

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL SAMUEL SOLID,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 71809

FILED

JUN 08 2018

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, pursuant to a jury trial, of conspiracy to commit robbery, robbery, and murder with use of a deadly weapon. Eighth Judicial District Court, Clark County; Valerie Adair, Judge.

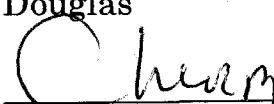
Appellant argues that the district court committed structural error when it dismissed veniremembers before resolving his objections pursuant to *Batson v. Kentucky*, 476 U.S. 79 (1986). We agree.


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 753 n.4, 754, 291 P.3d at 149 n.4, 149. 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)).

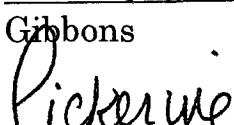
Here, the record demonstrates that defense counsel objected to the State's peremptory challenge of a veniremember, and that the district court dismissed the veniremember without first conducting a *Batson* hearing. Consistent with *Brass*, we conclude that the district court's premature dismissal of the challenged veniremember before conducting a *Batson* hearing constitutes structural error. Accordingly, we

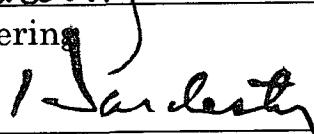
ORDER the judgment of conviction REVERSED AND REMAND this matter to the district court for further proceedings consistent with this order.¹

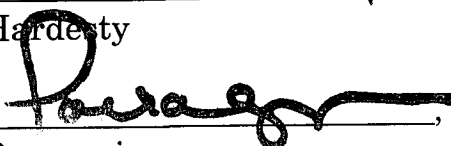
 _____, C.J.
Douglas


 _____, J.
Cherry

 _____, J.
Gibbons

 _____, J.
Pickering

 _____, J.
Hardesty

 _____, J.
Parraguirre

 _____, J.
Stiglich

¹In light of our conclusion in this matter, we need not reach appellant's other arguments on appeal.

cc: Hon. Valerie Adair, District Judge
Special Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth Judicial District Court Clerk