



# Peremptory Challenges: The History and Its Effect on Legal Professionals in Montgomery County, Ohio

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## Description

The jury system has been the center of our judicial system since the Bill of Rights guaranteed the right to a jury in 1791. An essential component of the jury system is the selection process of jurors. During jury selection, attorneys for each side can use both *peremptory challenges* and *challenges for cause* to remove jurors from the pool. Challenges for cause allow for jurors to be removed upon the establishment of a reason for the removal, such as inability to analyze the information due to mental defect. However, the peremptory challenge requires no stated legal reasoning for the removal. As times have changed it has become necessary for laws to be enacted to regulate the peremptory challenge. This prevents jurors from being removed solely for discriminatory or problematic reasons. This thesis project will explore those changes as well as explain how those changes affect attorneys and judges in Montgomery County, Ohio.

## Landmark Cases

- *Swain v. Alabama*- 1965
- *Batson v. Kentucky*- 1986
  - Batson Challenge Process

## Methods

- Legal Research
- Extensive Interviews

## Population

- Five Assistant Prosecuting Attorneys
- Five Common Pleas Court Judges
- Five Defense Attorneys

## Batson Challenge

1. The party bringing the challenge must establish a prima facie case for impermissible discrimination.
  - a. The prospective juror is a member of a protected group
  - b. The opposing party exercised a peremptory challenge to remove the juror
  - c. The facts and circumstances surrounding the exercise of the peremptory challenge raises an inference of discrimination.
2. Once the moving party establishes a prima facie case, the burden shifts to the opposing party to articulate a neutral, nondiscriminatory reason for the peremptory challenge
3. The court then determines whether the moving party has carried his or her burden of proving purposeful discrimination.

## Research Questions

- How have the laws governing the use of peremptory challenges changed since the 1960s?
- How do those changes in law affect the common pleas court judges, county prosecutors, and defense attorneys in Montgomery County, Ohio?

## Problems with Batson

- Does not account for implicit bias
- Difficulty proving a *Batson* Challenge
- Judges are reluctant to reject a prosecutor's race neutral reasoning
- Appellate courts are reluctant to overrule the trial court's decision

## Other Cases

- *Holland v. Illinois*- 1990
- *Powers v. Ohio*- 1991
- *Georgia v. McCollum*- 1992

## Value

The research gathered from these questions will help in analyzing the effectiveness of legislation and court decisions in governing peremptory challenges. The answers will also provide insight into how the peremptory challenge is currently being used in Montgomery County and whether those usages line up with current law. Ultimately, this project will lead to better understanding of legal process as it relates to preemptory challenges.