

No Crystal Ball

NORTH CAROLINA
GUILFORD COUNTY

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 97CRS-39580

1998 JAN 22 PM 1:56

GUILFORD COUNTY, C.S.C.

STATE OF NORTH CAROLINA

JSB

VS.

RONNIE LEE KIMBLE,
DEFENDANT.

MOTION TO PROHIBIT PROSECUTOR
FROM PEREMPTORILY
CHALLENGING BLACKS

NOW COMES the defendant above-named, through counsel, and respectfully requests the Court to prohibit the District Attorney from exercising peremptory challenges as to Black jurors, or, in the alternative to order that the District Attorney state reasons on the record for peremptory challenges of such jurors. The defendant also asks the Court to note on the record the race of all potential jurors questioned. In support of this motion the defendant shows the Court the following:

1. That this defendant is facing a trial for first degree murder in which the jury will determine whether or not he should be sentenced to death pursuant to N.C.G.S. 15A-2000.

2. Both undersigned counsel have raised Batson challenges in Guilford County cases they have tried.

3. Neither the Federal or State Constitutions or North Carolina law allows discrimination with regard to race and does not countenance the use of peremptory challenges for this purpose. Thus the District Attorney cannot use his peremptory


challenges to remove prospective jurors on the sole ground of "group bias."

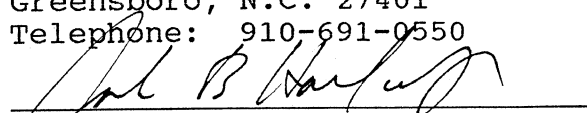
4. That such removal of Black jurors on the basis of "group bias" by the prosecution violates the defendant's right to trial by a jury drawn from a cross-section of the community and to a jury from which no person is excluded due to race.

5. That such exclusion of Blacks from a jury is a denial of equal protection under the Fourteenth Amendment and parallel provisions of the Constitution of North Carolina. See *Powers v. Ohio*, 499 U.S. ___, 113 L.Ed.2d 411 (1991); *Holland v. Illinois*, 493 U.S. ___, 107 L.Ed.2d 905 (1990); *Batson* itself and *Jackson v. Housing Authority of High Point*, 321 N.C. 584 (1988) (holding that Article I, Section 26 of the North Carolina Constitution prohibits the exclusion of persons from jury service for reasons of race in all cases, both civil and criminal.

WHEREFORE, the defendant respectfully prays for the order requested.

This the 22 day of January, 1994


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