

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ORANGEBURG	)	CIVIL ACTION NO. 2017-CP-38-0878
	)	
Katrina Stroman,	)	<b>ORDER GRANTING PLAINTIFF'S</b>
	)	<b>MOTION FOR NEW TRIAL</b>
	)	<b>RECEIVED</b>
Plaintiff,	)	
	)	
vs.	)	JUN 26 2020
	)	
Samuel Jeffords,	)	SC Court of Appeals
	)	
Defendant.	)	
	)	

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This matter comes before this Court on Plaintiff's Motion for a New Trial. As more fully set forth below, this court GRANTS Plaintiff's Motion for a New Trial.

**PROCEDURAL HISTORY**

Plaintiff's case against Defendant was heard before a jury in this Court the week of January 13, 2020. The case ended January 14, 2020, in favor of Defendant. Plaintiff filed her post-trial motions on or about January 23, 2020. The basis of Plaintiff's post-trial motions were the Court's ruling on her *Batson* motion and Defendant's directed verdict motion as well as its failure to charge the jury on negligence, which resulted in incongruency of the verdict form, and its failure to charge the jury on Defendant's duty to control the conduct of the tenant or warn a third person or potential victim of danger. The motions were set to be argued before this Court on March 30, 2020. However, due to the COVID-19 pandemic, this Court requested proposed orders in effort to resolve the motions without a hearing. This Court timely received the same from both parties, and upon consideration of the additional arguments raised therein, this Court GRANTS Plaintiff a new trial based on the *Batson* issues.

**STANDARD OF REVIEW**

“The grant or denial of a new trial motion rests within the trial court’s discretion, and its decision will not be disturbed on appeal unless the court’s findings are wholly unsupported by the evidence or its conclusions are controlled by error of law.” Vinson v. Hartley, 324 S.C. 389, 405, 477 S.E.2d 715, 723 (Ct. App. 1996).

**ANALYSIS**

Plaintiff is an African American female. Defendant Jeffords exercised his five strikes (four for first twelve jurors and one for an alternate) to strike all African American females. This Court finds Defendant failed to establish a race-neutral explanation for striking all African American females.

Under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, a party cannot strike a potential juror based on race or gender. Batson v. Kentucky, 476 U.S. 79 (1989); Georgia v. McCollum, 505 U.S. 42, 59 (1992).

The procedure for analyzing a Batson motion is set forth in Purkett:

- (1) the opponent of a peremptory challenge must establish a prima facie case of racial discrimination, (2) the proponent of the strike must then offer a race-neutral explanation for the strike, and (3) if a race-neutral explanation is offered, then the court must decide whether the opponent of the strike has proved purposeful racial discrimination.

Purkett v. Elem, 514 U.S. 765, 767 (1995); *see also* State v. Giles, 407 S.C. 14, 754 S.E.2d 261 (2014).

In addressing the second step of the process, the United States Supreme Court has held that general assertions, such as a mere denial of a discriminatory motive or assurance the challenges were exercised in good faith, are not sufficient to rebut a prima facie showing of a race based

challenge. Batson, 476 U.S. at 97–98. Under Batson, the proponent of the peremptory challenge must provide an objectively discernible basis for the challenge that permits the opponent of the challenge and the trial court to evaluate it for pretext. State v. Giles, 407 S.C. 14, 22, 754 S.E.2d 261, 265 (2014).

The Supreme Court of South Carolina held in Giles that the Defendant's proffered reason for exercising peremptory strikes against eight Caucasian male prospective jurors and two Caucasian female prospective jurors, because the defendant “did not feel the jurors were right for the jury,” while technically race-neutral, was not a legitimate, race-neutral reason under Batson. Id. at 22-23, 754 S.E.2d at 265-66. Thus, the trial court was not required to move to third step of the Batson analysis to consider whether strikes were pre-textual for race discrimination, in a trial for burglary and other crimes, where the defendant did not articulate sufficiently specific reason that enabled trial court to assess plausibility of proffered reason, and therefore, defendant gave essentially no reason at all. Id.

This Court prepared a random list of jurors from the original pool in its random strike sheet. The parties were given four strikes each from the first twenty and one strike from the next three to pick an alternate. Defendant used all his strikes to eliminate African American females. In order they are:

1. Juror No. 97 - Defendant justified this strike on the basis that the juror was disabled and unemployed.
2. Juror No. 9 – Defendant justified this strike on the basis that he could not understand what she said regarding her employment.
3. Juror No. 19 – Defendant justified this strike because she was a caregiver and expected her to be sympathetic to an injured party.

