

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE

STATE OF WASHINGTON,

Respondent,

v.

HARRY T. SAYLOR,

Appellant.

No. 80946-6-I

UNPUBLISHED OPINION

PER CURIAM — Harry Saylor was convicted by a jury of possession of methamphetamine. Saylor appealed, arguing that the trial court improperly excused a potential juror, identified in the record as an African-American woman, in violation of GR 37, Batson v. Kentucky, 476 U.S. 79, 106 S. Ct. 1712, 90 L. Ed. 2d 69 (1986), and the Sixth Amendment to the United States Constitution. He argues that the reasons the State gave for challenging the potential juror with a peremptory strike were either not corroborated by the record or would be understood as a reflection of unconscious racial bias to an objective observer.

The State concedes that, based on the totality of the circumstances in the record, an objective observer could have viewed race or ethnicity as a factor in the challenge to the potential juror. See GR 37(e) (If “an objective observer could view race or ethnicity as a factor in the use of the peremptory challenge, then the peremptory challenge shall be denied.”).

We accept the State's concession. We reverse Saylor's conviction for possession of methamphetamine and remand for further proceedings.

FOR THE COURT:

Andrus, A.C.J.

Duyn, J.

Luppelwick, J.