

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 Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

J. E. B. v. ALABAMA EX REL. T. B.

CERTIORARI TO THE COURT OF CIVIL APPEALS OF ALABAMA
No. 92-1239. Argued November 2, 1993—Decided April 19,
1994

At petitioner's paternity and child support trial, respondent State used 9 of its 10 peremptory challenges to remove male jurors. The court empaneled an all-female jury after rejecting petitioner's claim that the logic and reasoning of *Batson v. Kentucky*, 476 U. S. 79—in which this Court held that the Equal Protection Clause of the Fourteenth Amendment prohibits peremptory strikes based solely on race—extend to forbid gender-based peremptory challenges. The jury found petitioner to be the father of the child in question and the trial court ordered him to pay child support. The Alabama Court of Civil Appeals affirmed.

Held: The Equal Protection Clause prohibits discrimination in jury selection on the basis of gender, or on the assumption that an individual will be biased in a particular case solely because that person happens to be a woman or a man. Respondent's gender-based peremptory challenges cannot survive the heightened equal protection scrutiny that this Court affords distinctions based on gender. Respondent's rationale—that its decision to strike virtually all males in this case may reasonably have been based on the perception, supported by history, that men otherwise totally qualified to serve as jurors might be more sympathetic and receptive to the arguments of a man charged in a paternity action, while women equally qualified might be more sympathetic and receptive to the arguments of the child's mother—is virtually unsupported and is based on the very stereotypes the law condemns. The conclusion that litigants may not strike potential jurors solely on the basis of gender does not imply the elimination of all peremptory challenges. So long as gender does not serve as a proxy for bias, unacceptable jurors may still be removed, including those who are members

of a group or class that is normally subject to ``rational basis'' review and those who exhibit characteristics that are disproportionately associated with one gender. Pp. 4-20.

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606 So. 2d 156, reversed and remanded.

BLACKMUN, J., delivered the opinion of the Court, in which STEVENS, O'CONNOR, SOUTER, and GINSBURG, JJ., joined. O'CONNOR, J., filed a concurring opinion. KENNEDY, J., filed an opinion concurring in the judgment. REHNQUIST, C. J., filed a dissenting opinion. SCALIA, J., filed a dissenting opinion, in which REHNQUIST, C. J., and THOMAS, J., joined.