

## **14-8349 FOSTER V. CHATMAN**

DECISION BELOW: 14-8349 order

LOWER COURT CASE NUMBER: S14E0771

### **QUESTION PRESENTED:**

In this capital case involving a black defendant and a white victim, Georgia struck all four black prospective jurors and provided roughly a dozen "race-neutral" reasons for each of the four strikes. The prosecutor later argued that the jury should impose a death sentence to "deter other people out there in the projects." At the trial level and on direct appeal, Georgia's courts denied the defendant's claim of race discrimination under *Batson v. Kentucky*, 476 U.S. 79 (1986).

In habeas proceedings, the defendant obtained the prosecution's notes from jury selection, which were previously withheld. The notes reflect that the prosecution (1) marked the name of each black prospective juror in green highlighter on four different copies of the jury list; (2) circled the word "BLACK" next to the "Race" question on the juror questionnaires of five black prospective jurors; (3) identified three black prospective jurors as "B#1," "B#2," and "B#3"; (4) ranked the black prospective jurors against each other in case "it comes down to having to pick one of the black jurors;" and (5) created strike lists that contradict the "race-neutral" explanation provided by the prosecution for its strike of one of the black prospective jurors. The Georgia courts again declined to find a *Batson* violation.

The question presented is this:

Did the Georgia courts err in failing to recognize race discrimination under *Batson* in the extraordinary circumstances of this death penalty case?

**CERT. GRANTED 5/26/2015**