

55 Fla. 97
Supreme Court of Florida, Division A.

MONTGOMERY

v.

STATE.

Feb. 12, 1908.

Synopsis

Error to Criminal Court of Record, Duval County; Samuel T. Shaylor, Judge.

I. W. Montgomery was convicted of embezzlement, and he brings error. Reversed and remanded.

See [45 South. 813](#).

West Headnotes (8)

[1] **Constitutional Law**

🔑 [Method of Selection](#)

A discrimination by the officers charged with the selecting, summoning, and impaneling of jurors against any person for jury duty because of race or color is illegal and on proper proceedings duly taken should be set aside or annulled.

[1 Cases that cite this headnote](#)

[2] **Constitutional Law**

🔑 [Juries](#)

The constitutional guaranty of equal protection of the laws does not give to any person a right to a jury composed in whole or in part of his own or of any particular race.

[3] **Evidence**

🔑 [Official Proceedings and Acts](#)

Where the statute of a state in its terms does not abridge a privilege or immunity of a citizen of the United States, or does not deny to any person the equal protection of the laws, the action of

officials in executing the statute is presumed to be legal.

[2 Cases that cite this headnote](#)

[4] **Evidence**

🔑 [Rebuttal of Presumptions of Fact](#)

Though the presumption is that officers have legally discharged their duty in selecting and summoning jurors under statutes which do not authorize any illegal discrimination, yet this is but a presumption that may be overcome by evidence on a challenge to the panel on the ground of illegal discrimination.

[2 Cases that cite this headnote](#)

[5] **Evidence**

🔑 [Weight and Conclusiveness in General](#)

Testimony received without objection and in no way controverted should be given all the probative force and effect that the meaning of the testimony naturally and ordinarily affords without technical requirements or limitations.

[5 Cases that cite this headnote](#)

[6] **Constitutional Law**

🔑 [Constitution as Supreme, Paramount, or Highest Law](#)

The Constitution of the United States within its limited sphere is the supreme law of the land; and it is the duty of all officials, whether legislative, judicial, executive, administrative, or ministerial, to so perform every official act as not to violate the same.

[1 Cases that cite this headnote](#)

[7] **Constitutional Law**

🔑 [Criminal Law](#)

Constitutional Law

🔑 [Juries](#)

Where a discrimination has been made because of race or color in a state statute or in any action thereunder in selecting, summoning, or impaneling jurors, any person of the race so

discriminated against who is to be tried by such jurors may, by proper proceedings, duly taken, have the statute or the action taken thereunder annulled by the court as being a denial by the state to the person so being tried of the equal protection of the laws, in violation of [U.S.C.A. Const.Amend. 14](#).

[3 Cases that cite this headnote](#)

[8] **Constitutional Law**

🔑 **Judicial Authority and Duty in General**

The duty rests on all courts, state and national, to protect and enforce every right granted or secured by the Constitution of the United States whenever such rights are involved in any proceeding before the court and the right is duly claimed or asserted.

[1 Cases that cite this headnote](#)

Syllabus by the Court

The Constitution of the United States, within its limited sphere is the supreme law of the land; and it is the duty of all officials, whether legislative, judicial, executive, administrative, or ministerial, to so perform every official act as not to violate the constitutional provisions.

The duty rests upon all courts, state and national, to guard, protect, and enforce every right granted or secured by the Constitution of the United States, whenever such rights are involved in any proceeding before the court and the right is duly and properly claimed or asserted.

Where a discrimination has been made against persons because of race or color in a state statute or in any action of officials thereunder, in selecting, summoning, or impaneling jurors, any person of the race so discriminated against who is to be tried on a criminal charge by such jurors may by proper proceedings duly taken for that purpose have the statute or the action taken thereunder annulled by the court as being a denial by the state to the person so being tried of the equal protection of the laws, in violation of the fourteenth amendment to the Constitution of the United States. This rule is the law of

the land, as determined by the Supreme Court of the United States, acting within its judicial power.

