

Jury Trial & Impeachment of the Verdict

[*Penarodriguez v. Colorado*](#), 580 U.S. ___ (Mar. 6, 2017).

Where a juror makes a clear statement indicating that he or she relied on racial stereotypes or animus to convict a criminal defendant, the Sixth Amendment requires that the “no-impeachment rule” give way in order to permit the trial court to consider the evidence of the juror’s statement and any resulting denial of the jury trial guarantee. A Colorado jury convicted the defendant of harassment and unlawful sexual contact. Following the discharge of the jury, two jurors told defense counsel that, during deliberations, Juror H.C. had expressed anti-Hispanic bias toward the defendant and the defendant’s alibi witness. Counsel obtained affidavits from the two jurors describing a number of biased statements by H.C. The trial court acknowledged H.C.’s apparent bias but denied the defendant’s motion for a new trial on the ground that Colorado Rule of Evidence 606(b) generally prohibits a juror from testifying as to statements made during deliberations in a proceeding inquiring into the validity of the verdict. The state appellate courts affirmed. The U.S. Supreme Court reversed. The no-impeachment rule evolved to give substantial protection to verdict finality and to assure jurors that, once their verdict has been entered, it will not later be called into question based on the comments or conclusions they expressed during deliberations. As the Court noted, this “case presents the question whether there is an exception to the no-impeachment rule when, after the jury is discharged, a juror comes forward with compelling evidence that another juror made clear and explicit statements indicating that racial animus was a significant motivating factor in his or her vote to convict.” The affidavits by the two jurors in the case described a number of biased statements made by Juror H.C. H.C. told the other jurors that he “believed the defendant was guilty because, in [H.C.’s] experience as an ex-law enforcement officer, Mexican men had a bravado that caused them to believe they could do whatever they wanted with women.” H.C. also stated his belief that Mexican men are physically controlling of women because of their sense of entitlement, and further stated, “I think he did it because he’s Mexican and Mexican men take whatever they want.” H.C. further explained that, in his experience, “nine times out of ten Mexican men were guilty of being aggressive toward women and young girls.” And H.C. said that he did not find petitioner’s alibi witness credible because, among other things, the witness was “an illegal.” The Court noted that with respect to this last comment, the witness testified during trial that he was a legal resident of the United States. Noting that “It must become the heritage of our Nation to rise above racial classifications that are so inconsistent with our commitment to the equal dignity of all persons,” the Court held that the Constitution requires an exception to the no-impeachment rule when a juror’s statements indicate that racial animus was a significant motivating factor in his or her finding of guilt. The Court went on to elaborate that

Not every offhand comment indicating racial bias or hostility will justify setting aside the no-impeachment bar to allow further judicial inquiry. For the inquiry to proceed, there must be a showing that one or more jurors made statements exhibiting overt racial bias that cast serious doubt on the fairness and impartiality of the jury’s deliberations and resulting verdict. To qualify, the statement must tend to show that racial animus was a significant motivating factor in the juror’s vote to convict. Whether that threshold showing has been satisfied is a matter committed to the substantial discretion of the trial court in light of all the circumstances, including the content and timing of the alleged statements and the reliability of the proffered evidence.

Because the issue was not presented, the Court declined to address what procedures a trial court must follow when confronted with a motion for a new trial based on juror testimony of racial bias. It likewise declined to decide the appropriate standard for determining when evidence of racial bias is sufficient to require that the verdict be set aside and a new trial be granted.