

## Scholarly Commons @ UNLV Boyd Law

---

Nevada Supreme Court Summaries

Law Journals

---

10-2-2014

### Summary of Watson v. State, 130 Nev. Adv. Op. 76

Lindsay Liddell  
*Nevada Law Journal*

Follow this and additional works at: <https://scholars.law.unlv.edu/nvscs>



Part of the [Criminal Law Commons](#), and the [Criminal Procedure Commons](#)

---

#### Recommended Citation

Liddell, Lindsay, "Summary of Watson v. State, 130 Nev. Adv. Op. 76" (2014). *Nevada Supreme Court Summaries*. 825.

<https://scholars.law.unlv.edu/nvscs/825>

This Case Summary is brought to you by the Scholarly Commons @ UNLV Boyd Law, an institutional repository administered by the Wiener-Rogers Law Library at the William S. Boyd School of Law. For more information, please contact [youngwoo.ban@unlv.edu](mailto:youngwoo.ban@unlv.edu).

## CRIMINAL PROCEDURE: PEREMPTORY CHALLENGES TO JURY MEMBERS AND JURY INSTRUCTIONS

### **Summary**

The Court determined that (1) a *Batson* objection to peremptory strikes should be analyzed with reference to the amount of allegedly targeted-group members within the venire; and (2) that a jury instruction is not issued in error when there was a reasonable likelihood that the jury did not understand the instruction incorrectly, even if the rule does not comprehensively explain the underlying doctrine, so long as it accurately states the law.

### **Background**

In 2006, Watson disclosed to a friend that he was so upset with his wife that he could kill her. A month later he surprised his wife with a vacation to Las Vegas where he rented a hotel room under an alias and arrived with a firearm. After his wife's arrival, she disappeared, and the following day he purchased cleaning supplies and power tools. His hotel room had a strong odor, bloodstains, and a bloodstain in the carpet that soaked through to the backing, all matching his wife's DNA. His vehicle and firearm also contained his wife's blood. Later, Watson was followed to a dumping area where he left a plastic tarp containing a decomposition odor and his wife's blood. He forged a note to explain her disappearance, and later wrote a letter claiming that he dismembered and cooked parts of the body. When he was arrested he possessed fake identification, a ticket to a town bordering the country, and traveler's checks. After hearing this evidence a jury found him guilty of first-degree kidnapping and first-degree murder. The jury sentenced him to death.

Watson appealed, arguing that (1) the State's peremptory strikes to prospective jury members violated the Equal Protection Clause, (2) his motion to dismiss counsel and represent himself was unconstitutional, (3) the jury instruction for mitigating circumstances could be easily misunderstood, (4) his motion to continue after receiving record of an old mental health diagnosis should not have been denied, (5) his request for a competency evaluation should not have been denied, (6) and that there was insufficient evidence for the jury to find aggravating circumstances in his convictions.

### **Discussion**

#### *Guilt-phase issues*

#### *Juror Challenges*

The Court upheld the district court's denial of Watson's *Batson*<sup>2</sup> challenges of the States peremptory dismissal of certain jury veniremembers. Watson argued that the State violated the

---

<sup>1</sup> By Lindsay Liddell.

Equal Protection Clause when it used six of its nine peremptory strikes on women, and one on an African-American. However, the Court disagreed, finding Watson did not meet the three-part test laid out in *Batson*.<sup>3</sup> The *Batson* test first requires the opposing party to show a prima facie case for discrimination. The test then uses a burden-shifting framework that requires the proponent to show a nondiscriminatory explanation for the peremptory challenge. Lastly, the trial court determines whether the opponent showed purposeful discrimination.

Previously, the Court found a prima facie case of discrimination when a majority of the strikes were used on one group.<sup>4</sup> However, in the present case the trial court did not find a prima facie case of discrimination because Watson did not show a pattern of strikes against women. A prima facie case must show an inference of discrimination from occurrences such as a disproportionate effect of strikes, the nature of the proponent's questions and statements throughout voir dire, disparate treatment of a certain group, or whether the case at hand is sensitive to bias. Here, Watson suggested that the use of six out of nine peremptory challenges on women showed an inference of discrimination. Instead of using a majority, the Court specified that it prefers to use a more detailed test, one that compares the number of strikes with the total members in the venire with those characteristics. Thus, because this venire had more women than men, the strikes were proportional and not likely discriminatory. The venire had 18 women and 14 men, so it would be natural for peremptory challenges to consist of more women than men in the present case. Watson did not show a prima facie case of discrimination because he did not offer any other evidence showing discriminatory intent. Also, Watson did not establish a prima facie case of discrimination towards the African-American because he did not show a pattern or offer any other evidence to support his claim.