The statutory provisions of this state for selecting, summoning, and impaneling jurors do not discriminate, or authorize any discrimination, against any person for jury duty because of race or color. It is the duty of the officers charged with the administration or execution of such statutory provisions to do so without violating the Constitution of the United States, by discriminating against persons on account of race or color, or by other illegal action. If in selecting, summoning, or impaneling jurors a discrimination is made against any citizen on account of race or color, such action is not authorized by the statute, is illegal, and upon proper proceedings, duly taken for that purpose, should be set aside and annulled in toto.

The constitutional guaranty of equal protection of the laws does not give to any person a right to a jury composed in whole or in part of his own or of any particular race; but every person being tried in a court of justice is entitled to have a jury selected and summoned without illegal discrimination of any character. A large discretion is necessarily allowed the officers charged with the responsible duty of selecting jurors. This discretion should be carefully exercised, so as to aid in the proper administration of the law, by securing the best juries possible, without illegal discrimination against any citizen of the state qualified for jury duty under the law.

Where the statute of a state in its terms does not abridge a privilege or immunity of citizens of the United States, or does not deny to any person the equal protection of the laws, the action of officials in executing the provisions of such statute is presumed to be legal. When illegal action by an official in the administration or execution of a valid statute is charged, such illegal action should be duly, properly, directly, and distinctly alleged, and, if not admitted by demurrer or otherwise, should be duly proven, or proof thereof duly offered, according to the usual and proper mode of procedure in such cases.

Where testimony is admitted without objection in a judicial proceeding, it is treated as received by consent. When so admitted the testimony, if not illegal, should be given all the probative force that its ordinary meaning and effect will afford. Testimony not essentially illegal, that is received without objection and is not in any way controverted, should be given all the probative force and effect that the meaning of the testimony naturally and ordinarily affords to the mind, without technical requirements or limitations.

While the presumption is that the officers have legally discharged their duty in selecting and summoning the jurors under statutes that do not authorize any illegal discrimination, yet this is but a presumption that may be overcome by evidence to the contrary upon a challenge to the panel of juries on the ground of illegal discrimination in selecting the juries. When such presumption is overcome by uncontroverted testimony, and no evidence is offered to show there was no illegal discrimination by the officers in selecting and summoning the juries, the challenge should be sustained.

Attorneys and Law Firms

***102 **880** I. L. Purcell, for plaintiff in error.

W. H. Ellis, Atty. Gen., for the State.

***99** An information was filed in the criminal court of record for Duval county, Fla., charging the plaintiff in error with embezzlement of money held by him as ***100** treasurer of a lodge of Knights of Pythias. When arraigned the defendant pleaded not guilty, and at the trial presented challenges to the array of jurors and moved to quash the venire, both as to the regular panel drawn from the jury box and the special panel selected by the sheriff.

The challenges sworn to by the defendant allege that the county commissioners are all white men, and in selecting the list of names for jury duty discriminated against all colored men of African descent, and failed and refused to select any, solely on account of their race, color, and previous condition of servitude; that for many years all colored men of African descent have been discriminated against by the county commissioners, and none have been drawn, selected, or summoned as petit jurors in any of the courts of the county; that at the time of selecting the names for jury duty there were and are now many thousand colored men of African descent in the county, a large number of whom are taxpayers, and of approved integrity, fair character, sound judgment and intelligence, and fully qualified for jury duty; that this fact was well known to the county commissioners and sheriff at the time of selecting the list and summoning the jury; that this discrimination against negroes or colored men of African descent is solely on account of their race and previous condition of servitude; that by this discrimination against colored men the defendant, being a colored man of African descent, is denied the equal protection of the law; that the sheriff summoned only white men to serve as jurors, and failed and refused to select any colored man of African

descent to serve on the jury, thus discriminating against all colored men of African descent; that it has been the custom for many years in the court, when special venires were issued and served, for the sheriff to fail and refuse to select any names of persons of the African race to ***101** serve on the jury in the court; that the discrimination and refusal of the sheriff to select any men of the African race to serve on the jury is on account of their race, color, and previous condition of servitude, and this discrimination against the colored men of African descent is a denial to the defendant of the equal protection of the law, he being a colored man of African descent and a citizen of the United States and of the state and county.

