

**IN THE COURT OF APPEALS OF IOWA**

No. 22-2099  
Filed March 6, 2024

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**DIMIONE JAMAL WALKER,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Linn County, Paul D. Miller (good cause finding) and Andrew Chappell (motion to set aside good cause finding, motion to dismiss, and trial), Judges.

Dimione Jamal Walker appeals his convictions for first-degree murder, going armed with intent, and felon in possession of a firearm. **AFFIRMED.**

Martha J. Lucey, State Appellate Defender, and Josh Irwin, Assistant Appellate Defender, for appellant.

Brenna Bird, Attorney General, and Joseph D. Ferrentino, Assistant Attorney General, for appellee.

Heard by Tabor, P.J., and Badding and Chicchelly, JJ. Buller, J., takes no part.

**CHICCHELLY, Judge.**

Dimione Jamal Walker appeals his convictions for first-degree murder, going armed with intent, and felon in possession of a firearm. He contends the State violated his constitutional right to speedy trial, the prosecutor impermissibly struck a prospective juror, and the trial court abused its discretion by admitting prejudicial evidence. Because we find Walker failed to show that the State violated his speedy-trial right, the prosecutor did not exercise a peremptory challenge based on a prospective juror's race, and the prejudicial effect of the challenged evidence was outweighed by its probative value, we affirm.

***I. Background Facts and Proceedings.***

In April 2022, Walker went to the Taboo nightclub in Cedar Rapids, where he shot and killed another patron. A second shooting occurred seconds later, but Walker was not involved. Thereafter, Walker left Iowa and was arrested in Illinois one week later. The State filed the trial information on May 25.

Despite Walker waiving his right to formal extradition, the State struggled to extradite Walker back to Iowa for trial. Between the filing of the trial information and June 24, the State made more than twenty-five contacts with Illinois officials, who refused to return Walker. Based on the difficulty it was having in securing Walker's return, the State pre-emptively applied for a finding of good cause for any delay of his prosecution on June 24. The district court granted this request the same day.

On August 29, Illinois finally agreed to turn Walker over to Iowa, and he was returned September 2. Walker thereafter demanded his right to a speedy trial. He further moved to set aside the finding of good cause, claiming his due process right

was violated because he had no notice or opportunity to be heard. The district court denied the motion, declining to vacate the finding. In response, Walker moved to dismiss the action, again contending a violation of his speedy-trial right. He also moved in limine to exclude evidence of other injuries or deaths resulting from the second shooting at Taboo; specifically, he challenged the introduction of surveillance footage and photographs of the nightclub because they speculate at a second shooting. The district court denied the motion to dismiss and preliminarily denied the portion of Walker's motion in limine relating to evidence involving the second shooting. Walker further objected at trial when the surveillance footage and photographs were introduced.

Walker's trial commenced on November 8, sixty-seven days after he was returned to Iowa and 167 days after the filing of the trial information. During the trial, the State attempted to strike Juror 22 for cause based on his history of felony convictions. The State withdrew the strike when it realized its reasoning was flawed and instead used a peremptory strike. Walker challenged the strike, and the State explained its reasoning for striking Juror 22: (1) his history of felony convictions and (2) their lead investigator previously charged the juror with one of the felonies, and the State was concerned Juror 22 might recognize him. The district court overruled Walker's objection and allowed the State to strike Juror 22.

At the close of trial, the jury found Walker guilty as charged. He appeals, renewing the claims that his constitutional rights were violated and the district court erred in its jury-selection and evidentiary rulings.

## ***II. Alleged Violation of Speedy-Trial Right.***

First, Walker alleges his constitutional right to speedy trial was violated because the State did not meet its burden in establishing good cause for the delay. A defendant must be brought to trial within ninety days from the filing of trial information. Iowa R. Crim. P. 2.33(2)(b). Any delay requires dismissal “unless the State carries its burden to show that the defendant waived speedy trial, that the delay was attributable to the defendant, or other ‘good cause’ exists for the delay.” *State v. Taylor*, 881 N.W.2d 72, 78 (Iowa 2016) (citation omitted). We review the district court’s finding of good cause for an abuse of discretion, but this “discretion is a narrow one.” *State v. McNeal*, 897 N.W.2d 697, 704 (Iowa 2017) (citation omitted). We will only reverse “if no reasonable basis in the record supports the trial court’s finding.” *State v. Castillo-Alvarez*, No. 08-0868, 2009 WL 2960419, at \*1 (Iowa Ct. App. Sept. 2, 2009). Because Walker did not waive his speedy-trial right, we consider whether the delay was attributable to him or was “a matter of practical necessity.” *Id.* at \*2.

