IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

NO. 2025-KA-00530-COA

DEXTER WHITE, JR. A/K/A DEXTER WHITE **APPELLANT**

v.

STATE OF MISSISSIPPI **APPELLEE**

DATE OF JUDGMENT:	01/16/2025
TRIAL JUDGE:	HON. JANNIE M. LEWIS-BLACKMON
COURT FROM WHICH APPEALED:	YAZOO COUNTY CIRCUIT COURT
ATTORNEY FOR APPELLANT:	WARREN LOUIS MARTIN JR.
ATTORNEY FOR APPELLEE:	OFFICE OF THE ATTORNEY GENERAL BY: ALLISON ELIZABETH HORNE
DISTRICT ATTORNEY:	AKILLIE MALONE OLIVER
NATURE OF THE CASE:	CRIMINAL - FELONY
DISPOSITION:	REVERSED AND REMANDED - 11/03/2026
MOTION FOR REHEARING FILED:	

BEFORE CARLTON, P.J., WEDDLE AND LASSITTER ST. PÉ, JJ.

LASSITTER ST. PÉ, J., FOR THE COURT:

¶1. Dexter White was indicted in Yazoo County on one count of capital murder and one count of armed robbery. Following a trial, the jury acquitted White of the armed robbery charge and found him guilty of the lesser-included offense of second-degree murder. White appealed, raising nine issues, including a *Batson*[1] procedural issue. After review, we hold that the trial court erred when it denied White's valid peremptory strike against a juror who was then placed on the jury and later served as foreman. We therefore reverse and remand for a new trial. We do not address White's remaining issues.

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

FACTS AND PROCEDURAL HISTORY[2]

¶2. During jury selection, the court tendered a panel of jurors to the Defense:

No.	Demographic	Action
Juror 1	White Male	D-1
Juror 4	White Male	D-2
Juror 7	Black Female	Accepted
Juror 9	Black Male	Accepted
Juror 11	Black Female	Accepted
Juror 14	White Male	D-3
Juror 15	White Male	Accepted
Juror 16	White Male	D-4
Juror 21	Black Female	Accepted
Juror 25	White Female	D-5
Juror 28	White Male	D-6
Juror 30	Black Male	D-7

¶3. The State made a reverse-*Batson* challenge to the Defense's strikes, noting that "six out of the seven strikes from the Defense were all white."[3] The court immediately asked the Defense for the reasons it had struck the seven potential jurors.

¶4. When the trial court asked defense counsel about striking Juror 30, he responded:

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[2] As stated, we do not address the merits of White's conviction, and we will not address the testimony at trial, focusing only on jury selection before trial.

[3] "When the State challenges the defense's use of a peremptory challenge as racially discriminatory, [the Supreme Court] refers to it as a 'reverse-*Batson*' challenge." *Hartfield v. State*, 161 So. 3d 125, 137 (¶18) (Miss. 2015) (quoting *Hardison v. State*, 94 So. 3d 1092, 1097 (¶17) (Miss. 2012)).

"Your honor, he . . . knows the DA, knows Cedrick Jones, spoke at his church several times. Cedrick Jones is the star witness in the case. Judge, *we don't have to offer a race-neutral reason as to him. He's an African American male.*" The State had no objection to the strike, but noted that Juror 30 had "indicate[d] that he could be fair and impartial."

¶5. The court denied the strike and placed Juror 30 on the jury, where he eventually served as foreman.

ANALYSIS

¶6. On appeal, White argues that the court erred by disallowing his strike against Juror 30, who was ultimately seated on the jury and became the foreperson. The State argues only that White did not present a meaningful argument and that under Mississippi Rule of Appellate Procedure 28, he has waived the issue. However, White's argument, while scant, is sufficient to present an argument regarding Juror 30. Furthermore, given the clear error of the trial court in placing Juror 30 on the jury, we can review the matter for plain error. *See Cozart v. State*, 226 So. 3d 574, 580 (¶22) (Miss. 2017) ("In certain contexts, [the Mississippi Supreme Court] has noted the existence of errors in trial proceedings affecting substantial rights of the defendants although they were not brought to the attention of the trial court or of this Court.").

