

SUPREME COURT OF LOUISIANA

State of Louisiana v. Larry Broussard, Jr. AKA Larry James
Broussard, Jr. AKA Larry J. Broussard, Jr.

2016-K-1836 · No. 2016-K-1836 · Decided January 30, 2018

SUMMARY

The Supreme Court of Louisiana affirmed the court of appeal’s decision vacating Larry Broussard Jr.’s conviction and sentence for aggravated flight from an officer and remanding for further proceedings. The court held that once the trial court required the State to provide race-neutral reasons for a peremptory strike, appellate review should not be truncated based on the prima facie step of the Batson analysis. Applying *Snyder v. Louisiana*, the court declined to presume from the trial court’s silence that it credited the State’s demeanor-based reason for striking an African-American prospective juror.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam; Justice Clark; Justice Hughes; Justice Genovese
JURISDICTION	Louisiana
DECIDED	January 30, 2018
DOCKET	2016-K-1836
DISPOSITION	affirmed
PROCEDURAL POSTURE	The State sought review by writ of certiorari of a split decision of the Louisiana Court of Appeal, Third Circuit, which vacated defendant’s conviction and sentence after finding a Batson violation and remanded for further proceedings.
STANDARD OF REVIEW	A trial court’s ruling on discriminatory intent in a Batson inquiry is reviewed for clear error, with substantial deference given to credibility and demeanor determinations. However, an appellate court may not presume from the trial court’s silence that the trial court credited a demeanor-based explanation when the record does not establish that determination.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion; binding state precedent.
PARTIES	State of Louisiana v. Larry Broussard, Jr.

TOPICS

jury selection

criminal procedure

appellate procedure

standard of review

fourteenth amendment

PRACTICE AREAS

criminal procedure

constitutional law

appellate procedure

QUESTIONS PRESENTED

1. Whether the appellate court could address the merits of the Batson challenge after the trial court required the State to provide race-neutral reasons, without first resolving whether the defense made a prima facie showing under Batson's first step.
2. Whether the appellate court could presume that the trial court credited the State's demeanor-based claim that the prospective juror was inattentive when the trial court rejected the State's other reason and denied the Batson challenge without explanation.

HOLDINGS

1. Once the prosecutor has offered race-neutral explanations and the trial court has ruled on the ultimate question of purposeful discrimination, the preliminary issue of whether the defendant established a prima facie case is moot, regardless of whether the trial court or the prosecutor initiated the request for explanations.
2. A reviewing court may not presume that the trial judge credited a demeanor-based reason for a peremptory strike from the trial court's silence, particularly where the trial court rejected the State's other proffered reason and the record does not show that the demeanor-based reason was accepted.

KEY QUOTATIONS

“Once a prosecutor has offered a race-neutral explanation for the peremptory challenges and the trial court has ruled on the ultimate question of intentional discrimination, the preliminary issue of whether the defendant had made a prima facie showing becomes moot.” (3)

“However, Snyder’s guiding principle remains intact that a reviewing court should not presume that the trial judge credited a demeanor-based reason from a trial court’s silence, and the particular circumstances in Snyder and here are strikingly similar.” (7)

FACTUAL BACKGROUND

During voir dire, defense counsel raised a Batson objection to the State's backstrike of an African-American female prospective juror. The State offered two reasons: that the juror appeared insufficiently intelligent and that she was inattentive. The trial court expressly rejected the intelligence characterization, then denied the Batson challenge without explaining whether it credited the inattentiveness reason. The State had struck two of three African-American prospective jurors, while accepting one.

PROCEDURAL HISTORY

Broussard was convicted of aggravated flight from an officer. During voir dire, the trial court denied his Batson challenge to the State's backstrike of an African-American prospective juror. The court of appeal reversed, vacated the conviction and sentence, and remanded. The Louisiana Supreme Court granted review and affirmed the court of appeal.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The court affirmed the court of appeal's judgment vacating the conviction and sentence and remanding to the trial court for further proceedings.