#### *Sufficiency of the Evidence*

The Court declined to disturb the jury's verdict. It first noted that reversal of a conviction for insufficient evidence requires review of the evidence in the light most favorable to the prosecution. The Court next listed out in detail the following "substantial evidence" in support of conviction: prior to the trip Watson stated that he would kill his wife, he used an alias to book a hotel room, it was out of character for him to surprise his wife with a vacation, and he arrived to Las Vegas armed. Further, he purchased cleaning supplies and tools while in Las Vegas, the hotel room had a strong odor and blood stains, her blood was in his car, and he was arrested while apparently trying to leave the country. The Court held that based on the evidence presented at trial, a reasonable jury could find him guilty of first-degree kidnapping and first-degree murder.

#### *Motion for Self-Representation*

The Court upheld the district court's denial of Watson's request to self-represent. Though a defendant usually has a right to represent himself,<sup>5</sup> a court has discretion to deny a request if it

---

<sup>2</sup> See *Batson v. Kentucky*, 476 U.S. 79 (1986) (holding the use of peremptory challenges to remove a potential juror is subject to the Equal Protection Clause and race is not a factor for which a potential juror may be dismissed from a venire).

<sup>3</sup> The Court previously discussed the *Batson* three-part test in *Kaczmarek v. State*, 120 Nev. 314, 332, 91 P.3d 16, 29 (2004) (overruling *Doyle v. State*, 112 Nev. 879, 921 P.2d 901 (1996)).

<sup>4</sup> *Libby v. State*, 113 Nev. 251, 255, 934 P.2d 220, 223 (1997).

<sup>5</sup> See *Faretta v. California*, 422 U.S. 806, 819–20 (1975).

is “untimely, equivocal, or made for the purpose of postponing the trial.”<sup>6</sup> The Court determined Watson’s motion was both untimely and equivocal. It was untimely because he made it only one month before trial while also indicating he would need a continuance. It was equivocal because he stated he did not want to assume all responsibilities for his legal representation.<sup>7</sup> Accordingly, the Court determined the district court did not abuse its discretion in denying Watson’s request to represent himself.

### *Penalty-phase issues*

#### *Mitigation Jury Instruction*

Under de novo review, the Court upheld the district court’s jury instruction on mitigating circumstances, determining it was a correct statement of law. The Court determined that a natural reading of the jury instruction for mitigating circumstances would take into account all paragraphs of the instruction. The first paragraph of the instruction referred to the offense and circumstances in which fairness and mercy would reduce the defendant’s moral culpability. The second paragraph required the jury to consider the defendant’s character and record of other circumstances. The Court determined that when read in its entirety, the instructions compelled the jury to consider those factors that decrease or extenuate both the defendant’s moral culpability *and* any attributes of the defendant’s character or the record.<sup>8</sup>

Watson contended that the jury would only look at “moral culpability” in relation to his “guilt or blameworthiness,” rather than considering any mitigating circumstances relating to his character or anything else on the record. Although the failure to object to a jury instruction at trial usually precludes appellate review, the Eighth Amendment requires review of mitigating evidence that may give rise to a sentence less than death. The Black’s law definition of mitigating circumstances includes moral culpability. The definition of culpability refers to blameworthiness or guilt. Further, when the Court used this same objection in a previous case, it was not objected to.<sup>9</sup>

In the present case, the test is whether there is a reasonable likelihood that the jury read the instruction in a way that withheld constitutionally relevant information. The Court held there was not a reasonable likelihood that a jury would misinterpret the instruction, reading the first paragraph as excluding the consideration of the defendant’s character as a mitigating

---

<sup>6</sup> *O’Neill v. State*, 123 Nev. 9, 17, 153 P.3d 38, 44 (2007). The Court also noted that the right to self-represent was no absolute and must be balanced against the right to counsel—that is, a court must deny a motion to self-represent if the person is incompetent to do so.

