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SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Diane Schafer Goodstein, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

SHANE ANDREW BYERLY,

APPELLANT

APPELLATE CASE NO. 2025-000304

INITIAL BRIEF OF APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err by granting the state's motion pursuant to Batson v. Kentucky, 476 U.S. 79 (1986), where Appellant presented race and gender neutral explanations for striking Juror Nos. 127 and 89, and the state failed to prove the reasons were pretext, and that Appellant purposefully discriminated against these jurors?

STATEMENT OF THE CASE

A Charleston County grand jury indicted Appellant on December 12, 2023, for attempted first degree burglary. R. * (Indictment). A pretrial hearing was held on February 5, 2025, before the Honorable Marvin H. Dukes, III. Appellant's case was called to trial on February 10, 2025, before the Honorable Diane Goodstein, and a jury. Tr. 1. Assistant Solicitors Tiffany Izer and Timothy Finch represented the state. Peter Shahid, Jr. and Peter Shahid, III represented Appellant. Tr. 1.

On February 12, 2025, the jury found Appellant guilty as indicted. Tr. 490, ll. 7-13. He was sentenced to twenty-five years imprisonment. Tr. 506, ll. 15-17.

This appeal follows.

STANDARD OF REVIEW

“Whether a Batson¹ violation has occurred must be determined by examining the totality of the facts and circumstances in the record.” State v. Blackwell, 420 S.C. 127, 148, 801 S.E.2d 713, 724 (2017) (citing State v. Shuler, 344 S.C. 604, 615, 545 S.E.2d 805, 810 (2001)). “The trial court’s findings regarding purposeful discrimination are accorded great deference and will be set aside on appeal only if clearly erroneous.” Id. (quoting State v. Haigler, 334 S.C. 623, 630, 515 S.E.2d 88, 91 (1999)) (internal quotation marks omitted).

¹ Batson v. Kentucky, 476 U.S. 79 (1986).

ARGUMENT

The trial court erred by granting the state's motion pursuant to *Batson v. Kentucky*, 476 U.S. 79 (1986), where Appellant presented race and gender neutral explanations for striking Juror Nos. 127 and 89, and the state failed to prove the reasons were pretext, and that Appellant purposefully discriminated against these jurors.

Relevant Facts

On the first day of trial, the trial court qualified the jury panel and engaged in voir dire. The parties then struck the jury. Appellant struck Juror Nos. 269, 2, 22, 26, 168, 270, 65, 127, 74, and 36 while selecting the twelve members of the jury, and Juror Nos. 89, 230, and 86 while selecting the two alternates. Tr. 35, l. 5 – 42, l. 7. The state then moved to quash the jury based upon an alleged violation of *Batson v. Kentucky*, 476 U.S. 79 (1986). Tr. 43, l. 5 – 44, l. 18. The assistant solicitor argued Appellant struck “almost exclusively . . . white females” which is a “protected class of individuals.” Tr. 43, ll. 11-22. The solicitor stated he was concerned about all of Appellant's strikes except the strikes used against Juror Nos. 22 and 26. Tr. 43, l. 23 – 44, l. 18.

Defense counsel asserted that the jury panel was predominantly comprised of white females. He explained that he struck Juror No. 269 because she was the victim of a burglary; Juror No. 2 because she worked for the county; Juror No. 168 because she was a teacher; Juror No. 270 because she knew Charlie Condon, the complainant's attorney; Juror No. 65 because she was the victim of a crime; Juror No. 127 because she had prior trial experience; Juror No. 74 because she was single and an architect; Juror No. 36 because she worked for the Charleston County Detention Center; Juror No. 230 because she was the victim of a home invasion; Juror No. 86 because she was the victim of a hit and run; and finally, Juror No. 89 because she lived in

Mount Pleasant where the event Appellant was being tried for occurred. Tr. 45, l. 12 – 49, l. 10. At first defense counsel could not recall why he struck Juror No. 89, but then stated it was because she lived in Mount Pleasant and “it was just a gut decision.” Tr. 49, ll. 1-2.

