

IN THE SUPREME COURT OF THE STATE OF NEVADA

JULIUS BRADFORD,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 62108

FILED

OCT 24 2017

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a judgment of conviction in a death penalty case. Eighth Judicial District Court, Clark County; Douglas Smith, Judge.

Appellant Julius Bradford argues that the district court committed structural error when it dismissed veniremembers before resolving his objections pursuant to *Batson v. Kentucky*, 476 U.S. 79 (1986). We agree.

We have held that the dismissal of veniremembers before a *Batson* hearing “ha[s] the same effect as a racially discriminatory peremptory challenge” and “constitutes structural error that [is] intrinsically harmful to the framework of the trial.” *Brass v. State*, 128 Nev. 748, 754, 291 P.3d 145, 149 (2012). In so holding, we noted our concerns that premature dismissal leaves the successful opponent of a peremptory challenge with limited recourse and may possibly “present the appearance of improper judicial bias.” *Id.* at 754 & n.4, 291 P.3d at 149 & n.4. And while the State urges us to reconsider and apply harmless-error review, we conclude there are no compelling reasons to overturn our precedent. *See Armenta-Carpio v. State*, 129 Nev. 531, 535, 306 P.3d 395,

398 (2013) (“Under the doctrine of *stare decisis*, we will not overturn precedent absent compelling reasons for doing so.” (quotation marks and alterations omitted)).

Here, the State does not dispute that defense counsel attempted to make two *Batson* objections during the peremptory process and that counsel were not permitted to be heard until after veniremembers, including those who were the subject of the *Batson* objections, were dismissed. Per our holding in *Brass*, this premature dismissal of the challenged veniremembers before a *Batson* hearing constitutes structural error. Accordingly, we

ORDER the judgment of conviction REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

Cherry, C.J.
Cherry

Douglas, J.
Douglas

Gibbons, J.
Gibbons

Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Hon. Douglas Smith, District Judge
Law Office of Lisa Rasmussen
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk