prima facie case, the prosecutor's reasons for challenging the venireperson, and any claims by defendant that the proffered reasons are pretextual.

The court must then determine whether the defendant has met his or her burden of proving purposeful discrimination. In reaching its decision, the court is required to “assess the genuineness of the State's explanation along with the State's credibility in offering the explanation.”

At the second and third steps, Illinois courts have emphasized that the State's race-neutral explanation for its use of peremptory challenges must be clear, legitimate, and trial specific, as required by *Batson*. Although the prosecutor's reasons need not rise to the level of a challenge for cause, an explanation that is not supported by the record does not qualify as a legitimate and trial-specific reason.

People v. Bradshaw, 2020 IL App (3d) 180027, ¶¶ 35-36, 177 N.E.3d 396, 404

[W]e express no view of whether it is more appropriate in a particular case, upon a finding of discrimination against black jurors, for the trial court to discharge the venire and select a new jury from a panel not previously associated with the case [citation] or to disallow the discriminatory challenges and resume selection with the improperly challenged jurors reinstated on the venire.” Batson, 476 U.S. at 99 n. 24, 106 S.Ct. at 1725 n. 24, 90 L.Ed.2d at 90 n. 24.

Hunt v. Harrison, 303 Ill. App. 3d 54, 56, 707 N.E.2d 232, 234 (1999)