CASES CITED

- Batson v. Kentucky, 476 U.S. 79, 106 S. Ct. 1712, 90 L. Ed. 2d 69 (1986)
- Johnson v. California, 545 U.S. 162, 170, 172, 125 S. Ct. 2410, 2417-18, 162 L. Ed. 2d 129 (2005)
- Hernandez v. New York, 500 U.S. 352, 359, 369, 111 S. Ct. 1859, 1866, 114 L. Ed. 2d 395 (1991)
- State v. Jacobs, 99-0991, p. 8 (La. 5/15/01), 803 So. 2d 933, 941
- State v. Collier, 553 So. 2d 815, 819 n.5 (La. 1989)
- United States v. Williams, 264 F.3d 561, 571 (5th Cir. 2001)
- United States v. Broussard, 987 F.2d 215, 220 n.4 (5th Cir. 1993)
- United States v. Forbes, 816 F.2d 1006, 1010 (5th Cir. 1987)
- Snyder v. Louisiana, 552 U.S. 472, 477-486, 128 S. Ct. 1203, 1207-09, 170 L. Ed. 2d 175 (2008)
- Thaler v. Haynes, 559 U.S. 43, 48-49, 130 S. Ct. 1171, 1174-75, 175 L. Ed. 2d 1003 (2010)
- Wainwright v. Witt, 469 U.S. 412, 428, 105 S. Ct. 844, 83 L. Ed. 2d 841 (1985)
- State v. Harris, 15-0995 (La. 10/19/16), 217 So. 3d 255, 259-260
- Purkett v. Elem, 514 U.S. 765, 768, 115 S. Ct. 1769, 1771 (1995)
- State v. Nelson, 10-1724, 10-1726 (La. 3/13/12), 85 So. 3d 21, 32
- State v. Green, 94-0887 (La. 5/22/95), 655 So. 2d 272, 290

OPINION

PER CURIAM.

Supreme Court of Louisiana FOR IMMEDIATE NEWS RELEASE NEWS RELEASE #005
FROM: CLERK OF SUPREME COURT OF LOUISIANA The Opinions handed down on the
30th day of January, 2018, are as follows: PER CURIAM: 2016-K -1836 STATE OF LOUISIANA
v. LARRY BROUSSARD, JR. AKA LARRY JAMES BROUSSARD, JR. AKA LARRY J.
BROUSSARD, JR. (Parish of Vermilion) The state's claim that a reviewing court should truncate

the analysis of a Batson claim because a trial court erred in finding the defense carried its burden of production under Batson's first step is contrary to the jurisprudence.

Furthermore, it is inconsistent with the purpose of the Batson framework, which "is designed to produce actual answers to suspicions and inferences that discrimination may have infected the selection process." Johnson, 545 U.S. at 172, 125 S.Ct. at 2418.

The state's remaining argument regarding the ultimate outcome of the Batson inquiry runs afoul of Snyder v. Louisiana, 522 U.S. 472, 128 S. Ct. 1203, 170 L. Ed. 2d 175 (2008), which is dispositive here. A reviewing court should not presume that the trial judge credited a demeanor-based reason from a trial court's silence and the particular circumstances in Snyder and here are strikingly similar.

While we are mindful that a trial court's determination as to purposeful discrimination rests largely on credibility evaluations and is therefore entitled to great deference, Batson, 476 U.S. at 98 n.21, 106 S. Ct. at 1724, we note that the trial court rejected the state's first proffered reason and we cannot presume the trial court accepted the state's demeanor-based proffered reason.

Therefore, we find that the court of appeal correctly applied Snyder to vacate the conviction and sentence and remand to the trial court for further proceedings. The court of appeal's decision is affirmed. AFFIRMED. CLARK, J., dissents for the reasons assigned by Justice Genovese. HUGHES, J., dissents for the reasons assigned by Genovese, J. GENOVESE, J., dissents and assigns reasons.

01/30/18 SUPREME COURT OF LOUISIANA No. 2016-K-1836 STATE OF LOUISIANA VERSUS LARRY BROUSSARD, JR. AKA LARRY JAMES BROUSSARD, JR. AKA LARRY J. BROUSSARD, JR. ON WRIT OF CERTIORARI TO THE COURT OF APPEAL, THIRD CIRCUIT, PARISH OF VERMILION PER CURIAM Defendant Larry Broussard, Jr. was convicted of aggravated flight from an officer. During voir dire, defense counsel challenged, pursuant to Batson v. Kentucky, 476 U.S. 79, 106 S. Ct.

