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LDF Files Amicus Brief in Jury Discrimination Case

The [Legal Defense Fund](#) (LDF) filed an amicus brief in *Smith v. United States* in support of Glenn Smith, a Black man, who was convicted in a case where the prosecutor struck all four Black prospective jurors and two other jurors of color. For three of the Black prospective jurors, the prosecutor justified her strikes based on concerns about their intelligence. The prosecutor also claimed that she struck one of the Black prospective jurors because her “dress was very disrespectful to the court.”

LDF’s brief, submitted to the full court of the D.C. Court of Appeals, explains that prosecutors and other state officials have long utilized false narratives about Black intellectual inferiority to prevent Black Americans from serving on juries. Given the influence of this pernicious stereotype on the jury selection process, LDF argues, the justification that Black prospective jurors lack the mental capacity to sit on a jury is a particularly suspect explanation. And like false claims about intelligence, clothing-based justifications are often rooted in troubling racial stereotypes or couched in racialized terms of respectability and are similarly suspect.

When Mr. Smith raised his objection pursuant to *Batson v. Kentucky* (1986), a case that the United States Supreme Court handed down to redress centuries of jury discrimination, the trial court quickly accepted the prosecutor’s suspect justifications as credible. In so doing, the trial court engaged in almost no analysis and pointed to the prosecutor’s “assur[ance] that this was not based on race.” But as LDF’s founder Thurgood Marshall cautioned when he was a Supreme Court Justice, the “protection erected by the Court” in *Batson* would be “illusory” where, as here, trial courts simply accept a prosecutor’s “easily generated explanation.” The result of the trial court’s cursory acceptance and the prosecutor’s actions was an all-white jury in a then-majority Black city.

“Glenn Smith was not tried by a jury of his peers,” said LDF Assistant Counsel Adam Murphy. “But he was not the only one who was harmed. When prosecutors and other officials exclude Black people from jury service based on race, they are re-invoking a long history of exclusion and sending a clear signal that the people they are removing cannot be entrusted with full citizenship. We call on the Court to send an equally clear

signal that such discrimination cannot be tolerated. The Court should reverse Mr. Smith's conviction."

In addition to advocating for the reversal of Mr. Smith's conviction, LDF's brief urges the Court to hold that the intelligence-based and clothing-based justifications used in this case (and many others) are highly suspect and warrant increased judicial review. Most foundationally, LDF encourages the Court to issue a clear statement that trial and appellate courts must follow their obligation to conduct a searching review of prosecutors' purported race-neutral reasons. Otherwise, as the Court has long recognized, "Batson's promise will be an empty one."

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Founded in 1940, the Legal Defense Fund (LDF) is the nation's first civil rights law organization. LDF's Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the Legal Defense Fund or LDF. Please note that LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights.