Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

RIVERA *v.* ILLINOIS

CERTIORARI TO THE SUPREME COURT OF ILLINOIS

No. 07–9995. Argued February 23, 2009—Decided March 31, 2009

During jury selection in petitioner Rivera's state-court first-degree murder trial, his counsel sought to use a peremptory challenge to excuse venire member Deloris Gomez. Rivera had already exercised two peremptory challenges against women, one of whom was African-American. It is conceded that there was no basis to challenge Gomez for cause. She met the requirements for jury service, and Rivera does not contend that she was biased against him. The trial court rejected the peremptory challenge out of concern that it was discriminatory. Under *Batson* v. *Kentucky*, 476 U. S. 79, and later decisions applying *Batson*, parties are constitutionally prohibited from exercising peremptory challenges to exclude jurors based on race, ethnicity, or sex. At trial, the jury, with Gomez as its foreperson, found Rivera guilty of first-degree murder. The Illinois Supreme Court subsequently affirmed the conviction, holding that the peremptory challenge should have been allowed, but rejecting Rivera's argument that the improper seating of Gomez was a reversible error. Observing that the Constitution does not mandate peremptory challenges and that they are not necessary for a fair trial, the court held that the denial of Rivera's peremptory challenge was not a structural error requiring automatic reversal. Nor, the court found, was the error harmless beyond a reasonable doubt. The court added that it did not need to decide whether the trial court's denial was "an error of constitutional dimension" in the circumstances of Rivera's case, a comment that appears to be related to Rivera's arguments that, even absent a free-standing constitutional entitlement to peremptory challenges, the inclusion of Gomez on his jury violated the Fourteenth Amendment's Due Process Clause.

Held: Provided that all jurors seated in a criminal case are qualified and unbiased, the Due Process Clause does not require automatic re-

versal of a conviction because of the trial court's good-faith error in denying the defendant's peremptory challenge to a juror. Pp. 6–12.

(a) Rivera maintains that due process requires reversal whenever a criminal defendant's peremptory challenge is erroneously denied. He asserts that a trial court that fails to dismiss a lawfully challenged juror commits structural error because the jury becomes an illegally constituted tribunal, whose verdict is *per se* invalid; that this is true even if the Constitution does not mandate peremptory challenges, since criminal defendants have a constitutionally protected liberty interest in their state-provided peremptory challenge rights; that the issue is not amenable to harmless-error analysis, as it is impossible to ascertain how a properly constituted jury would have decided his case; and that automatic reversal therefore must be the rule as a matter of federal law. Rivera's arguments do not withstand scrutiny. If a defendant is tried before a qualified jury composed of individuals not challengeable for cause, the loss of a peremptory challenge due to a state court's good-faith error is not a matter of federal constitutional concern. Rather, it is a matter for the State to address under its own laws. There is no freestanding constitutional right to peremptory challenges. See, *e.g.*, *United States* v. *Martinez-Salazar*, 528 U.S. 304, 311. They are "a creature of statute," *Ross* v. *Oklahoma*, 487 U. S. 81, 89, which a State may decline to offer at all, *Georgia* v. *McCollum*, 505 U. S. 42, 57. Thus, the mistaken denial of a state-provided peremptory challenge does not, without more, violate the Federal Constitution. See, *e.g., Engle* v. *Isaac*, 456 U. S. 107, 121, n. 21. The Due Process Clause safeguards not the meticulous observance of state procedural prescriptions, but "the fundamental elements of fairness in a criminal trial." *Spencer* v. *Texas*, 385 U. S. 554, 563–564. Pp. 6–8.

(b) The trial judge's refusal to excuse Gomez did not deprive Rivera of his constitutional right to a fair trial before an impartial jury. *Ross* is instructive. There, a criminal defendant used a peremptory challenge to rectify an Oklahoma trial court's erroneous denial of a for-cause challenge, leaving him with one fewer peremptory challenge to use at his discretion. Even though the trial court's error might "have resulted in a jury panel different from that which would otherwise have decided [Ross's] case," 487 U. S., at 87, because no member of the jury as finally composed was removable for cause, there was no violation of his Sixth Amendment right to an impartial jury or his Fourteenth Amendment right to due process, *id.*, at 86–91. This Court reached the same conclusion with regard to a federal-court trial in *Martinez-Salazar,* 528 U. S., at 316. Rivera's efforts to distinguish *Ross* and *Martinez-Salazar* are unavailing. First, although in contrast to Rivera, the *Ross* and *Martinez-Salazar* defendants did

not challenge any of the jurors who were in fact seated, neither Gomez nor any other member of Rivera's jury was removable for cause. Thus, like the *Ross* and *Martinez-Salazar* juries, Rivera's jury was impartial for Sixth Amendment purposes. Rivera suggests that due process concerns persist because Gomez knew he did not want her on the panel, but this Court rejects the notion that a juror is constitutionally disqualified whenever she is aware of a challenge. Second, it is not constitutionally significant that, in contrast to *Ross* and *Martinez-Salazar,* the seating of Gomez over Rivera's peremptory challenge was at odds with state law. Errors of state law do not automatically become violations of due process. As in *Ross* and *Martinez-Salazar*, there is no suggestion here that the trial judge repeatedly or deliberately misapplied the law or acted in an arbitrary or irrational manner. Rather, his conduct reflected a good-faith effort to enforce *Batson*'s antidiscrimination requirements. To hold that a one-time, good-faith misapplication of *Batson* violates due process would likely discourage trial courts and prosecutors from policing a defendant's discriminatory use of peremptory challenges. The Fourteenth Amendment does not compel such a tradeoff. Pp. 8–10.

(c) Rivera errs in insisting that, even without a constitutional violation, the deprivation of a state-provided peremptory challenge requires reversal as a matter of federal law. He relies on a suggestion in *Swain* v. *Alabama*, 380 U. S. 202, 219, that "[t]he denial or impairment of the right [to exercise peremptory challenges] is reversible error without a showing of prejudice." This statement was disavowed in *Martinez-Salazar*, see 528 U. S., at 317, n. 4. Typically, an error is designated as "structural," therefore "requir[ing] automatic reversal," only when "the error 'necessarily render[s] a criminal trial fundamentally unfair or an unreliable vehicle for determining guilt or innocence.' " *Washington* v. *Recuenco*, 548 U. S. 212, 218–219. The mistaken denial of a state-provided peremptory challenge does not, in the circumstances here, constitute such an error. The automatic reversal precedents Rivera cites are inapposite. One set of cases involves *constitutional* errors concerning the qualification of the jury or judge. See, *e.g., Batson*, 476 U. S., at 86, 87. A second set of cases involves circumstances in which federal judges or tribunals lacked statutory authority to adjudicate the controversy, resulting in a judgment invalid as a matter of federal law. See*, e.g.*, *Nguyen* v. *United States*, 539 U. S. 69. Nothing in those decisions suggests that federal law renders state-court judgments void whenever there is a state-law defect in a tribunal's composition. Absent a federal constitutional violation, States are free to decide, as a matter of state law, that a trial court's mistaken denial of a peremptory challenge is reversible error *per se* or, as the Illinois Supreme Court implicitly held

here, that the improper seating of a competent and unbiased juror could rank as a harmless error under state law. Pp. 10–12.

227 Ill. 2d 1, 879 N. E. 2d 876, affirmed.

GINSBURG, J., delivered the opinion for a unanimous Court.