1712, 90 L. Ed. 2d 69, the state's use of a backstrike against an African-American female prospective juror from the first panel. Specifically, defense counsel noted that the state had not previously challenged this prospective juror for cause and stated without further elaboration that "it seems like she's one of two potential black jurors." In response to the trial court's request for a race-neutral reason for the backstrike, the state ultimately gave two.

The state first claimed—based on the prospective juror's occupation as a housekeeper and her (otherwise unspecified) reactions to the questions asked—that she was not intelligent enough to be a juror. After the trial court resoundingly rejected the state's characterization of the prospective juror's intelligence ("there's been absolutely nothing presented to the Court to suggest that she's

unintelligent in any way or has any inability to follow the law”), the state then claimed she was inattentive during the questioning of the second panel.

After hearing this second reason, the trial court inquired as to how many challenges the state had exercised against prospective jurors who were African Americans. After hearing that the state had struck two of three African- American prospective jurors (thereby accepting one), the trial court denied the Batson challenge without explanation.

In a split-panel decision, the court of appeal reversed, with the majority finding a Batson violation in the state’s exclusion of the backstruck prospective juror, and thereby deeming a second assignment of error moot. *State v. Broussard*, 16-0230 (La. App. 3 Cir. 9/28/16), 201 So. 3d 400.

The majority rejected the state’s argument that defendant failed to carry his burden of establishing a prima facie case of purposeful discrimination in Batson’s first step. The majority noted that the trial court demanded a race-neutral reason despite the state’s protest that the defense had not made a prima facie showing, and therefore the majority found “that the trial court concluded a prima facie case existed when it ordered the State to respond to the Batson challenge and that the burden then shifted to the State to establish a race-neutral reason for the back strike of [the prospective juror].” *Broussard*, 16-0230, p. 9, 201 So.

3d at 406. The majority also found that “[i]t is not clear on what the trial court based its denial of the Batson challenge.” *Broussard*, 16-0230, p. 10, 201 So. 3d at 406. The majority then noted that the trial court rejected the state’s first proffered reason, i.e. that the prospective juror was unintelligent, and the majority further found there was nothing in the record supporting the state’s assessment of the prospective juror’s intelligence.

Citing *Snyder v. Louisiana*, 552 U.S. 472, 128 S. Ct. 1203, 170 L. Ed. 2d 175 (2010), the majority also declined to presume the trial court credited the state’s demeanor-based proffered reason, i.e. that the prospective juror was 2 inattentive, and the majority found no indication of inattentiveness could be discerned from the transcript of voir dire.¹ Therefore, the court of appeal vacated the conviction and sentence and remanded to the trial court for further proceedings.

The state contends that the court of appeal erred in failing to recognize that defendant was never required to make a prima facie showing of purposeful discrimination in Batson’s first step. The state also contends that, even if a prima facie showing was made, both of its reasons for backstriking the prospective juror, i.e. her lack of intelligence and attention, were racially neutral, and the trial court never found that they were pretexts for purposeful discrimination.

Therefore, the state claims that the trial court did not abuse its discretion in denying the Batson challenge. We disagree. In *Johnson v. California*, 545 U.S. 162, 170, 125 S. Ct. 2410, 2417, 162 L. Ed. 2d 129 (2005), the Supreme Court emphasized that: We did not intend the first step to be so onerous that a defendant would have to persuade the judge-on the basis of all the facts, some of

which are impossible for the defendant to know with certainty-that the challenge was more likely than not the product of purposeful discrimination.

Instead, a defendant satisfies the requirements of Batson's first step by producing evidence sufficient to permit the trial judge to draw an inference that discrimination has occurred. In addition, the Supreme Court has found, "Once a prosecutor has offered a race- neutral explanation for the peremptory challenges and the trial court has ruled on the ultimate question of intentional discrimination, the preliminary issue of whether the defendant had made a prima facie showing becomes moot." *Hernandez v. New York*, 500 U.S. 352, 359, 111 S. Ct.

1859, 1866, 114 L. Ed. 2d 1 Furthermore, it should be noted that our independent review of the record shows that not only is there no indication that the prospective juror was inattentive, there is some indication the prospective juror was in fact attentive.

The state accepted the prospective juror after questioning her in the first panel. Evidently, the state saw no inattentiveness on her part during voir dire of the first panel. Although she was not part of the second panel, the state nonetheless directed a question at the prospective juror at issue here during voir dire of the second panel. She answered fully.