The district court found that Walker was not responsible for the delay, and we agree. While Walker left Iowa following the crime, there is no evidence to suggest that he was fleeing, in hiding, or otherwise motivated to avoid an arrest warrant. Instead, he voluntarily waived formal extradition and was cooperative once in Illinois’s custody.

Finding the delay was not attributable to Walker’s actions, the State is then required to prove good cause for the delay. See *Taylor*, 881 N.W.2d at 78. “We have made it clear that good cause focuses on only one factor: the reason for the delay.” *McNeal*, 897 N.W.2d at 704 (cleaned up) (citation omitted). “Ordinarily the

absence of [a] defendant may constitute ‘good cause’ for delay.” *Castillo-Alvarez*, 2009 WL 2960419, at \*3 (quoting *State v. Brandt*, 253 N.W.2d 253, 258 (Iowa 1977)). But we also “consider surrounding circumstances such as the length of the delay, whether the defendant asserted his right to a speedy trial, and whether prejudice resulted from the delay.” *McNeal*, 897 N.W.2d at 704.

Upon our review, despite finding certain circumstances that weigh against a finding of good cause, we find that the State established good cause for the delay. For example, the length of the delay itself was considerable, with the trial starting weeks after the deadline. See *State v. Miller*, 637 N.W.2d 201, 205 (Iowa 2001) (“At the outset we note that most, if not all, cases justifying reversal based on speedy-trial violations involve delays numbering weeks or months, not days.”). Further, the State was aware of Walker’s location when it filed the trial information, which goes against a finding of good cause. See *Castillo-Alvarez*, 2009 WL 2960419, at \*4. While we can appreciate the intricacies and nuances of trial practice, we do not excuse any procedural mistakes made on behalf of the State. See *id.* at \*5 (“In previous cases, our courts have found county attorney mistakes and miscalculations do not provide good cause for delayed indictment.”). Therefore, these factors weigh in favor of finding a lack of good cause.

But the State’s exercise of due diligence weighs in favor of finding good cause. While Walker argues that the State did not exercise due diligence because there were other statutory options available for extradition, we disagree. This is not the standard we use. Instead, we must affirm unless “no reasonable basis in the record supports the trial court’s finding.” *Id.* at \*1. In contrast to our previous cases where we have held the State did not exercise due “diligence in

apprehending [Walker] and providing a speedy trial,” the State met its burden here. *Cf. id.* at \*4. There was evidence that the Illinois authorities were a substantial barrier to Walker’s return. *Cf. id.* (finding good cause not established when the evidence failed to show the foreign jurisdiction was “uncooperative” in extradition process). This delay was not the result of the State’s lack of efforts, but instead, the record shows at least twenty-five failed attempts were made to secure Walker’s extradition. *Cf. Taylor*, 881 N.W.2d at 78–79 (concluding the State failed to meet its burden in establishing good cause when their explanation included “a generalized and even implausible communication problem”). Finally, the State resorted to obtaining a governor’s warrant, which was ultimately successful. These attempts were documented in the State’s application for good cause and verified by the county attorney’s testimony, which the district court found credible. Based on the repeated efforts to extradite Walker, we find the State exercised due diligence and met its burden in establishing good cause.

### ***III. Batson Challenge.***

Walker next contends the State’s use of a peremptory strike violated his equal-protection rights under both the United States and Iowa Constitutions. See U.S. Const. amend. XIV; Iowa Const. art. I, § 6; *State v. Booker*, 989 N.W.2d 621, 627 (Iowa 2023); see also *Batson v. Kentucky*, 476 U.S. 79, 97 (1986). Because jury-selection challenges implicate a constitutional right, our review is de novo. *State v. Veal*, 930 N.W.2d 319, 327 (Iowa 2019). To establish a successful *Batson* challenge, we use a three-step, “burden-shifting framework”: (1) Walker must establish a prima facie case of racial discrimination; (2) the State must provide “a race-neutral explanation for the strike”; and (3) Walker has the “burden of proving

purposeful discrimination,” which requires the district court to make a credibility assessment regarding motive. *Booker*, 989 N.W.2d at 627.