<sup>7</sup> The Court noted that although a person usually has the right to self-represent, there is no recognized right to standby or advisory counsel.

<sup>8</sup> The dissent disagrees, arguing that this instruction is unconstitutional because it allows for arbitrary and capricious application. The dissent, concerned with ambiguity, stressed the instruction should guide a juror’s discretion in a constitutional manner using both the record and the defendant’s characteristics. With the death penalty, the dissent thought the majority wrong to assume that a juror would take into account both paragraphs. For the Dissent, it was important that a juror extend “moral culpability” to both the defendant’s characteristics and the record in determining whether there are mitigating circumstances to warrant a sentence less than death. The Dissent further argued that the instruction was not consistent with the statutory language of mitigating circumstances, which was broader and included concrete examples. They reasoned it was unlikely that the jury read the instructions as the Majority claimed when they found no mitigating circumstances especially given Watson’s mental health and psychiatric treatment.

<sup>9</sup> *Evans v. State*, 112 Nev. 1172, 1185, 1203 n.31, 926 P.2d 265, 274, 285 n.31 (1996).

circumstance regardless of a relation moral culpability. The Court found that it was unlikely for a jury to not consider these circumstances especially when they heard arguments involving the defendant's background, character, and other things unrelated to the offenses.

#### *Motion to continue*

The Court held that the district court did not err in denying the defendant's motion to continue. The defendant argued that his motion to continue should not have been denied because his records showing a previous psychiatric hospitalization were not obtained until the day that the jury determined a verdict. The Court determined that this was not an abuse of discretion because the defendant waited several years throughout the pending trial to disclose this information to his attorney. Further, the information showing a mental hospitalization many decades before the crime was used during the penalty hearing.

#### *Competency*

The Court held that the district court did not err in denying the defendant's request for another competency evaluation. The defendant argued that he should have been given another competency evaluation in light of the psychiatric records. One year before trial the defendant was found to be competent to stand trial after he responded appropriately when questioned. The Court found that the district court did not err in denying the motion because the decision to withhold these records, although maybe irrational, was fully the defendant's.

#### *Aggravating Circumstances*

The Court held that there was sufficient evidence for a jury to find that the defendant committed a murder in the course of a first-degree kidnapping. The defendant argued that the jury had insufficient evidence to find aggravating circumstances in the kidnapping and murder. The evidence included forethought, torture, mutilation, and blood matching his wife throughout the crime scenes. The defendant also admitted to cooking pieces of the body and throwing them away in an effort to conceal his wife's body. Therefore, the Court held that this evidence is sufficient for a jury to find that the murder involved more than the act of killing itself.<sup>10</sup>

#### *Mandatory Review*

The Court held that the death sentence was not excessive in the present case. The Court is required to review each death sentence to determine (1) whether there is sufficient evidence for the aggravating circumstances, (2) whether the verdict was a result of passion, prejudice, or other arbitrary considerations, and (3) whether the death penalty is excessive in the present case.<sup>11</sup> The Court analyzed part one in the section above. The Court determined that the record did not show any influence of arbitrary factors, and given the planning and dismemberment involved in the murder the death penalty was not excessive.

---

<sup>10</sup> *Smith v. State*, 114 Nev. 33, 39, 953 P.2d 264, 267 (1998).

<sup>11</sup> NEV. REV. STAT. § 177.055(2) (2013).

## **Conclusion**

A gender or race-based challenge to peremptory strikes should be analyzed in reference to the entire venire. This better shows whether there was discrimination or whether the peremptory strikes merely reflect the characteristics of the jury pool. Next, a jury instruction for mitigating circumstances is sufficient when there is a reasonable likelihood that a jury would read it in its entirety. It is likely that where there are multiple paragraphs, a jury would consider the language from the second paragraph as connecting to the paragraph above it. The Court also held that the district court did not err in the defendant's motions for self-representation, for a continuance, and for a competency evaluation. It further held that there was sufficient evidence for the verdict and for the death sentence.