The state joined issue on the challenges, and testimony in support of the challenges was taken, the material part of which is as follows: Six of the jurors were drawn from the jury box and the other six were selected by the sheriff. When N. B. Broward was sheriff a few colored men were drawn on the juries. Colored people of the county own considerable property and pay considerable taxes. Colored children attend the county and city schools. Colored people are considerably engaged in business in the city. The list of names of several hundred persons placed in the box for jury duty during the year 1907 does not contain the names of a half dozen colored men, if any. Several named colored persons have served on juries in the past. The colored people of the city are progressive. They have property and are engaged in business enterprises. There is a colored bank in the city, and colored men successfully conduct real estate offices and industrial insurance companies. Some are builders and merchants. Others are engaged in nearly every line of business. Colored people have schools in the county and two colleges. About two-thirds of the colored men are of fair character, sound judgment and intelligence, and fully qualified for jury duty. There is a large majority of the colored people in the county. It has been a long time since colored men have served on the jury in the court.

The state introduced no evidence. The court denied the challenges, and the defendant excepted. Having been convicted, and a new trial denied, the defendant duly excepted, and took writ of error, assigning as errors the denial of the challenges to the jurors and the denial of the motion for new trial.

The order heretofore made by this court with reference to the proper authentication of the bill of exceptions in this cause has been complied with, and a copy of a duly authenticated

bill of exceptions is contained in the transcript of the record now on file.

Opinion

WHITFIELD, J. (after stating the facts as above).

Having been convicted of embezzlement, the plaintiff in error insists here on writ of error that the trial court erred in overruling his challenges to the array of jurors, made on the ground that there was illegal discrimination in the selection and summoning of the jurors.

It is not contended that the statutes of this state under which the jurors were selected and summoned are violative of any constitutional provision; but it is urged that the action of the officers of the state in the execution or administration of the statutory provisions for selecting and summoning the jurors was such that citizens were discriminated against on account of race or color, and that thereby the state has denied the plaintiff in error the equal protection of the laws, in violation of the Constitution of the United States.

Section 1 of the fourteenth amendment to the Constitution of the United States provides ****881** that: 'All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No ***103** state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.'

The Constitution of the United States, within its limited sphere, is the supreme law of the land; and it is the duty of all officials, whether legislative, judicial, executive, administrative, or ministerial, to so perform every official act as not to violate the constitutional provisions.

The duty rests upon all courts, state and national, to guard, protect, and enforce every right granted or secured by the Constitution of the United States, whenever such rights are involved in any proceeding before the court and the right is duly and properly claimed or asserted.

Where a discrimination has been made against persons because of race or color in a state statute, or in any action of officials thereunder, in the selection, summoning, or impaneling of jurors, any person of the race so discriminated against who is to be tried on a criminal charge by such jurors

may by proper proceedings duly taken for that purpose have the statute or the action taken thereunder annulled by the court as being a denial by the state to the person so being tried of the equal protection of the laws, in violation of the fourteenth amendment to the Constitution of the United States. This rule is the law of the land, because it has been so determined by the Supreme Court of the United States, acting within its judicial power. [Strauder v. West Virginia](#), 100 U. S. 303, 25 L. Ed. 664; [Virginia v. Rives](#), 100 U. S. 313, 25 L. Ed. 667; *Ex parte Virginia*, 100 U. S. 339, 25 L. Ed. 676; [Neal v. Delaware](#), 103 U. S. 370, 26 L. Ed. 567; [Gibson v. Mississippi](#), 162 U. S. 565, 16 Sup. Ct. 904, 40 L. Ed. 1075; [Carter v. State of Texas](#), 177 U. S. 442, 20 Sup. Ct. 687, 44 L. Ed. 839; [Rogers v. Alabama](#), 192 U. S. 226, 24 Sup. Ct. 257, 48 L. Ed. 417; ***104** [State v. Peoples](#), 131 N. C. 784, 42 S. E. 814; [State v. Warner](#), 165 Mo. 399, 65 S. W. 584, 88 Am. St. Rep. 422; [Green v. State](#), 73 Ala. 26.

The statutory provisions of this state for selecting, summoning, and impaneling jurors do not discriminate, or authorize any discrimination, against any person for jury duty because of race or color, and do not violate the constitutional provision above quoted. It is the duty of the officers charged with the administration or execution of such statutory provisions to do so without violating the Constitution of the United States, by discriminating against persons on account of race or color or by other illegal action. If in the selection, summoning, or impaneling of jurors a discrimination is made against any citizen on account of race or color, such action is not authorized by the statute, is illegal, and upon proper proceeding duly taken for that purpose should be set aside and annulled in toto.