The trial court found that Walker established a prima facie case of racial discrimination and that the State provided a race-neutral reason for the strike. We agree. The supreme court has previously held that “a juror’s [past] interactions with law enforcement and the legal system are a valid, race-neutral reason for a peremptory challenge.” *State v. Mootz*, 808 N.W.2d 207, 219 (Iowa 2012). Here, Juror 22 had several felony convictions and a personal connection to one of the State’s key witnesses. We therefore find this a legitimate, neutral reason to utilize a challenge and focus our analysis instead on the third step.

Walker challenges the third step of the inquiry, claiming the district court did not properly conduct a credibility assessment of the State’s neutral reason. But we disagree. At step three of the analysis, we consider “the persuasiveness of the justification” provided in step two. *Booker*, 989 N.W.2d at 629 (citation omitted). But the burden is shifted to the challenging party, who is Walker in this case. See *id.* at 627. Walker failed to establish evidence of purposeful discrimination. While he noted that other members of the jury also had histories of felony convictions, the State’s primary concern was with the types of felonies committed. It specifically cited Juror 22’s crimes related to dishonesty and violence. Further, other jurors that may have had criminal histories did not have a personal connection with a key witness. We therefore find that the peremptory strike was not pretextual, and the *Batson*-challenge denial was proper.

Walker further alleges the court misinterpreted its role. The district court in its ruling noted: “Under the standards set forth in the *Batson* case, I can’t find that

that reason is pretextual. It's facially valid. It's a facially valid explanation, and I believe I must overrule your objection." Based on this wording, Walker alleges the district court believed it was required to overrule the objection without making a credibility determination. But we disagree. "[W]e give 'a great deal of deference to the district court's evaluation of credibility when determining the true motives of the attorney when making strikes.'" *Veal*, 930 N.W.2d at 327 (quoting *Mootz*, 808 N.W.2d at 214). While clearer wording may be ideal, this is not required, and we can instead review the implied findings based on the circumstances. *Mootz*, 808 N.W.2d at 219–20. Based on our review of the district court's wording, it properly evaluated the parties' credibility and made its own findings based on that assessment. The court's use of "must" here does not reflect a lack of discretion but is conclusory.

Finally, Walker asks us to adopt a narrower interpretation of the credibility determination. But "[w]e are not at liberty to overrule controlling supreme court precedent." *State v. Beck*, 854 N.W.2d 56, 64 (Iowa Ct. App. 2014). Instead, we affirm the district court's ruling under the current precedent. See *Mootz*, 808 N.W.2d at 219–20.

#### ***IV. Evidentiary Ruling.***

Finally, Walker argues that the district court erred by admitting prejudicial surveillance footage and photographs into evidence. We review evidentiary rulings for an abuse of discretion. *State v. Lacey*, 968 N.W.2d 792, 805 (Iowa 2021). An abuse of discretion occurs "when [the court] bases its decisions on grounds or reasons clearly untenable or to an extent that is clearly unreasonable." *Id.* (citation omitted). "Only relevant evidence is admissible." *State v. Buelow*, 951



N.W.2d 879, 885 (Iowa 2020). Evidence is considered relevant “if ‘[i]t has any tendency to make a fact more or less probable than it would be without the evidence’ and ‘[t]he fact is of consequence in determining the action.’” *Id.* (alteration in original) (quoting Iowa R. Evid. 5.401). While Walker concedes the evidence is minimally relevant, he contends the district court abused its discretion when admitting the exhibits because its prejudicial effect outweighed any probative value.

