

The Supreme Court
State of Washington

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Arizona Supreme Court
1501 W. Washington
Phoenix, AZ 85007

Re: Peremptory Challenge Rule

Dear Honorable Justices of the Arizona Supreme Court,

I have been invited to share my thoughts on Washington's experience so far with its new rule on the exercise of peremptory challenges, which I understand is similar to the rule being proposed to you in the instant petition. As Chief Justice of the Washington Supreme Court, I welcome the opportunity to share what has been happening in our state, in case it might be useful to you in determining the appropriate path forward for your state's judicial system.

Washington's General Rule 37 is the culmination of a lot of hard work, and the result of a necessary acknowledgment that the U.S. Supreme Court's *Batson* framework for addressing racial discrimination in the use of peremptory challenges was not working. As I have previously detailed and still believe, the science makes clear that the complete elimination of peremptory challenges is the only way to fully overcome this problem and would serve the interests of justice, for many reasons. See *State v. Saintcalle*, 178 Wash.2d 34, 68-118, 309 P.3d 326 (2013) (González, J., concurring). That said, our state's new rule is an important, albeit lesser step toward the same goal of eradicating racial bias in jury selection.

Our state's experience with General Rule 37 has been positive in multiple intersecting ways. Based on what I have been hearing from other judges and based on the cases my court has reviewed, the rule appears to be working to deter and mitigate racial discrimination in the use of peremptory challenges. Suspect challenges are now being subjected to meaningful scrutiny and oversight for the first time. More importantly, the work that our state's entire legal community

has been undertaking to effectively implement the rule has been both impressive and invaluable. This includes trainings, professional conferences, scholarly commentaries, and ongoing discussions among judges, prosecutors, defenders, and civil practitioners. All of this has brought the issue of racial bias to the forefront in ways it was not before and would not be today without the new rule. As a result, we have all been forced to confront our own flaws, acknowledge the existence and scope of the problem, and work on substantially improving our legal system. This, standing alone, has more than justified our state's new rule.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven C. González", written in a cursive style.

Steven C. González