

People v. Wheeler
(1978) 22 Cal.3d 258

“The use of peremptory challenges to remove prospective jurors on the sole ground of group bias violates the right to trial by a jury drawn from a representative cross-section of the community under article I, section 16, of the California Constitution”

Batson v. Kentucky

(1986) 476 U.S. 79

“The Equal Protection Clause forbids the prosecutor to challenge potential jurors solely on account of their race or on the assumption that black jurors as a group will be unable impartially to consider the State’s case against a black defendant.”



AB 2542

California Racial Justice Act of 2020

- New PC § 745
- The state shall not seek or obtain a criminal conviction or seek, obtain, or impose a sentence on the basis of race, ethnicity, or national origin
- Violation is established if the defendant proves, by a preponderance of the evidence:
 - Race, ethnicity, or national origin was a *factor* in the exercise of peremptory challenges.
 - Defendant need not show that purposeful discrimination occurred in the exercise of peremptory challenges
- Remedies:
 - Reseat juror, declare mistrial, empanel new jury, dismiss/reduce enhancements/charges
- Effective 1/1/2021
 - Not retroactive, but applies to cases in which judgment has not been entered prior to 1/1/21