She did not ask to have the question repeated or otherwise give any indication she had not been paying attention. 3 395 (1991). The rule of *Hernandez* has not been limited in the Fifth Circuit to those situations in which the government volunteers a race-neutral reason, as contrasted with those in which the trial court demands that the government provide one.

In each scenario, the preliminary issue of whether defendant had made a prima facie showing is moot. See, e.g., *United States v. Williams*, 264 F.3d 561, 571 (5th Cir. 2001) ("The district court then asked the Government to provide a race-neutral justification for striking the prospective jurors. Where, as here, the prosecutor tenders a race-neutral explanation for his peremptory strikes, the question of Defendant's prima facie case is rendered moot and our review is limited to the second and third steps of the Batson analysis.") (citing *United States v. Broussard*, 987 F.2d 215, 220 n.4 (5th Cir.

1993) (declining to decide whether defendant had established prima facie case of racial discrimination, where district court required explanation for peremptory strikes)); see also *United States v. Forbes*, 816 F.2d 1006, 1010 (5th Cir. 1987) ("[A]ppellate review should not become bogged down on the question of whether the defendant made a prima facie showing in cases where the district court has required an explanation.").

Likewise, this court has found that "[a] trial judge may... effectively collapse the first two stages of the Batson procedure, whether or not the defendant established a prima facie case of purposeful discrimination, and may then perform the critical third step of weighing the defendant's proof and

the prosecutor's race- neutral reasons to determine discriminatory intent." *State v. Jacobs*, 99-0991, p. 8 (La.

5/15/01), 803 So. 2d 933, 941. This court has also stated: If the trial judge had not found there was a prima facie case of purposeful discrimination, there was no necessity to call for explanation of the challenges. Of course, the trial judge may have believed there was not a prima facie showing, but still required an explanation as a precaution in the event the appellate court determined 4 there was a prima facie showing.

State v. Collier, 553 So. 2d 815, 819 n.5 (La. 1989). The state's claim that a reviewing court should truncate the analysis of a Batson claim because a trial court erred in finding the defense carried its burden of production under Batson's first step is contrary to the jurisprudence above. Furthermore, it is inconsistent with the purpose of the Batson framework, which "is designed to produce actual answers to suspicions and inferences that discrimination may have infected the selection process." *Johnson*, 545 U.S. at 172, 125 S.Ct. at 2418.

The state's remaining argument regarding the ultimate outcome of the Batson inquiry runs afoul of *Snyder v. Louisiana*, 522 U.S. 472, 128 S. Ct. 1203, 170 L. Ed. 2d 175 (2008), which is dispositive here. In *Snyder*, the Supreme Court stated: On appeal, a trial court's ruling on the issue of discriminatory intent must be sustained unless it is clearly erroneous.

See *Hernandez v. New York*, 500 U.S. 352, 369, 111 S. Ct. 1859, 114 L. Ed. 2d 395 (1991) (plurality opinion); *id.*, at 372, 111 S. Ct. 1859 (O'Connor, J., joined by Scalia, J., concurring in judgment). The trial court has a pivotal role in evaluating Batson claims. Step three of the Batson inquiry involves an evaluation of the prosecutor's credibility, see 476 U.S., at 98, n. 21, 106 S. Ct.

1712, and "the best evidence [of discriminatory intent] often will be the demeanor of the attorney who exercises the challenge," *Hernandez*, 500 U.S., at 365, 111 S. Ct. 1859 (plurality opinion). In addition, race-neutral reasons for peremptory challenges often invoke a juror's demeanor (e.g., nervousness, inattention), making the trial court's firsthand observations of even greater importance.

In this situation, the trial court must evaluate not only whether the prosecutor's demeanor belies a discriminatory intent, but also whether the juror's demeanor can credibly be said to have exhibited the basis for the strike attributed to the juror by the prosecutor.

We have recognized that these determinations of credibility and demeanor lie "peculiarly within a trial judge's province," *ibid.* (quoting *Wainwright v. Witt*, 469 U.S. 412, 428, 105 S. Ct. 844, 83 L. Ed. 2d 841 (1985)), and we have stated that "in the absence of exceptional circumstances, we would defer to [the trial court]," 500 U.S., at 366, 111 S. Ct. 1859 (plurality opinion).

