

STATE OF MICHIGAN LAW DAY 2005 ESSAY CONTEST
"THE AMERICAN JURY: WE THE PEOPLE IN ACTION"

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Should a criminal defendant be entitled to remove jurors of other races from the jury pool until a jury composed entirely of his own race is obtained?

The government of the United States consists of a series of checks and balances. Crucial to the protection of each citizen is the judicial system. Amendment VI of the Constitution states: "the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed." An impartial jury is critical to every case. If the accused, the prosecution, or any member of the court should be allowed to manipulate the make up of a jury so that each person shares a racial background with the accused, the jury is no longer impartial. Therefore, a criminal defendant should not be entitled to remove potential jurors of other races from the jury pool until a jury of his own race is obtained.

In order to protect the constitutional rights of each citizen, a jury should be diverse and open-minded. In the U.S. Supreme Court case Strauder v. West Virginia, 100 U.S. 303 (1880), the Court found that excluding jurors based on race offends the Equal Protection Clause of the Fourteenth Amendment. The Court further stated the government is not required to provide the accused with a "petit jury composed in whole or in part of persons of his own race." The 1986 U.S. Supreme Court case of Batson v. Kentucky, 476 U.S. 79 (1986), reinforced the desire for fairness in selection of jurors. An African-American defendant believed he had been denied Equal Protection of the Law as the prosecution used peremptory challenges to eliminate African-American members of the venire in establishing the petit jury. The Court agreed that Mr. Batson's rights were violated as the prosecution had unfairly denied citizens the right to serve as jurors based on race.

While the U.S. Supreme Court decisions reflect support for the concept of a diverse jury, they do not establish the need for a jury composed of one race. In keeping with the Sixth Amendment, a defendant has the right to a jury representing the community in which the crime was committed. The venire should consist of potential petit members that reflect the ethnicity of the community, not the accused. Supreme Court Justice Powell writing in the Batson v. Kentucky opinion states, "the rule of law will be strengthened if we ensure that no citizen is disqualified from jury service because of his race."

In the same manner that excluding individuals of a certain race from serving on a jury is discriminatory, so is including individuals of a specific race. The concept that a person may be defined solely by his ethnicity is prejudicial. Each citizen is made unique by his life experiences, not entirely by the color of his skin. Justice Powell writes, "Competence to serve as a juror ultimately depends on an assessment of individual qualifications and ability impartially to consider evidence presented at a trial." As represented by Lady Justice, a blindfolded bearer of the scales of justice, the ultimate determination of innocence or guilt must be determined by a color-blind jury selection process.