



SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF YAKIMA

Judge Blaine G. Gibson
Department No. 4

Yakima County Courthouse
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March 6, 2017

Honorable Susan L. Carlson
Supreme Court Clerk
P.O. Box 40929
Olympia, WA 98504-0929

Re: Proposed General Rule 36

Dear Clerk Carlson:

As a trial judge, my primary concern about the proposed rule relates to how it would work in practice.

In order to determine whether race or ethnicity could be viewed as a factor for a peremptory challenge, I assume the trial judge must first determine the race and ethnicity of the juror and, possibly, the parties. How should this be done? Unless the Supreme Court requires it, I would be reluctant to question a juror about his or her race or ethnicity. Furthermore, since an objective standard is to be applied, what difference would it make how the juror subjectively self-identified in terms of race or ethnicity?

The comments to the rule indicate that the court is to consider the number and types of questions asked of each juror, and the responses given. There is no way a judge could keep track of that information during voir dire. Maybe some counties could afford to hire law clerks or interns to handle that task, but our county could not.

If the Supreme Court decides to adopt this rule, or one similar to it, I hope trial courts will be provided with practical guidance for applying the rule.

Sincerely,

Blaine G. Gibson

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