

SUPREME COURT OF NORTH CAROLINA

State v. Cofield, 320 N.C. 297

357 S.E.2d 622 (1987) · No. No. 789A85 · Decided July 7, 1987

SUMMARY

The Supreme Court of North Carolina held that racial discrimination in selecting a grand jury foreman violates the North Carolina Constitution and, where the defendant is a member of the allegedly excluded racial class, the federal Equal Protection Clause. The court further held that the defendant established a prima facie case based on the county's racial demographics and the historical underrepresentation of Black grand jury foremen. The case was reversed and remanded to allow the State an opportunity to rebut the prima facie showing.

CASE DETAILS

COURT	Supreme Court of North Carolina
WRITING FOR THE COURT	Exum, Chief Justice; Meyer, Justice; Mitchell, Justice; Webb, Justice; Whichard, Justice
JURISDICTION	North Carolina
DECIDED	July 7, 1987
DOCKET	No. 789A85
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed his convictions and sentences after the trial court denied his motion to dismiss the indictment based on alleged racial discrimination in selecting the grand jury foreman. The North Carolina Court of Appeals affirmed, and the North Carolina Supreme Court reversed and remanded.
STANDARD OF REVIEW	The Supreme Court reviewed the constitutional questions de novo and evaluated whether defendant's evidence established a prima facie case of systematic racial exclusion.
PRECEDENTIAL VALUE	Published opinion; binding precedent of the Supreme Court of North Carolina.
PARTIES	State of North Carolina v. Ernest Richard Cofield

TOPICS

grand jury

jury selection

equal protection

fourteenth amendment

criminal procedure

PRACTICE AREAS

criminal procedure

constitutional law

grand jury selection

equal protection

QUESTIONS PRESENTED

1. Whether racial discrimination in selecting a grand jury foreman from a nondiscriminatorily selected grand jury violates the North Carolina Constitution.
2. Whether racial discrimination in selecting a grand jury foreman violates the Fourteenth Amendment's Equal Protection Clause when the defendant is a member of the allegedly excluded racial class.
3. Whether defendant's evidence established a prima facie case of racial discrimination in the selection of the grand jury foreman.
4. What remedy is required if the State cannot rebut the prima facie showing.

HOLDINGS

1. Racial discrimination in selecting a grand jury foreman violates Article I, sections 19 and 26 of the North Carolina Constitution, even when the grand jury itself was selected without discrimination.
2. When the defendant is a member of the class allegedly excluded, racial discrimination in selecting a state grand jury foreman violates the Fourteenth Amendment's Equal Protection Clause, without regard to whether the foreman's duties are ministerial or whether the discrimination affected the grand jury's outcome.
3. A Black defendant may establish a prima facie case concerning grand jury foreman selection by showing either that the selection procedure was not racially neutral or that relatively few Black persons served as foreman over a substantial period despite a substantial Black population among grand jurors or in the county. Cofield's evidence satisfied the second alternative.
4. If the State fails to rebut the prima facie showing of racial discrimination in selecting the foreman of the grand jury that indicted defendant, the verdict and judgments must be set aside; defendant is not entitled to discharge because the State may reindict him.

KEY QUOTATIONS

"We conclude, therefore, that racial discrimination in the selection of grand jury foremen violates Article I, sections 19 and 26 of the North Carolina Constitution, irrespective of whether there was discrimination in selection of the grand jury itself." (320 N.C. at 303)

"The effect of racial discrimination on the outcome of the proceedings is immaterial." (320 N.C. at 304)

"In light of this crucial distinction, we hold that where defendant is a member of the class allegedly discriminated against, his federal equal protection challenge to the foreman selection process should be evaluated without reference to whether the foreman's duties are merely ministerial, and without inquiry into whether the alleged discrimination affected the outcome of the grand jury proceedings." (320 N.C. at 308)

