

Consider the following Wiki entry for the Swain vs. Alabama Supreme Court case.

[http://en.wikipedia.org/wiki/Swain\\_v.\\_Alabama](http://en.wikipedia.org/wiki/Swain_v._Alabama)

## Swain v. Alabama

From Wikipedia, the free encyclopedia

**Swain v. Alabama**, 380 U.S. 202 (1965), was a case heard before the Supreme Court of the United States regarding the legality of a struck jury.

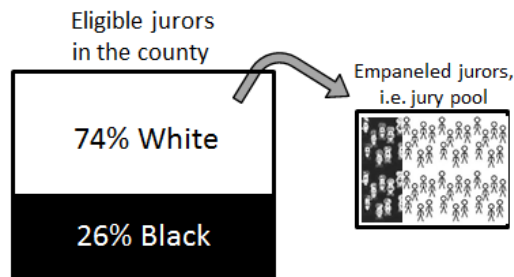
Swain, a black man, was indicted and convicted of rape in the Circuit Court of Talladega County, Alabama, and sentenced to death. The case was appealed to the Supreme Court on the grounds that there were no black jurors. Of eligible jurors in the county, 26% were black, but panels since 1953 averaged 10% to 15% black jurors.

The Supreme Court denied the appeal, because 8 of 100 empaneled jurors were black, but all were "struck" by peremptory challenges by the prosecution. The ruling for the majority stated, "The overall percentage disparity has been small and reflects no studied attempt to include or exclude a specified number of blacks."

This case recognized the peremptory challenge as a valid legal practice so long as it was not used intentionally to exclude blacks from jury duties.

The precedent was overturned in *Batson v. Kentucky*, 476 U.S. 79 (1986).

A schematic for picking a jury pool for the Swain vs. Alabama case is provided below. The information for this schematic was provided by Wikipedia.



1. How many people are selected for the jury pool? (2 pts) 100
2. If the jury pool is selected in a fair manner and without any biases, how many blacks should be in the jury pool? How did you determine this value? (3 pts)

$$100 * 0.26 = 26$$

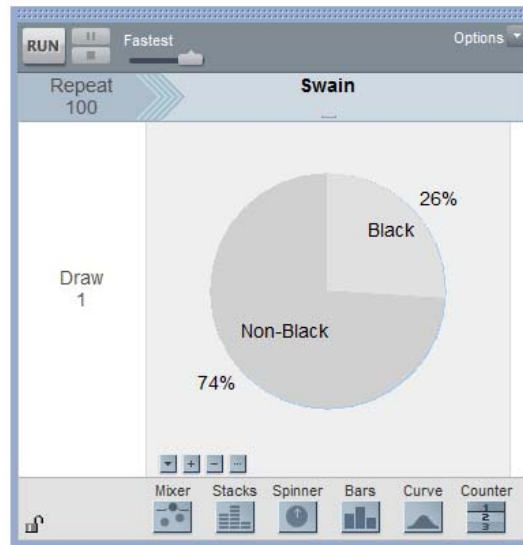
This value is determined by multiplying the number of people to be selected in the jury pool by the proportion of blacks in the county. Thus, we'd expect about 26 blacks in the jury pool under fair selection.

3. What is the smallest number of blacks possible in the jury pool? (1 pt) 0
4. What is the largest number of blacks possible in the jury pool? (1 pt) 100

Next, we will evaluate the following statement which was made by the Supreme Court.

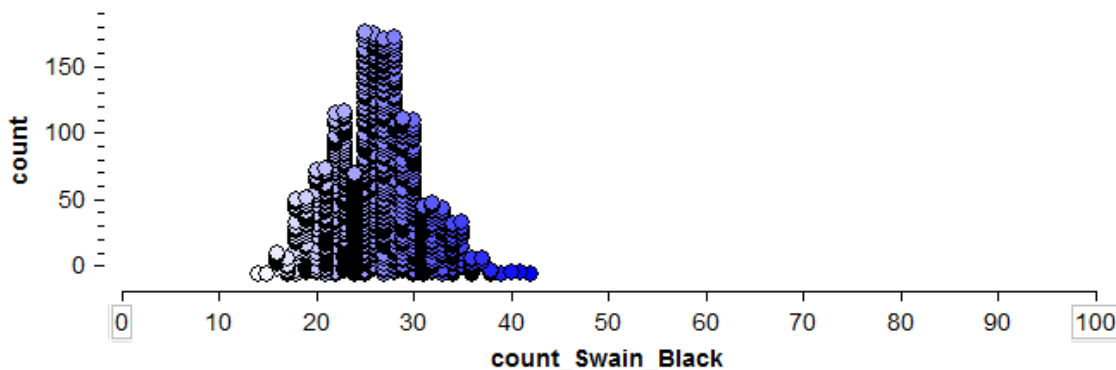
*“The overall percentage disparity has been small and reflects no studied attempt to include or exclude a specified number of blacks.”*

In an effort to evaluate the fairness of Swain’s jury pool, we will use Tinkerplots to generate outcomes that represent an unbiased process of selecting a jury. Use Tinkerplots to set up a spinner that will allow us to generate an unbiased jury pool selection.



5. Use Tinkerplots to count the number of blacks for each simulated jury obtained from the above spinner. Collect this count in the History of Results table in Tinkerplots (right click on count for Black and select Collect Statistic). Using the collect box in the History of Results table, obtain a total of 250 outcomes.

Delete the sample pyramid provided below. Copy and paste your pyramid in its place. (5 pts)



6. Which of the following statement is most correct regarding the reference distribution provide above? (3 pts)

- a. The dots on this reference distribution were obtained under the assumption that the selection of Blacks for the jury pool was done fairly and without any bias.
- b. The dots on this reference distribution were obtained under the assumption that the selection of Blacks for the jury pool was done in an unfair manner and with bias.
- c. The dots on this reference distribution were obtained under the assumption that the selection of Blacks for the jury pool may have been done in an unfair manner and with possible bias.

7. Swain's outcome is considerable lower than the outcomes from the pyramid. What does this imply about possible biases in the selection of Swain's jury pool? Discuss. (3 pts)

The pyramid represents a fair selection of Blacks for the jury pool. Swain's outcome is considerable lower than all of the simulated outcomes in the pyramid. This suggests that Swain's jury pool was not obtained in a fair and unbiased manner.

8. Does your simulation provide evidence *for* or *against* the statement made by the Supreme Court? Explain. Your explanation must make use of the pyramid to receive full credit. (3 pts)

The statistical evidence obtained from our investigation provides evidence against the statement made by the Supreme Court. Statistically speaking, Swain did not have a fair representation of blacks in his jury pool.