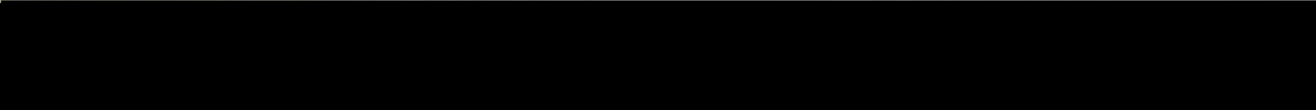
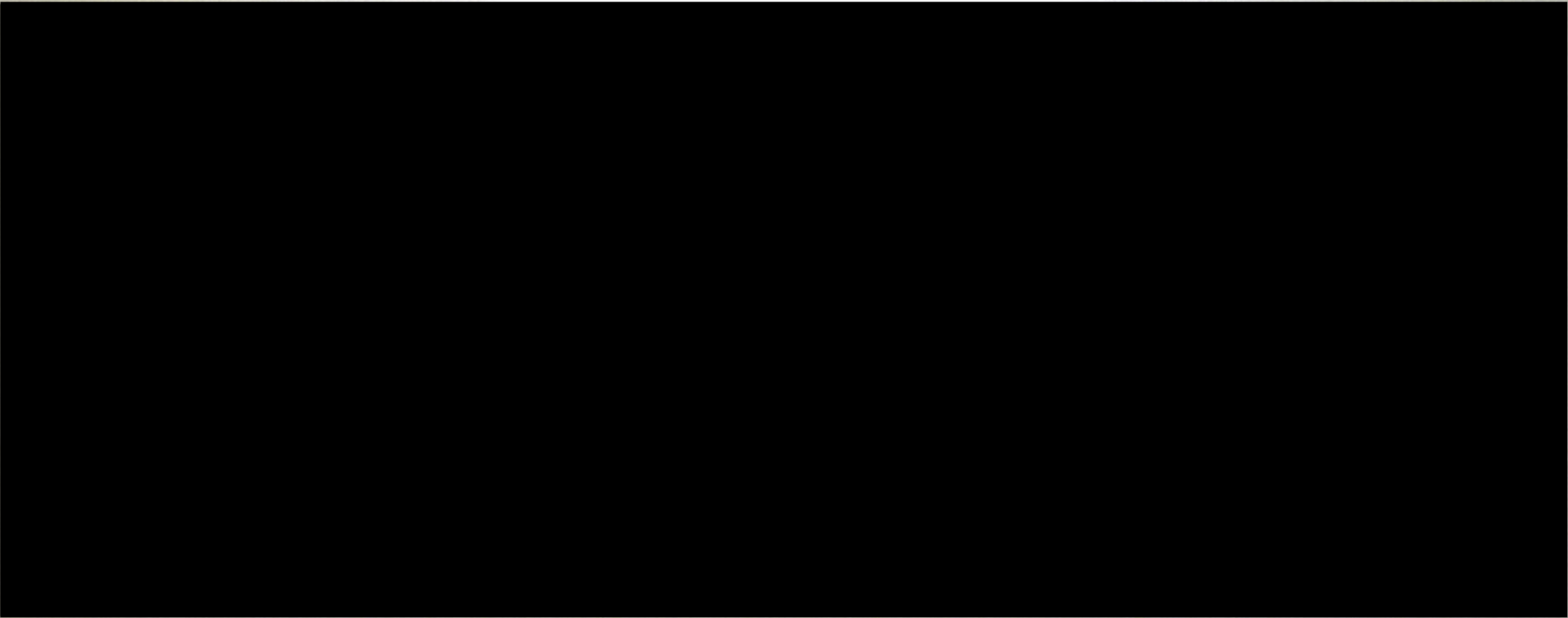


Stage 2

The Non-Discriminatory Reasons

- 
- “[H]er very response to your answers,” her “dress” and “how she took her seat” too vague. (*People v. Allen* (2004) 115 Cal.App.4th 542)
- 

Stage 2

The Non-Discriminatory Reasons

- When give your reasons, judge will be (should be) evaluating your demeanor and credibility (Stage 3)
- You can make an *honest* mistake
 - *Aleman v. Uribe* (2013) 723 F.3d 976 – prosecutor honestly thought excused juror had made a statement that was actually made by a different juror. No Batson error. Batson prohibits *purposeful* discrimination, not honest mistakes.