Where the statute of a state in its terms does not abridge a privilege or immunity of citizens of the United States, or does not deny to any person the equal protection of the laws, the action of officials in executing the provisions of such statute is presumed to be legal. When illegal action by an official in the administration or execution of a valid statute is charged, such illegal action should be duly, properly, directly, and distinctly alleged, and, if not admitted by demurrer or otherwise, should be duly proven, or proof thereof duly offered, according to the usual and proper mode of procedure in such cases. [Brownfield v. South Carolina](#), 189 U. S. 426, 23 Sup. Ct. 513, 47 L. Ed. 882; [Tarrance v. Florida](#), 188 U. S. 519, 23 Sup. Ct. 402, 47 L. Ed. 572; [Williams v. State of Mississippi](#), 170 U. S. 213, 18 Sup. Ct. 583, 42 L. Ed. 1012; [Carter v. State of Texas](#), 177 U. S. 442, 20 Sup. Ct. 687, 44 L. Ed. 839; [Smith v. State of Mississippi](#), 162 U. S. 592, 16 Sup. Ct. 900, 40 L. Ed. 1082;

[Tarrance v. State](#), 43 Fla. 446, 30 South. 685; [Montgomery v. State](#), 53 Fla. 115, 42 South. 894.

105** The constitutional guaranty of equal protection of the laws does not give to any person a right to a jury composed in whole or in part of his own or of any particular race; but every person being tried in a court of justice is entitled to have a jury selected and summoned without illegal discrimination of any character. A large discretion is necessarily allowed the officers charged with the responsible duty of selecting jurors. This discretion should be carefully exercised, so as to aid in the proper administration of the law by securing the best juries possible without illegal discrimination against any qualified citizen of the state. Illegal discrimination in selecting persons to serve as jurors affects the validity of the panel or venire as an entirety, without reference to the impartiality of individual jurors on the panel. In the eyes of the law all persons of all races are regarded alike, and no person has any right to insist that a person of his race or color shall be on the jury by which he is tried when charged with crime, or when he is otherwise a party to an action or proceeding. But every person has a right to insist that officers of the law, in selecting lists of names of persons to compose the juries in the courts, shall not in such selection discriminate against any citizen subject to jury duty because of his race, color, or previous condition of servitude; and if such officers do so discriminate they violate the Constitution of the United States, and the entire lists of jurors so selected are vitiated and illegal. [Montgomery v. State](#), 53 Fla. 115, 42 South. 894; *882** [Virginia v. Rives](#), 100 U. S. 313, 323, 25 L. Ed. 667; [State v. Brown](#), 119 Mo. 527, 24 S. W. 1027, 25 S. W. 200; [Lewis v. State \(Miss.\)](#) 45 South. 360; [State v. Casey](#), 44 La. Ann. 969, 11 South. 583; [Bullock v. State](#), 65 N. J. Law, 557, 47 Atl. 62, 86 Am. St. 668; [Lawrence v. Commonwealth](#), 81 Va. 484; [State v. Sloan](#), 97 N. C. 499, 2 S. E. 666.

***106** On a former writ of error in this case (53 Fla. 115, 42 South. 894) it was held that an allegation that the 'refusal of the sheriff to select any men of the African race to serve on the jury is on account of their race, color, and previous condition of servitude' is a sufficient charge of discrimination to entitle defendant to prove it. This is the law of the case, and is applicable to both the challenges now before the court.

Where testimony is admitted without objection in a judicial proceeding, it is treated as received by consent. When so admitted, the testimony, if not illegal, should be given all the probative force that its ordinary meaning and effect will afford. The testimony in support of the challenges is not full and clear; but it was admitted without objection, and no

testimony was offered in rebuttal. Under these circumstances the evidence adduced by the defendant in support of his challenges to the jurors should be given all the probative force and effect that the meaning of the testimony naturally and ordinarily affords to the mind, without technical requirements or limitations. There is uncontroverted testimony that the people of one race and color are numerically in the majority in Duval county, where the trial was had, and that about two-thirds of the men of that race are of fair character, sound judgment and intelligence, and fully qualified for jury duty, but that in the list of several hundred names drawn for jury duty not more than half dozen, if any, names of men of that race are found, and also that colored men were drawn on the juries when N. B. Broward was sheriff, but it has been a long time since men of that race have served on the jury in the court. A portion of this testimony may be merely opinions or conclusions; but it was admitted without objection, and was not impeached or contradicted in any way. If testimony that is not strictly admissible, as distinguished from being illegal, is admitted without ***107** objection, and it is not controverted in any way, the courts are not required to give such testimony a narrow or restrictive probative force and effect.