After Appellant provided race and gender neutral reasons for striking the various jurors, the court required the state to show that the reasons were pretextual. The assistant solicitor stated that Juror No. 196, who was seated, also had prior trial experience like Juror No. 127. However, he did not know whether anyone else on the jury lived in Mount Pleasant like Juror No. 89.

As far as Juror No. 127, defense counsel explained that she was the eighth strike that Appellant used, but at the time only six jurors had been sat. Defense counsel said he strategically did not strike Juror No. 196, who was immediately called after Juror No. 127, because he was saving his last two strikes for other jurors he was more concerned about. Tr. 51, l. 6 – 52, l. 19.

Citing Payton v. Kears, 329 S.C. 51, 495 S.E.2d 205 (1998), the trial court found the state had met its burden of proving purposeful discrimination as to Juror Nos. 127 and 89. The court stated that Juror No. 196, who was similarly situated to Juror No. 127, was sat, which is evidence of discrimination. As to Juror No. 89, the court found that a gut feeling is not a sufficient neutral reason and, while defense counsel also stated he struck Juror No. 89 because she lived in Mount Pleasant, “dual reasons” are not acceptable. Accordingly, the court granted the state’s Batson motion. The court ruled that Appellant could not strike Juror Nos. 127 or 89 when the parties restructured the jury. Tr. 53, l. 11 – 55, l. 9. Juror No. 127 ultimately sat on the jury that convicted Appellant. Tr. 60, ll. 4-9; Tr. 492, ll. 3-6.

Discussion

The trial court erred by granting the state's Batson motion where Appellant presented a race and gender neutral explanation for striking Juror Nos. 127 and 89, and the state failed to prove the reasons were pretext and that Appellant purposefully discriminated against these jurors.

“Other than voting, serving on a jury is the most substantial opportunity that most citizens have to participate in the democratic process.” State v. Blake, 442 S.C. 295, 301, 898 S.E.2d 184, 187 (Ct. App. 2024) (quoting Flowers v. Mississippi, 588 U.S. 284 (2019)) (internal quotation marks omitted). In Batson v. Kentucky, 476 U.S. 79 (1986), the United States Supreme Court found the Equal Protection Clause of the Fourteenth Amendment prohibits the prosecution from striking potential jurors on the basis of race. Id. at 301-02, 898 S.E.2d at 187 (citing Batson, 476 U.S. at 89); See also State v. Shuler, 344 S.C. 604, 615, 545 S.E.2d 805, 810 (2001) (“The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution prohibits the striking of a venire person on the basis of race or gender.”). The Supreme “Court subsequently held a criminal defendant may not exercise peremptory strikes in a racially discriminatory manner, explaining that ‘denying a person participation in jury service on account of his race unconstitutionally discriminates against the excluded juror.’” Id. at 302, 898 S.E.2d at 187-88 (quoting Georgia v. McCollum, 505 U.S. 42, 48 (1992)). “And, in J.E.B. v. Alabama ex rel. T.B., the Court held litigants may not strike potential jurors solely on the basis of gender.” Id. at 302, 898 S.E.2d at 188 (citing J.E.B. v. Alabama ex rel. T.B., 511 U.S. 127 (1994)). “The Court found, ‘Discrimination in jury selection, whether based on race or on gender, causes harm to the litigants, the community, and the individual jurors who are wrongfully excluded from participation in the judicial process.’” Id. (quoting J.E.B., 511 U.S. at

140). “The Constitution forbids striking even a single prospective juror for a discriminatory purpose.” Id. (quoting Foster v. Chatman, 578 U.S. 488, 499 (2016); See also Snyder v. Louisiana, 552 U.S. 472, 478 (2008)).

“In Batson, the United States Supreme Court outlined a three step process for evaluating claims that peremptory challenges have been exercised in a manner violative of the Equal Protection Clause. First, the opponent of the peremptory challenge must make a prima facie showing that the challenge was based on race. If a sufficient showing is made, the trial court will move to the second step in the process, which requires the proponent of the challenge to provide a race neutral explanation for the challenge. If the trial court finds that burden has been met, the process will proceed to the third step, at which point the trial court must determine whether the opponent of the challenge has proved purposeful discrimination. The ultimate burden always rests with the opponent of the challenge to prove purposeful discrimination.” State v. Giles, 407 S.C. 14, 18, 754 S.E.2d 261, 263 (2014) (citing Batson, 476 U.S. at 97-98).