Stage 2

People v. Cisneros

- *People v. Cisneros* (2015) 234 Cal.App.4th 111: DA's reason was I want the next juror in line.
- Court of Appeal found this is the same as giving *no reason at all*.
- Anytime you strike a juror, it necessarily means that you prefer the next prospective juror to the one being struck. There are 12 jurors available to reach that next prospective juror. You must explain why you chose to strike that particular juror in order to reach the next prospective juror.

Stage 3

Was Strike Purposefully Discriminatory?

- Court evaluates evidence and determines if defendant has met burden to prove purposeful discrimination
- Look totality of the evidence (direct and circumstantial)

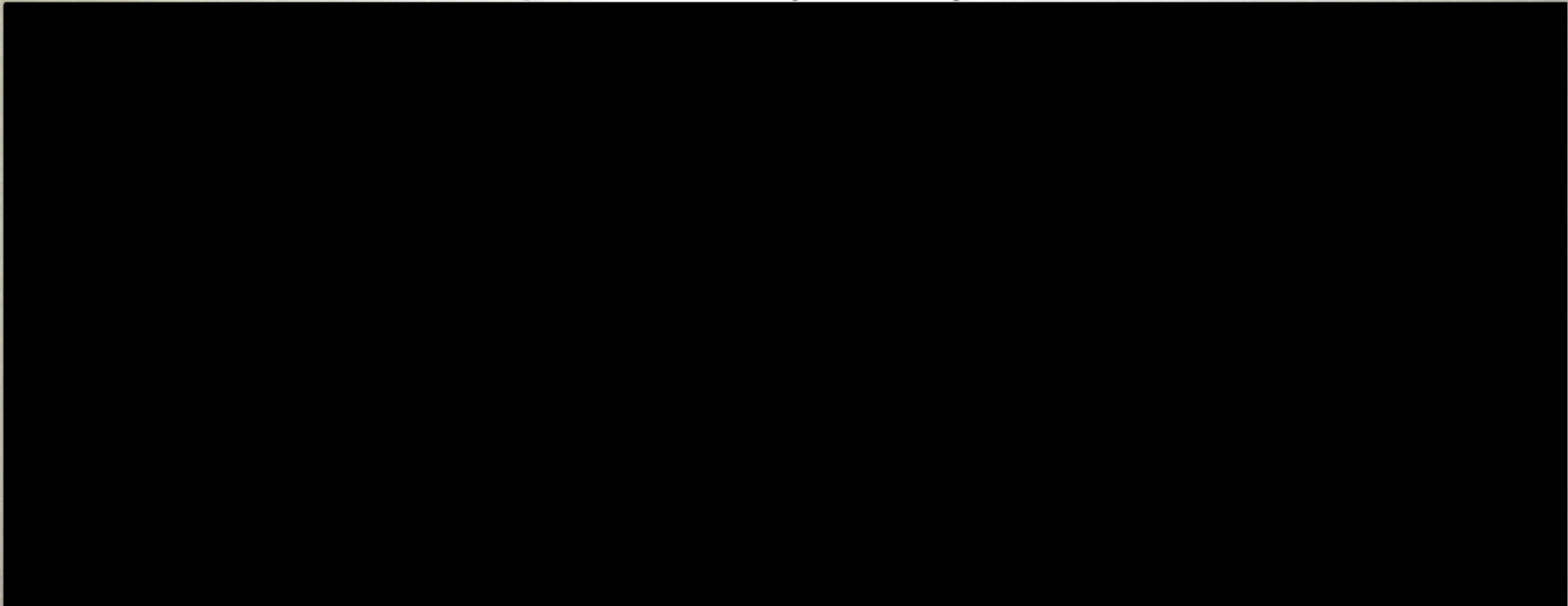
Stage 3

- Are the given reasons genuine or is the given reason a pretext for discrimination
- “The focus at this point is on the subjective *genuineness* of the race-neutral reasons given for the peremptory challenge, *not* on the objective *reasonableness* of those reasons.” (*People v. Trinh* (2014) 59 Cal.4th 216, 241.)



Stage 3

Comparative Juror Analysis

- Comparative juror analysis – compare the excused juror(s) with the jurors accepted by the DA
- 

Stage 3

Comparative Juror Analysis

- Even if not raised in trial court, will conduct it on appeal [REDACTED]

➤ *(People v. Lenix (2008) 44 Cal.4th 602)*

- *E.g. Miller-El v. Dretke (2005) 545 U.S. 231*