While the presumption is that the officers have legally discharged their duty in selecting and summoning the jurors under statutes that do not authorize any illegal discrimination, yet this is but a presumption, that may be overcome by evidence to the contrary. There is uncontroverted testimony that the people of one race and color are largely in the majority of the population in the county where the court was held; that about two-thirds of the men of that race are fully qualified for jury duty; that a list of several hundred names of men selected for jury duty for the year does not contain the names of a half dozen, if any, men of that race; that men of that race have served on the jury in the past, but that it has been a long time since men of that race have served on the jury in the court; and that the people of that race are engaged in pursuits that should improve their intellectual and moral condition. As there has been no change in the law that would exclude men of any race from jury duty, this evidence tended to show a discrimination on account of race or color; and such uncontroverted evidence is at least sufficient to require some proof that, notwithstanding the facts in evidence, there was no discrimination on account of race or color against any person of any race in the selection and summoning of the jurors. See [Hubbard v. State](#), 43 Tex. Cr. R. 564, 67 S. W. 413; [Whitney v. State](#), 43 Tex. Cr. R. 197, 63 S. W. 879; [Eastling v. State](#), 69 Ark. 189, 62 S. W. 584; [State v. Murray](#), 47 La. Ann. 1424, 17 South. 832; [Haggard v. Commonwealth](#), 79 Ky. 366; [Lewis v. State \(Miss.\)](#) 45 South. 360.

As there was uncontroverted evidence tending to show discrimination against persons on account of race or color in the selection of jurors whose names were on *108 the panels, sufficient to overcome the presumption in favor of the legality of the acts of the officers, the challenges interposed should have been sustained. See [Smith v. State, 42 Tex. Cr. R. 220, 58 S. W. 97](#); [Kipper v. State, 42 Tex. Cr. R. 613, 62 S. W. 420](#); [Whitney v. State, 42 Tex. Cr. R. 283, 59 S. W. 895](#).

The judgment is reversed, and the cause is remanded for further proceedings according to law.

SHACKLEFORD, C. J., and COCKRELL, J., concur.

TAYLOR, HOCKER, and PARKHILL, JJ., concur in the opinion.

All Citations

55 Fla. 97, 45 So. 879

Citing References (34)