“Even relevant evidence can be inadmissible if the evidence’s probative value is ‘*substantially* outweighed by a danger of . . . unfair prejudice.’” *Id.* at 889 (emphasis in original) (quoting Iowa R. Evid. 5.403). “Unfair prejudice means the ‘evidence has an undue tendency to suggest a decision on an improper basis.’” *Lacey*, 968 N.W.2d at 807 (quoting *State v. Thompson*, 954 N.W.2d 402, 408 (Iowa 2021)). This evidence “appeals to the jury’s sympathies, arouses its sense of horror, provokes its instinct to punish, or triggers other mainsprings of human action.” *State v. Gomez Medina*, No. 22-0199, 2023 WL 7391660, at \*7 (Iowa Ct. App. Nov. 8, 2023) (alteration in original) (citation omitted). Because this determination is “not an exact science,” we give a great deal of discretion to the trial court. *Thompson*, 954 N.W.2d at 408 (citation omitted).

Two sets of evidence are at issue: (1) two surveillance videos and (2) several photographs of the nightclub. First, most of the surveillance footage depicts Walker entering the nightclub and interacting with others. Near the end of the video, Walker comes into frame, shoots the victim, and flees outside the nightclub. Walker does not object to the introduction of this portion of the video. Instead, he challenges the inclusion of the remainder. In the final seconds of the

video, the other patrons noticeably react to Walker's gunshots, some cowering and dropping to the floor, others escaping outside. Additional unrelated shots are simultaneously fired in the background once Walker flees. The victim is seen dying on the floor in a pool of blood, and other patrons drag him off screen. Second, the photographs introduced at trial depict the layout of the nightclub, particularly the staircase and hallway leading from the street outside to the club's entrance. Spots of blood are included in the pictures that are *not* the victim's.<sup>1</sup>

We find the district court did not abuse its discretion in admitting either the photographs or the video. "Photographs are not inadmissible simply because they are gruesome or may tend to create sympathy if there is just reason for their admission." *State v. Perez*, No. 22-0276, 2023 WL 152524, at \*3 (Iowa Ct. App. Jan. 11, 2023) (cleaned up) (quoting *State v. Neiderbach*, 837 N.W.2d 180, 202 (Iowa 2013)). We allow depictions of the victim's condition, even if other evidence similarly describes the severity. *Neiderbach*, 837 N.W.2d at 203. "[A]ll powerful evidence is prejudicial to one side," so we don't consider the "gruesome" nature of the scene as being harmful to Walker. See *Perez*, 2023 WL 152524, at \*2-3 (citation omitted). Similarly, the probative value of both sets of exhibits is extremely high. The surveillance footage, even after Walker's exit, depicts the victim's death and the movement of his body. The photographs accompany witnesses' testimony of the nightclub's layout and provide an accurate description of the scene. Both

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<sup>1</sup> Additional exhibits portray the victim, who was shot and killed in a separate area of the nightclub. The blood spots and splatters depicted in the photographs are from the alleged victims from the second shooting.

sets of evidence speak to Walker's guilt or innocence and are therefore probative. See *Buelow*, 951 N.W.2d at 889.

To the extent that there is risk of prejudice based on the unrelated shooting, the trial court properly weighed it against the probative value of the evidence. It is impossible to show the victim's death without the additional gunfire because the two acts occurred almost simultaneously in the video. Similarly, the only photographs accurately depicting the scene that night included blood splatters. The probative value is high for these exhibits, and there is no evidence the jury considered them for an improper purpose. The State neither charged Walker with these other events nor introduced evidence to suggest he committed them. In fact, the court worked with both parties pre-trial to prevent any inclusion of irrelevant evidence unrelated to Walker.<sup>2</sup> Accordingly, we find the trial court in its broad discretion properly weighed the value of the evidence and considered its potential impact on Walker, and we see no abuse of that discretion. See *Thompson*, 954 N.W.2d at 408.

#### **V. Disposition.**

Because Walker's speedy-trial and equal-protection rights were not violated and the trial court did not abuse its discretion by admitting evidence, we affirm Walker's convictions.

#### **AFFIRMED.**

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<sup>2</sup> The trial court twice gave Walker the opportunity to include a limiting instruction "addressing what [the jury] can and cannot consider as far as what's shown on the video." No such instruction was submitted to the jury. While the lack of instruction does not change the result, it is best practice for the parties or the trial court to include an instruction to "help to nullify the danger of unfair prejudice." *State v. Bayles*, 551 N.W.2d 600, 608 (Iowa 1996).