Snyder, 552 U.S. at 477, 128 S.Ct. at 1207–08. In Snyder, as here, the prosecutor⁵ offered two race-neutral reasons, one of which was based on the prospective juror’s demeanor. Regarding the demeanor-based reason, the trial court in Snyder, just as the trial court here,² did not make an explicit determination.

The Snyder court found: With respect to the first reason, the Louisiana Supreme Court was correct that “nervousness cannot be shown from a cold transcript, which is why... the [trial] judge’s evaluation must be given much deference.” 942 So. 2d, at 496.

As noted above, deference is especially appropriate where a trial judge has made a finding that an attorney credibly relied on demeanor in exercising a strike. Here, however, the record does not show that the trial judge actually made a determination concerning Mr. Brooks’ demeanor.

The trial judge was given two explanations for the strike. Rather than making a specific finding on the record concerning Mr. Brooks’ demeanor, the trial judge simply allowed the challenge without explanation. It is possible that the judge did not have any impression one way or the other concerning Mr. Brooks’ demeanor. Mr. Brooks was not challenged until the day after he was questioned, and by that time dozens of other jurors had been questioned.

Thus, the trial judge may not have recalled Mr. Brooks’ demeanor. Or, the trial judge may have found it unnecessary to consider Mr. Brooks’ demeanor, instead basing his ruling completely on the second proffered justification for the strike.

For these reasons, we cannot presume that the trial judge credited the prosecutor’s assertion that Mr. Brooks was nervous. Snyder, 552 U.S. at 479, 128 S.Ct. at 1209 (emphasis added). The U.S. Supreme Court in *Thaler v. Haynes*, 559 U.S. 43, 48–49, 130 S. Ct. 1171, 1174–75, 175 L. Ed. 2d 1003 (2010), retreated somewhat from Snyder:... [W]here the explanation for a peremptory challenge is based on a prospective juror’s demeanor, the judge should take into account, among other things, any observations of the juror that the judge was able to make during the voir dire.

But Batson plainly did not go further and hold that a demeanor-based explanation must be rejected if the judge did not observe or cannot recall the juror’s demeanor. Nor did we establish such a rule in Snyder. In that case, the judge who presided over the voir dire also ruled on the Batson objections, and thus we had no occasion to consider how Batson applies when different judges preside over these two stages of the jury selection process.

Snyder, 552 U.S., at 475–478, 128 S. Ct. 1203. The part of Snyder on which the Court of Appeals relied concerned a very ² The trial court in the present case, after being informed of the number of challenges the state had exercised against African Americans, simply stated, “All right. I’m going to deny the Batson challenge on that.” ⁶ different problem.

The prosecutor in that case asserted that he had exercised a peremptory challenge for two reasons, one of which was based on demeanor (i.e., that the juror had appeared to be nervous), and the trial judge overruled the Batson objection without explanation. 552 U.S., at 478–479, 128 S. Ct. 1203.

We concluded that the record refuted the explanation that was not based on demeanor and, in light of the particular circumstances of the case, we held that the peremptory challenge could not be sustained on the demeanor-based ground, which might not have figured in the trial judge's unexplained ruling. *Id.*, at 479–486, 128 S. Ct. 1203. Nothing in this analysis supports the blanket rule on which the decision below appears to rest.

The opinion in *Snyder* did note that when the explanation for a peremptory challenge “invoke[s] a juror’s demeanor,” the trial judge’s “firsthand observations” are of great importance. *Id.*, at 477, 128 S. Ct. 1203. And in explaining why we could not assume that the trial judge had credited the claim that the juror was nervous, we noted that, because the peremptory challenge was not exercised until some time after the juror was questioned, the trial judge might not have recalled the juror’s demeanor.

Id., at 479, 128 S. Ct. 1203. These observations do not suggest that, in the absence of a personal recollection of the juror’s demeanor, the judge could not have accepted the prosecutor’s explanation. Indeed, *Snyder* quoted the observation in *Hernandez v. New York*, 500 U.S. 352, 365, 111 S. Ct. 1859, 114 L. Ed. 2d 395 (1991) (plurality opinion), that the best evidence of the intent of the attorney exercising a strike is often that attorney’s demeanor.

See 552 U.S., at 477, 128 S. Ct. 1203. *Haynes*, 559 U.S. at 48–49, 130 S.Ct. at 1174–75 (footnote omitted). However, *Snyder*’s guiding principle remains intact that a reviewing court should not presume that the trial judge credited a demeanor-based reason from a trial court’s silence, and the particular circumstances in *Snyder* and here are strikingly similar.