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	<p> 1. Bonaparte v. State 61 So. 633, 634+ , Fla.</p> <p>Error to Court of Record, Duval County; John S. Maxwell, Judge. Harry Bonaparte was convicted of embezzlement, and he brings error. Reversed, and new trial ordered.</p>	Mar. 11, 1913	Case		—
Cited by	<p>2. Lieberman v. Marshall </p> <p>236 So.2d 120, 129 , Fla.</p> <p>Proceeding on motion to dissolve temporary injunction restraining student group from holding meeting or rally in university building until further order of court. The Circuit...</p>	May 28, 1970	Case		—
Cited by	<p> 3. Porter v. State 160 So.2d 104, 107+ , Fla.</p> <p>Prosecution for murder. The Circuit Court for Martin County, C. Pfeiffer Trowbridge, J., entered a judgment of conviction of first degree murder and the defendant appealed. The...</p>	Oct. 16, 1963	Case		—
Cited by	<p> 4. In re Advisory Opinion to Governor 8 So.2d 26, 34 , Fla.</p> <p>Proceedings in the matter of an advisory opinion to the Governor respecting questions propounded by the Governor to the Supreme Court. Questions answered. For subsequent opinion...</p>	May 12, 1942	Case		—
Cited by	<p>5. Baker v. State 7 So.2d 792, 794+ , Fla.</p> <p>Error to Circuit Court, Duval County; Bayard B. Shields, Judge. James Baker was convicted of first degree murder, and his conviction was affirmed, 188 So. 634, 137 Fla. 27, and he...</p>	Apr. 29, 1942	Case		—
Cited by	<p> 6. Leavine v. State 147 So. 897, 901 , Fla.</p> <p>En Banc. Error to Circuit Court, Hillsborough County; A. V. Long, Judge. Louis Leavine was convicted of first degree murder, and he brings error. Affirmed.</p>	Apr. 18, 1933	Case		—
Cited by	<p>7. Haynes v. State 72 So. 180, 182 , Fla.</p> <p>Error to Circuit Court, Hillsborough County; F. M. Robles, Judge. Charles H. Haynes was convicted of murder in the first degree, and brings error. Affirmed.</p>	Apr. 28, 1916	Case		—
Cited by	<p>8. Gracy v. Seaboard Air Line Ry. 68 So. 722, 723 , Fla.</p> <p>Error to Circuit Court, Alachua County; J. C. Adkins, Referee. Action by Seaboard Air Line Railway against L. C. Gracy. Judgment for plaintiff, and defendant brings error. ...</p>	Mar. 17, 1915	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	9. Dugan v. City of Jacksonville 343 So.2d 103, 105 , Fla.App. 1 Dist. Property owner sought relief from zoning classification claimed to be unreasonable, discriminatory, arbitrary and unconstitutional. A final judgment of the Circuit Court, Duval...	Mar. 11, 1977	Case		—
Cited by	10. Pepper v. Pepper 66 So.2d 280, 285 , Fla. Suit for divorce. The Circuit Court for Dade County entered a final order dismissing the suit on ground that plaintiff was not a bona fide resident of state, and plaintiff...	July 10, 1953	Case		—
Cited by	11. Vilas v. Vilas 13 So.2d 807, 808 , Fla. Action by Marguerite C. Vilas against Curtis Nathaniel Vilas for divorce, wherein defendant after final decree petitioned for modification of alimony award. From an order denying...	June 04, 1943	Case		—
Cited by	12. Washington v. State 116 So. 470, 473 , Fla. En Banc. Error to Circuit Court, Duval County; George Couper Gibbs, Judge. Abe Washington was convicted of first degree murder, and the conviction was affirmed on appeal. An order...	Feb. 17, 1928	Case		—
Cited by	13. Brannen v. State 114 So. 429, 431 , Fla. Error to Circuit Court, Columbia County; Hal W. Adams, Judge. Raiford Brannen was convicted of perjury, and he brings error. Reversed.	Oct. 19, 1927	Case		—
Cited by	14. Lindsay v. State 68 So. 932, 933 , Fla. Error to Circuit Court, Santa Rosa County; J. Emmet Wolfe, Judge. A. D. Lindsay was convicted of being a common liquor dealer, and brings error. Affirmed. See, also, 67 South....	June 02, 1915	Case		—
Cited by	15. Sadlowski v. Sadlowski 254 So.2d 847, 848 , Fla.App. 4 Dist. Affirmed.	Nov. 30, 1971	Case		—
Cited by	16. PRESIDENT'S POWER TO USE FEDERAL TROOPS TO SUPPRESS RESISTANCE TO ENFORCEMENT OF FEDERAL COURT ORDERS- LITTLE ROCK, ARKANSAS ” 41 U.S. Op. Atty. Gen. 313, 324+ I am formally submitting to you in this opinion the legal advice which I have given you on separate recent occasions on certain questions arising in the school desegregation case...	Nov. 07, 1957	Administrative Decision		—
Mentioned by	17. Royals v. State 75 So. 199, 200 , Fla. Error to Criminal Court of Record, Duval County; Jas. M. Peeler, Judge. James Royals was convicted of an assault with intent to rape, and brings error. Reversed.	Apr. 19, 1917	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	<p>18. Duncanson v. Service First, Inc. 157 So.2d 696, 699 , Fla.App. 3 Dist.</p> <p>Action by insurance agency for declaration of its rights and obligations with respect to demands made upon it to defend injury action. The Circuit Court, Dade County, Harold R....</p>	Nov. 19, 1963	Case		—
Mentioned by	<p>19. Kinney v. Mosher 100 So.2d 644, 646 , Fla.App. 1 Dist.</p> <p>Suit by surviving children against surviving widow, as executrix of the estate of deceased, for purpose of determining their rights in a certain piece of property alleged to have...</p>	Feb. 27, 1958	Case		—
Mentioned by	<p>20. Rhodes v. McWilson 77 So. 465, 470 , Ala.App.</p> <p>Appeal from Circuit Court, Jefferson County; C.B. Smith, Judge. Action by Thomas McWilson against J. Turner Rhodes. From a judgment for plaintiff, defendant appeals. Affirmed....</p>	Nov. 20, 1917	Case		—
—	<p>21. Effect of, and remedies for, exclusion of eligible class or classes of persons from jury list in criminal case 52 A.L.R. 919</p> <p>The question under annotation presupposes that, either by virtue of the state Constitution or statute or the Federal Constitution, members of the class in question are in general...</p>	1928	ALR	—	—
—	<p>22. Proof as to exclusion of or discrimination against eligible class or race in respect to jury in criminal case 1 A.L.R.2d 1291</p> <p>It is recognized that an intentional, planned, and deliberate exclusion of, or discrimination against, members of a particular political or economic group, religious faith, race,...</p>	1948	ALR	—	—
—	<p>23. Unfairness or corruption of officers in performance of administrative functions in civil or criminal cases in state court as in violation of the Fourteenth Amendment 98 A.L.R. 411</p> <p>In refusing to grant a writ of habeas corpus to a prisoner who alleged that the sole basis of his conviction of murder in the state court was perjured testimony which was knowingly...</p>	1935	ALR	—	—
—	<p>24. Validity and effect of provisions limiting the power of courts to declare a statute unconstitutional 15 A.L.R. 331</p> <p>The decision in the reported case (People v. Western U. Teleg. Co. ante, 326) that a state constitutional provision limiting the power of trial courts to pass upon the...</p>	1921	ALR	—	—

