IN THE COURT OF APPEALS OF IOWA

No. 8-817 / 07-1565
Filed October 15, 2008

STATE OF IOWA,
Plaintiff-Appellee,

vs.

JEFFREY JAMES WEDDELL,
Defendant-Appellant.

Appeal from the Iowa District Court for Polk County, Eliza J. Ovrom, Judge.

Defendant challenges the denial of his *Batson* challenge to the State's exercise of peremptory strikes of potential jurors. **AFFIRMED.**

Mark C. Smith, State Appellate Defender, and Stephan Japuntich, Assistant State Appellate Defender, for appellant.

Thomas J. Miller, Attorney General, Kevin Cmelik, Assistant Attorney General, John P. Sarcone, County Attorney, and Stephanie Cox, Assistant County Attorney, for appellee.

Considered by Sackett, C.J., and Eisenhauer and Doyle, JJ.

SACKETT, C.J.

The defendant-appellant, Jeffrey Weddell, appeals from his conviction of possession of a controlled substance with intent to deliver, including a firearm enhancement. He contends the district court erred when it overruled his objection to the State striking two potential jurors. He contends the State improperly struck the potential jurors on the basis of their race, in violation of the principles set forth in *Batson v. Kentucky*, 476 U.S. 79, 96, 106 S. Ct. 1712, 1729, 90 L. Ed. 2d. 69, 86 (1986) and that he has standing to challenge the strikes even though the jurors struck are not of the defendant's race. *See Powers v. Ohio*, 499 U.S. 400, 409, 111 S. Ct. 1364, 1370, 113 L. Ed. 2d 411, 424 (1991). Because this claim raises constitutional implications of denial of equal protection, our review is de novo. *State v. Griffin*, 564 N.W.2d 370, 372 (Iowa 1997).

The United States Supreme Court set forth a three-part analysis, under the Equal Protection Clause, for determining whether peremptory challenges or strikes have been exercised impermissibly on the basis of race. *Batson*, 476 U.S. at 96-98, 106 S. Ct. at 1723-24, 90 L. Ed. 2d at 87-89. First, a defendant must establish a prima facie case of purposeful discrimination by showing the defendant is a member of a cognizable racial group and the prosecutor has used peremptory challenges to remove prospective jurors of the defendant's race, raising an inference that such exclusion is discriminatory. *Id.* at 96, 106 S. Ct. at 1723, 90 L. Ed. 2d at 87-88. Second, once the defendant has established a prima facie case of purposeful discrimination, the burden shifts to the State to

articulate a race-neutral reason for challenging the jurors. *Id.* at 97, 106 S. Ct. at 1723, 90 L. Ed. 2d at 88. Third, the district court must determine whether the defendant has established purposeful discrimination. *Id.* at 98, 106 S. Ct. at 1724, 90 L. Ed. 2d at 88-89. In other words, the district court must decide whether to believe the prosecutor's explanation for the peremptory challenges. *United States v. Perez*, 35 F.3d 632, 636 (1st Cir. 1994). The district court's credibility determination in this regard is accorded great deference on appeal. *State v. Veal*, 564 N.W.2d 797, 807 (Iowa 1997).

In *Powers*, where the defendant and the excluded jurors were not of the same race, the Court held a criminal defendant may object to "peremptory challenges to exclude otherwise qualified and unbiased persons from the petit jury solely by reason of their race" regardless of whether the defendant and the excluded veniremen are members of the same race. *Powers*, 499 U.S. at 409, 111 S. Ct. at 1370, 113 L. Ed. 2d at 424; *see United States v. Malindez*, 962 F.2d 332, 333 (4th Cir. 1992).

In the case before us, the defendant objected to the State striking "the only two African-American jurors on this panel." Counsel argued nothing in voir dire would provide the State "anything other than . . . racially-based reasons for excusing them off of this panel. They answered the questions. They said they could be fair and impartial."

The State, after challenging whether the defendant had even made a prima facie case such as would shift the burden to the State to provide a race-

neutral reason for the strikes, provided its reasons for striking the two jurors—number eight and number fifteen.

Concerning number eight, the prosecutor noted the juror worked for Children & Families of Iowa, but hoped to work for the Iowa Department of Human Services. The prosecutor stated:[1]

> [I]t's my experience that people who are involved in social work and those kinds of industries are typically more likely to believe that people have addiction issues that cause them to commit crimes.
>
> As I understand the defense in this case is that Mr. Weddell is merely a user of drugs and not a dealer of drugs, it is my hope to keep jurors off of this panel that are likely to believe that he's merely a substance abuser who had half a pound of marijuana.

Concerning number fifteen, the court had informed both parties prior to the start of voir dire that number fifteen had been a witness in the Jamon Allen murder trial and would have had significant dealings with the prosecutor's office. The prosecutor stated she

> made a decision to strike her before I even saw her walk into the room based upon her involvement in the criminal system, albeit as a witness, because of the nature of that case and my understanding of Mr. Allen's history. So my concern was that she would have more information about the criminal system than many other jurors would have.

The court ruled: "Assuming that the defense has even met the initial showing, I think the State has provided race-neutral reasons for this."

On appeal the defendant's primary argument is that the prosecutor's own stated reasons for striking the jurors demonstrate the strikes were racially motivated. We find the defendant's arguments unpersuasive and without merit.

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[1] The prosecutor gave the same rationale for striking a minister's wife from the jury pool.

The stated reasons are clear and reasonably specific race-neutral explanations. *See Griffin*, 564 N.W.2d at 375. The district court believed the prosecutor. The district court's decision in this regard "is accorded great deference on appeal." *Veal*, 564 N.W.2d at 807.

We find no constitutional violation.

AFFIRMED.