4. Juror No. 193 – Defendant justified this strike because she had a bad experience with a landlord.
5. Alternate, Juror No. 70 – Defendant justified this strike because she is a sales associate and likely has low income and thus more likely to award Plaintiff money out of sympathy.

**A. Juror No. 9, Defendant’s second strike**

This Court expressed grave concern during the Batson motion as to Defendant’s basis for striking Juror No. 9. This Court stated on the record that it heard Juror No. 9 say her place of employment, as did Plaintiff. This Court was not satisfied with Defendant’s explanation, yet decided to proceed forward in an effort of judicial efficiency as there was another jury to be picked for a second trial that same week.

In his memorandum in opposition to Plaintiff’s motions, Defendant expands his argument on the basis that he “did not receive any juror cards in this matter.” Def.’s Memo. In Opp. to Plaintiff’s Motion for New Trial (pg. 3). The juror cards are available to counsel prior to trial through the clerk’s office. Defendant had the opportunity to obtain this information just as Plaintiff did, yet Defendant chose not to. However, even more simply, Defense counsel could have asked for clarification of Juror No. 9’s response during the jury selection. If the Defendant had, it would have been clear that Juror No. 9 is employed at Husqvarna, which is well-known to be a large company employing many individuals in Orangeburg County. Again, this Court heard Juror No. 9’s response as did Plaintiff.

Additionally, it is notable that Defendant states in his memorandum that he intentionally sat as an alternate “a skilled factory worker employed by a large corporation.” Def.’s Memo. In Opp. to

Plaintiff's Motion for New Trial (pg. 4). Following this logic, Defendant would have chosen to sit Juror No. 9, an employee at Husqvarna but he did not.

Defendant's second justification for striking Juror No. 9 is because "the information she was conveying was not understood." Def.'s Memo. In Opp. to Plaintiff's Motion for New Trial (pg. 4). Despite this reasoning, Defendant sat another juror he did not understand, Juror No. 140, a Caucasian female. "Juror 140 did not identify her employment as a customer service representative. Juror 140 identified her employment a 'CSR.' I understood her to work for a company called "CSR," as many of the jurors identified their place of employment with 'Zeus.'" Def.'s Memo. In Opp. to Plaintiff's Motion for New Trial (pg. 4). Defendant's justification ignored that Juror No. 140 further explained her occupation as a CSR for Sunset. CSR is an abbreviation commonly known in the employment world as a customer service representative. Defendant did not understand the information Juror No. 140 was conveying, yet sat her anyway. Thus, Defendant's explanation for striking Juror No. 9 is not race-neutral.

**B. Juror No. 19, Defendant's third strike**

Plaintiff stated in her post-trial motions that Defendant struck Juror No. 19 because she was a caregiver. Defendant offered no response in his memorandum in opposition. This Court notes that although Defendant struck Juror No. 19, he sat Juror No. 137, an African American male employed as a nurse – most certainly a caregiver. Although Juror No. 137 was African American, he was not a female, which further reflects Defendant's purposeful intent to strike African American females.

**C. Juror No. 70, Defendant's alternate juror strike**

Defendant justified this strike because she is a sales associate, probably has low income, and thus would likely award Plaintiff money out of sympathy. Despite this reasoning, Defendant sat

two Caucasian females with similar low-income positions: a hairstylist, Juror No. 152 and, as previously explained, Juror No. 140, a customer service representative, which is a position like a sales associate. Defendant's reasoning for striking Juror No. 70 is incongruent with sitting Jurors No. 152 and 140. The only different factor is their race.

**CONCLUSION**

Plaintiff has proved purposeful racial discrimination by Defendant of African American females pursuant to *Batson* and its progeny of case law.

**IT IS THEREFORE ORDERED** that Plaintiff's Motion for a New Trial is **GRANTED**.

**IT IS SO ORDERED.**

Orangeburg, South Carolina  
May \_\_, 2020

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Edgar W. Dickson  
Circuit Court Judge



Orangeburg Common Pleas

**Case Caption:** Katrina Stroman VS Payten Padgett  
**Case Number:** 2017CP3800878  
**Type:** Order/JNOV

So Ordered

s/ Edgar W. Dickson #2153