¶7. The Defense first sought to challenge Juror 30 for cause, noting that the juror knew the district attorney and the State's star witness, Cedrick Jones, and had spoken at Jones's church on several occasions. The State objected, noting that Juror 30 said he could be fair and impartial despite those connections. The Defense's challenge for cause was denied.

¶8. The Defense later sought to remove Juror 30 through a peremptory strike. In the panel tendered to the Defense, the Defense exercised seven strikes. Six of the seven were against white jurors, and the seventh was against Juror 30, a Black male. The State made its *Batson* objection, noting "[s]ix out of the seven strikes from the Defense were all white."[4]

¶9. When the trial court asked defense counsel about its strike to Juror 30, he responded: "Your honor, he . . . knows the DA, knows Cedrick Jones, spoke at his church several times. Cedrick Jones is the star witness in the case. Judge, *we don't have to offer a race-neutral reason as to him. He's an African American male.*"

¶10. Despite the fact that Juror 30 was Black and therefore not part of the State's prima facie case of discrimination, the Defense stated its reason for striking Juror 30—that he knew the district attorney and knew the State's "star witness" and had spoken at his church several times—the same reasons that had been stated during the Defense's attempt to strike Juror 30 for cause. This time, the State had no objection to the strike but noted again that Juror 30 said he could be fair and impartial. Without comment, the court denied the strike and placed Juror 30 on the jury.

¶11. The Mississippi Supreme Court has held that "[a] peremptory challenge does not have to be supported by the same degree of justification required for a challenge for cause."

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[4] *Batson* requires that a party opposing a peremptory strike "make out a prima facie case [of discrimination] by showing that the totality of the relevant facts gives rise to an inference of discriminatory purpose." *Johnson v. California*, 545 U.S. 162, 168 (2005). "For example, a 'pattern' of strikes against Black jurors included in the particular venire might give rise to an inference of discrimination." *Batson*, 476 U.S. at 96. Once the non-striking party has made a prima facie case, the burden shifts to the striking party to explain its race-neutral reason for striking the potential juror. *Id.* at 97.

Manning v. State, 735 So. 2d 323, 339 (¶30) (Miss. 1999). So long as the Defense was not seeking to strike the jurors for discriminatory purposes, the Defense was free to exercise its strikes against these jurors. *See Randall v. State*, 716 So. 2d 584, 588 (¶16) (Miss. 1998) ("Unless a discriminatory intent is inherent in the [striking party's] explanation, the reason offered will be deemed race neutral." (quoting *Purkett v. Elem*, 514 U.S. 765, 767-68 (1995))).

¶12. The United States Supreme Court has long held that the denial of a peremptory strike "is not a matter of federal constitutional concern" for due process. *Rivera v. Illinois*, 556 U.S. 148, 157 (2009). However, the Mississippi Supreme Court has held otherwise under the Mississippi Constitution.

¶13. In *Stewart v. State*, 662 So. 2d 553 (Miss. 1995), the Mississippi Supreme Court recognized that "the right to peremptory challenges is . . . a state created right" and that "the arbitrary denial of a state right rises to a violation of the due process clause of the Fourteenth Amendment." *Id.* at 557. Thus, "the arbitrary denial of one of . . . twelve peremptory challenges afforded in a capital case is a violation of due process." *Id.*; *see* Miss. Code Ann. § 99-17-3 (Rev. 2020).

¶14. The Mississippi Supreme Court later held that it is reversible error for a trial court to "deprive defendants of their right to a peremptory strike." *Hardison v. State*, 94 So. 3d 1092, 1101 (¶33) (Miss. 2012). Our Supreme Court has held that "prejudice is automatically presumed" when a peremptory strike is erroneously denied and "the objectionable juror actually sits on the panel that convicts the defendant." *Id.* at 1102 (¶35).