While we are mindful that a trial court’s determination as to purposeful discrimination rests largely on credibility evaluations and is therefore entitled to great deference, *Batson*, 476 U.S. at 98 n.21, 106 S. Ct. at 1724, we note that the trial court rejected the state’s first proffered reason and we cannot presume the trial court accepted the state’s demeanor-based proffered reason.³ Therefore, ³ The state, in contrast, concedes in its brief that the trial court rejected the state’s characterization of the prospective juror as inattentive.

See State’s brief, p. 10 (“In this instances, while the trial court did not agree with the prosecutor’s reasoning that the prosecutive juror ‘... does not appear to be as intelligent as I would like to see on a juror’ or even that she was inattentive,....”) (citations to the record omitted) (emphasis added). While that concession is ⁷ we find that the court of appeal correctly applied *Snyder* to vacate the conviction and sentence and remand to the trial court for further proceedings.

The court of appeal's decision is affirmed. AFFIRMED not born out by the record, which shows the trial judge made no explicit determination regarding inattentiveness, the concession was nonetheless made by the state, which is bound by it, and it provides an additional reason to reject the state's arguments. 8 01/30/18 SUPREME COURT OF LOUISIANA NO. 2016-K-1836 STATE OF LOUISIANA VERSUS LARRY BROUSSARD, JR. AKA LARRY JAMES BROUSSARD, JR. AKA LARRY J. BROUSSARD.

JR. ON WRIT OF CERTIORARI TO THE COURT OF APPEAL, THIRD CIRCUIT, PARISH OF VERMILION CLARK, J., dissents for the reasons assigned by Justice Genovese. 01/30/18 SUPREME COURT OF LOUISIANA No. 2016-K-1836 STATE OF LOUISIANA VERSUS LARRY BROUSSARD, JR. AKA LARRY JAMES BROUSSARD, JR. AKA LARRY J. BROUSSARD, JR. ON WRIT OF CERTIORARI TO THE COURT OF APPEAL, THIRD CIRCUIT, PARISH OF VERMILION Hughes, J., dissents for the reasons assigned by Genovese, J. 1 01/30/18 SUPREME COURT OF LOUISIANA NO. 2016-K-1836 STATE OF LOUISIANA VERSUS LARRY BROUSSARD, JR. AKA LARRY JAMES BROUSSARD, JR. AKA LARRY J. BROUSSARD, JR. ON WRIT OF CERTIORARI TO THE COURT OF APPEAL, THIRD CIRCUIT, PARISH OF VERMILION GENOVESE, J., dissents and assigns reasons.

I would reverse the ruling of the court of appeal and reinstate defendant's conviction and sentence. In my view, the court of appeal erred in its application of *Batson v. Kentucky*, 106 S. Ct. 1712, 476 U.S. 79 (1986). Merging steps two and three of the *Batson* analysis impermissively shifted the burden of proof to the proponent of the strike. See *State v. Harris*, 15-0995 (La.

10/19/16), 217 So. 3d 255, 259-260 (citing *Purkett v. Elem*, 115 S. Ct. 1769, 1771, 514 U.S. 765, 768 (1995); *State v. Nelson*, 10-1724, 10-1726 (La. 3/13/12), 85 So. 3d 21, 32). The State articulated race-neutral reasons for the exercise of its peremptory challenge. It is not until the third step of *Batson* that the persuasiveness of the race-neutral reason becomes relevant.

Harris, 217 So. 3d at 259 (citing *Purkett*, 115 S. Ct. at 1771, 514 U.S. at 768; *Nelson*, 85 So. 3d at 32). The question is whether the defendant's proof, when weighed against the State's proffered "race-neutral" reasons, is strong enough to persuade the trier-of- fact that discriminatory intent is present. *State v. Green*, 94-0887 (La. 5/22/95), 655 So. 2d 272, 290.

Defendant offered no facts or circumstances supporting an inference that the State exercised its strikes in a discriminatory manner. Of the three prospective black jurors, one was seated, the second was peremptorily challenged after the State's challenge for cause was denied, and the third became the subject of defendant's *Batson* challenge. Defendant's proof, when weighed against the State's race-neutral reasons, was not sufficient to prove the existence of purposeful discriminatory intent.

Id.