Treatment	Title	Date	Type	Depth	Headnote(s)
—	25. Trawick's Florida Practice and Procedure s 23:4, § 23:4. Selection and summoning Jurors must be United States citizens, and residents of Florida and the county where the trial is had, over 18 years of age and have a Florida drivers license or identification...	2019	Other Secondary Source	—	—
—	26. Fla. Jur. 2d Constitutional Law s 38, § 38. Supremacy of Constitution Fla. Jur. 2d Constitutional Law The Constitution is to be given effect as the paramount law. Because the Constitution is the paramount law, the Constitution must prevail where a statute or municipal ordinance...	2019	Other Secondary Source	—	—
—	27. Fla. Jur. 2d Constitutional Law s 245, § 245. Vigilance of courts to protect rights Fla. Jur. 2d Constitutional Law Courts must attend with special vigilance whenever the Declaration of Rights is in issue. The courts are ever alert to protect the citizen against encroachment by the sovereign,...	2019	Other Secondary Source	—	—
—	28. Fla. Jur. 2d Evidence and Witnesses s 814, § 814. Effect of failure to object Fla. Jur. 2d Evidence and Witnesses If testimony is received without objection, it is considered as received by consent. A party who fails to make a timely objection may not thereafter complain. The district court of...	2019	Other Secondary Source	—	—
—	29. Fla. Jur. 2d Juries s 70, § 70. Challenges to array Fla. Jur. 2d Juries In contrast to a challenge to the polls, a challenge to the whole array or panel from which the trial jury is impaneled raises the question of the invalidity of the panel because...	2019	Other Secondary Source	—	—
—	30. Fla. Jur. 2d Juries s 83, § 83. Exclusion based on race, generally Fla. Jur. 2d Juries Florida statutes on the subject of the selection of jurors do not discriminate, and do not authorize discrimination, against any person for jury service because of race or color,...	2019	Other Secondary Source	—	—
—	31. Fla. Jur. 2d Trial s 73, § 73. Generally Fla. Jur. 2d Trial Under the Florida Evidence Code, the right to predicate error, set aside or reverse a judgment, or grant a new trial on the basis of admitted evidence is generally contingent on a...	2019	Other Secondary Source	—	—
—	32. THE MYTH OF THE NULLIFYING JURY 93 Nw. U. L. Rev. 877 , 959 The jury is an institution under threat, and the form that the threat has taken most recently is an attack on jury nullification. Members of the press, judiciary, and academia...	1999	Law Review	—	—