“Applying this test to the selection of a grand jury foreman, we conclude that a black defendant may make out a prima facie case of racial discrimination in the foreman's selection by showing either (1) that the selection procedure itself was not racially neutral, or (2) that for a substantial period in the past relatively few blacks have served in the position of foreman even though a substantial number have been selected to serve as members of grand juries.” (320 N.C. at 309)

FACTUAL BACKGROUND

The State's evidence indicated that on June 25, 1984, Cofield forced his way into a woman's home, raped her, and choked her until she lost consciousness; Cofield presented an alibi. Before trial, he challenged his indictment based on alleged racial discrimination in selecting the Northampton County grand jury foreman. The county was approximately 61 percent Black, but only one Black person had served as grand jury foreman from 1960 through the time of trial, despite fifty appointments and thirty-three persons appointed foreman.

PROCEDURAL HISTORY

Cofield was indicted, tried, convicted of second-degree rape and felonious breaking and entering, and sentenced to consecutive terms of thirty and three years. The trial court denied his pretrial motion to dismiss the indictment. The Court of Appeals held that the evidence was insufficient to require reversal because the record lacked the total number of grand jury foremen selected during the relevant period. The Supreme Court added the missing exhibit to the record, found a prima facie case, and remanded for the State to rebut it.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the Court of Appeals for further remand to the Superior Court of Northampton County. The Superior Court must conduct a hearing limited to whether the process used to select the foreman of the grand jury that indicted Cofield was racially neutral. If the State fails to rebut the prima facie showing, the verdict and judgments must be set aside; Cofield is not entitled to discharge because the State may reindict him.

CASES CITED

- Michigan v. Long, 463 U.S. 1032, 103 S. Ct. 3469, 77 L. Ed. 2d 1201 (1983)
- State v. Peoples, 131 N.C. 784, 42 S.E. 814 (1902)
- State v. Covington, 258 N.C. 495, 128 S.E.2d 822 (1963)
- State v. Perry, 248 N.C. 334, 103 S.E.2d 404 (1958)
- S.S. Kresge Co. v. Davis, 277 N.C. 654, 178 S.E.2d 382 (1971)
- State v. Mettrick, 305 N.C. 383, 289 S.E.2d 354 (1982)
- State v. Cornell, 281 N.C. 20, 187 S.E.2d 768 (1972)
- State v. Ray, 274 N.C. 556, 164 S.E.2d 457 (1968)
- State v. Wright, 274 N.C. 380, 163 S.E.2d 897 (1968)

- State v. Yoes, 271 N.C. 616, 157 S.E.2d 386 (1967)
- State v. Lowry, 263 N.C. 536, 139 S.E.2d 870 (1965)
- State v. Wilson, 262 N.C. 419, 137 S.E.2d 109 (1964)
- Rose v. Mitchell, 443 U.S. 545, 99 S. Ct. 2993, 61 L. Ed. 2d 739 (1979)
- Alexander v. Louisiana, 405 U.S. 625, 92 S. Ct. 1221, 31 L. Ed. 2d 536 (1972)
- Bush v. Kentucky, 107 U.S. 110, 27 L. Ed. 354 (1883)
- Neal v. Delaware, 103 U.S. 370, 26 L. Ed. 567 (1881)
- Smith v. Texas, 311 U.S. 128, 85 L. Ed. 84, 61 S. Ct. 164 (1940)
- Ballard v. United States, 329 U.S. 187, 91 L. Ed. 181, 67 S. Ct. 261 (1946)
- United States v. Cross, 708 F.2d 631 (11th Cir. 1983)
- Guice v. Fortenberry, 661 F.2d 496 (5th Cir. 1981)
- State v. Ramseur, 106 N.J. 123, 524 A.2d 188 (1987)
- State v. Gary, 78 N.C. App. 29, 337 S.E.2d 70 (1985), disc. rev. denied, 316 N.C. 197, 341 S.E.2d 586 (1986)
- Hobby v. United States, 468 U.S. 339, 104 S. Ct. 3093, 82 L. Ed. 2d 260 (1984)
- State v. Foddrell, 291 N.C. 546, 231 S.E.2d 618 (1977)