“In order for the explanation provided by the proponent of a peremptory challenge at the second stage of the Batson process to be legally sufficient and not deny the opponent of the challenge, as well as the trial court, the ability to safeguard the right to equal protection, it need not be persuasive, or even plausible, but it must be clear and reasonably specific such that the opponent of the challenge has a full and fair opportunity to demonstrate pretext in the reason given and the trial court to fulfill its duty to assess the plausibility of the reason in light of all the evidence with a bearing on it. Reasonable specificity is necessary because comparison to other members of the venire for purposes of a disparate treatment analysis, which is often used at the third step of the Batson process to determine if purposeful discrimination has occurred, is

impossible if the proponent of the challenge provides only a vague or very general explanation.” Giles, 407 S.C. at 21-22, 754 S.E.2d at 265.

Here, the trial court incorrectly found that the state proved Appellant purposefully discriminated against Juror No. 127 and Juror No. 89. While the state argued Appellant sat Juror No. 196, who also had prior trial experience like Juror No. 127, defense counsel explained that at the time Juror No. 196 was called, he only had two strikes left and only six jurors had been sat. Counsel strategically chose to save his remaining two strikes for more problematic jurors than Juror No. 196. This explanation sufficiently demonstrated that Appellant did not discriminate against Juror No. 127 because of her race or gender. Consequently, the trial court erred by finding the state prove Appellant purposefully discriminated against Juror No. 127 because of her race or gender.

As to Juror No. 89, counsel first stated that he struck her because she lived in Mount Pleasant, where the events leading to Appellant’s indictment took place, and then later said it was a “gut decision” to strike her. The trial court found the state had proven Appellant purposefully discriminated against Juror No. 89 because South Carolina does not apply the “dual motivation doctrine.” However, counsel’s statement that it was a “gut decision” to strike Juror No. 89, is not an inherently discriminatory reason, which tainted the entire jury selection procedure. See Payton v. Kearse, 329 S.C. 51, 59, 495 S.E.2d 205, 210 (1998). Rather, counsel’s statement that it was a “gut decision” to strike Juror No. 89, was simply not specific enough to permit the state an opportunity to demonstrate pretext. See Giles, 407 S.C. at 21-22, 754 S.E.2d at 265. However, counsel gave another specific race and gender neutral reason for striking Juror No. 89—that she lived in Mount Pleasant—and the state was unable to identify any

other juror seated on the jury who also lived in Mount Pleasant. Accordingly, the trial court erred by finding the state proved Appellant purposefully discriminated against Juror No. 89.

“If a trial court improperly grants the State’s Batson motion, but none of the disputed jurors serve on the jury, any error in improperly quashing the jury is harmless because a defendant is not entitled to the jury of her choice.” State v. Edwards, 384 S.C. 504, 509, 682 S.E.2d 820, 823 (2009) (citing State v. Rayfield, 369 S.C. 106, 114, 631 S.E.2d 244, 248 (2006)). “However, if one of the disputed jurors is seated on the jury, then the erroneous Batson ruling has tainted the jury and prejudice is presumed in such cases ‘because there is no way to determine with any degree of certainty whether a defendant’s right to a fair trial by an impartial jury was abridged.’” Id. (quoting Rayfield, 369 S.C. at 114, 631 S.E.2d at 248). “The proper remedy in such cases is the granting of a new trial.” Id.

Because the trial court improperly granted the state’s Batson motion and Juror No. 127 ultimately sat on the jury that convicted Appellant, Appellant should be granted a new trial. The trial court’s erroneous Batson ruling tainted the jury and prejudice is presumed.

Respectfully, this Court should hold the trial court erred by granting the state’s Batson motion, reverse Appellant’s conviction, and remand for a new trial.

CONCLUSION

Based on the foregoing argument, Appellant respectfully requests this Court reverse his conviction and remand for a new trial.

Respectfully submitted,



Lara M. Caudy
Senior Appellate Defender

ATTORNEY FOR APPELLANT

This 26th day of August, 2026.