Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V JUAN CARLOS RODRIGUEZ

Docket No. 367868

LC No. 2022-000570-FC

Philip P. Mariani
Presiding Judge

Allie Greenleaf Maldonado

Adrienne N. Young
Judges

This Court's October 17, 2025 opinion and order, while retaining jurisdiction, remanded this case to the Kalamazoo Circuit Court for an evidentiary hearing on Juan Rodriguez's *Batson*[1] challenge.

On remand, the trial court reviewed the original voir dire transcript, the video recordings of the relevant portion of voir dire and the relevant bench conference, and heard testimony from trial defense counsel, as well as arguments from the appellate prosecutor and appellate defense counsel. The trial court determined that "the circumstances do not raise an inference that race played a role in the prosecutor's decision to exercise the peremptory challenge." The record from the hearing reflects that the audio-video evidence[2] was "more compelling" to the trial court and allowed the trial court to "hear[] the tone, the inflection, and even watch[]the juror walk up to the jury box." With that evidence, the trial court observed when the juror's responses were hesitant or wholly changed, such as when the juror denied any interaction with the police but then later indicated that he had indeed had previous police contact. It noted that "these were circumstances observable during voir dire and, on their face, were unrelated to Juror 11's race."

On appeal, Rodriguez does not argue that any of the facts found were clearly erroneous, but that by highlighting a juror's demeanor and particular responses, the trial court usurped the prosecutor's role as to the second step of *Batson* and thus committed legal error. It is true that demeanor can be the race neutral rationale offered in step two or three of a *Batson* process. See e.g., *People v Tennille*, 315 Mich App 51, 56; 888 NW2d 278 (2016). But that does not foreclose juror responses and demeanor considerations in the first step of the *Batson* inquiry. The *Batson* court itself contemplated a broad understanding of what circumstances were relevant at this early stage:

> In deciding whether the defendant has made the requisite showing, the trial court should consider all relevant circumstances. For example, a "pattern" of strikes against black jurors included in the particular venire might give rise to an inference of discrimination. Similarly, the prosecutor's questions and statements during voir dire examination and in exercising his challenges may support or refute an inference of discriminatory purpose. These examples are merely illustrative. We have confidence that trial judges, experienced in supervising voir dire, will be able to decide if the circumstances concerning the

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[1] *Batson v Kentucky*, 476 US 79; 106 S Ct 1712; 90 L Ed 2d 69 (1986).

[2] This audio-video evidence has not been provided to this Court.

> prosecutor's use of peremptory challenges creates a prima facie case of discrimination against black jurors.

Batson v Kentucky, 476 US 79, 96-97; 106 S Ct 1712, 1723; 90 L Ed 2d 69 (1986), holding mod by *Powers v Ohio*, 499 US 400; 111 S Ct 1364; 113 L Ed 2d 411 (1991).

In this case, the prosecutor's own questions and this particular juror's responses refuted an inference of discriminatory purpose. So did the general demeanor and behavioral cues[3] from this particular juror. In short, we observe no clear error in the trial court's fact-finding and no legal error in our *de novo* review. With all other issues having been addressed and resolved by this Court in its prior opinion, we affirm Rodriguez's convictions and sentences.

Presiding Judge

[3] Consideration of readily observable non-verbal cues is also contemplated in our case law, albeit outside the context of a *Batson* challenge: "The credibility of a witness is determined by more than words and includes tonal quality, volume, speech patterns, and demeanor, all giving clues to the factfinder regarding whether a witness is telling the truth." *HMM by next friend CM v JS*, ___ Mich App ___; ___ NW3d ___ (2024) (Docket No. 367586); slip op at 6 (quotation marks and citation omitted).

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

October 22, 2026
Date

Chief Clerk