¶15. Here, the protections and considerations of *Batson* were never implicated by White's strike on Juror 30 because he was not part of the prima facie case made by the State—he was Black, and the other six strikes were against white jurors. So the Defense never should have been required to give a race-neutral reason for striking Juror 30. Once given, the trial court had no ground on which to refuse it, and doing so was error. Pursuant to *Hardison*, the court's actions arbitrarily deprived White of his "right to a peremptory strike," "prejudice is automatically presumed," and reversal is required.

CONCLUSION

¶16. Because the trial court erred by subjecting Juror 30 to a *Batson* analysis and then erroneously denied the Defense's peremptory strike against him, we reverse the judgment of conviction and sentencing and remand for a new trial.

¶17. **REVERSED AND REMANDED.**

BARNES, C.J., CARLTON AND WILSON, P.JJ., WESTBROOKS, McDONALD, LAWRENCE, EMFINGER AND WEDDLE, JJ., CONCUR. McCARTY, J., SPECIALLY CONCURS WITH SEPARATE WRITTEN OPINION, JOINED IN PART BY WESTBROOKS AND McDONALD, JJ.

McCARTY, J., SPECIALLY CONCURRING:

¶18. I agree we are bound to reverse and remand because White's valid peremptory strike was improperly overruled. However, I write separately because I would also find that the handling of the State's *Batson* strikes of jurors also did not follow well-settled constitutional law.

¶19. *Batson* was established to safeguard not just the integrity of one particular trial but our whole system of justice—whether it is the prosecution or defense who is throwing the strikes.

"Racial discrimination in selection of jurors harms not only the accused whose life or liberty they are summoned to try," the United States Supreme Court concluded, but also "extend[ed] beyond that inflicted on the defendant and the excluded juror to touch the entire community." *Batson v. Kentucky*, 476 U.S. 79, 87 (1986).

¶20. "First, the defendant must make out a prima facie case by showing that the totality of the relevant facts gives rise to an inference of discriminatory purpose." *Johnson v. California*, 545 U.S. 162, 168 (2005) (quotation mark omitted). "Second, once the defendant has made out a prima facie case, the burden shifts to the State to explain adequately the racial exclusion by offering permissible race-neutral justifications for the strikes." *Id*. "Third, if a race-neutral explanation is tendered, the trial court must then decide whether the opponent of the strike has proved purposeful racial discrimination." *Id.*

¶21. In the trial below in this case, the first panel tendered to the State included 18 potential jurors. Of those 18 jurors, 8 were white and 10 were Black. The State kept all of the white jurors and struck 6 of the 10 Black jurors.

¶22. The defense interposed and stated "Your Honor, at this time we'd like to raise a *Batson* challenge. All the jurors that the State struck preemptively are African American females and one African American male."

¶23. The trial court did not follow the very first step of *Batson*—making a finding whether the defendant made a prima facie case. Nor did the trial court, had it found whether a prima facie case was made, proceed to step two—asking the State to explain if it had a race-neutral reason.

¶24. Instead, the trial court immediately broke the panel down into gender and race and then concluded simply "there was [no] *Batson* violation."

¶25. But that is not how the *Batson* procedure works. The trial court skipped to the last step without considering the first. Given that 60% of the Black panel members were struck and *none* of the white members were struck, the Defense met its "light burden" and sufficiently showed a prima facie case of discrimination in the State's use of strikes.

¶26. This misstep is heightened in this particular trial because the trial court required the Defense to offer race-neutral reasons when the State raised a *Batson* challenge to the Defense's strikes.

¶27. I agree with the majority that impermissibly restraining the Defense's use of a peremptory strike requires reversal. Even if that mistake had not occurred, we would have had to remand "for the limited purpose of allowing the trial court to conduct a hearing to separate and complete the second and third steps of the *Batson* analysis." *Miles v. State*, 346 So. 3d 840, 846 (¶15) (Miss. 2022).

WESTBROOKS AND McDONALD, JJ., JOIN THIS OPINION IN PART.