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—	<p>33. CONSTITUTIONAL LAW-PRIVILEGE AGAINST SELF-INCRIMINATION-FEAR OF PROSECUTION IN ANOTHER JURISDICTION 9 Tex. L. Rev. 429 , 433</p> <p>The claim of the privilege against giving testimony on the ground that it would tend to incriminate the witness, a privilege granted by the United States Constitution and by the...</p>	1931	Law Review	—	—
—	<p>34. A HISTORY OF THE FLORIDA SUPREME COURT 35 U. Miami L. Rev. 1019 , 1066</p> <p>To a certain extent, the development of Florida's modern judicial processes and institutions can be understood by looking closely at the history of the individuals who have served...</p>	1981	Law Review	—	—

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Cited	<p>1. Brownfield v. State of S.C. 23 S.Ct. 513, U.S.S.C., 1903</p> <p>IN ERROR to the Supreme Court of the State of South Carolina to review a judgment which affirmed a conviction of murder. Affirmed. See same case below, 60 S. C. 509, 39 S. E. 2....</p>	Case			881
Mentioned	<p> 2. Bullock v. State 47 A. 62, N.J.Err. & App., 1900</p> <p>Error to court of oyer and terminer. William Bullock was convicted of murder, and he brings error. Reversed.</p>	Case			882
Mentioned	<p> 3. Carter v. State of Texas 20 S.Ct. 687, U.S.Tex., 1900</p> <p>IN ERROR to the Court of Criminal Appeals of Texas. Reversed.</p>	Case			881+
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Mentioned	<p>5. Eastling v. State 62 S.W. 584, Ark., 1901</p> <p>Appeal from circuit court, Perry county; Robert J. Lea, Judge. Ed Eastling was convicted of murder, and he appeals. Modified.</p>	Case			882
Mentioned	<p> 6. Ex parte Commonwealth of Virginia 1879 WL 16561, U.S.Va., 1879</p> <p>PETITION for a writ of habeas corpus. The facts are stated in the opinion of the court. 1. A., a judge of a county court in Virginia, charged by the law of that State with the...</p>	Case			881
Mentioned	<p> 7. Gibson v. State of Mississippi 16 S.Ct. 904, U.S.Miss., 1896</p> <p>In Error to the Supreme Court of the State of Mississippi.</p>	Case			881
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Cited	10. Hubbard v. State 67 S.W. 413, Tex.Crim.App., 1902 Appeal from district court, Van Zandt county; J. G. Russell, Judge. Tom Hubbard, a negro, was convicted of murder, and appeals. Affirmed.	Case			882
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Mentioned	18. Smith v. State of Mississippi 16 S.Ct. 900, U.S.Miss., 1896 In Error to the Supreme Court of the State of Mississippi.	Case			881
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Cited	25. Strauder v. State of West Virginia 1879 WL 16562, U.S.W.Va., 1879 ERROR to the Supreme Court of Appeals of the State of West Virginia. The facts are stated in the opinion of the court. @1. The Fourteenth Amendment of the Constitution of the...	Case			881

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Mentioned	<p>26. Tarrance v. State 30 So. 685, Fla., 1901</p> <p>Error to circuit court, Escambia county; Evelyn C. Maxwell, Judge. James Tarrance and others were convicted of murder in the third degree, and bring error. Affirmed.</p>	Case			881
Mentioned	<p>27. Tarrance v. State of Florida 23 S.Ct. 402, U.S.Fla., 1903</p> <p>IN ERROR to the Supreme Court of the State of Florida to review a judgment which affirmed a conviction in the Circuit Court of Escambia County of the crime of murder. Affirmed....</p>	Case			881
Mentioned	<p>28. Whitney v. State 63 S.W. 879, Tex.Crim.App., 1901</p> <p>Appeal from district court, Harris county; A. C. Allen, Judge. Ralph Whitney, alias Ralph Winston, was convicted of rape, and he appeals. Affirmed.</p>	Case			882
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Negative Treatment

There are no Negative Treatment results for this citation.

History

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Filings

There are no Filings for this citation.