IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA25-1015

Filed 4 November 2026

Mecklenburg County, Nos. 18CR225917-590, 19CR006744-590, 19CR006745-590

STATE OF NORTH CAROLINA

v.

DWAYNE EVANS

Appeal by defendant from judgment entered 21 May 2024 by Judge George C. Bell in Mecklenburg County Superior Court. Heard in the Court of Appeals 26 August 2026.

Attorney General Jeff Jackson, by Special Deputy Attorney General Caden William Hayes, for the State.

Law Office of Lisa Miles, by Lisa Miles, for the defendant-appellant.

TYSON, Judge.

Dwayne Evans ("Defendant") appeals from a jury's verdict of guilty of first-degree murder, concealment of death, conspiracy to conceal death, and possession of a firearm by a felon. We discern no error.

I. Background

Yolonda Gholston and Eric Spells dated and lived with Defendant in a house owned by Defendant's brother and located at 123 South Smallwood Place in Charlotte. Shavonn Scott, who was from Boston, Massachusetts, had met Defendant

online a week or two before the incident, and had come to visit Charlotte. Defendant and Spells were close friends, but they would allegedly "butt heads a lot." Jason Palmer would also visit the residence.

Scott called Gholston late evening on 24 June 2018, and said: "I need you to get home now. Eric [Spells] and [Defendant are] fighting and [Defendant] has a hammer in his hand." Gholston believed Scott "sounded anxious" on the phone, and she "dropped everything," left work, and began traveling toward the residence.

Scott observed and heard Defendant and Spells arguing in the living room about "everything," "every grievance that they had between each other." During the argument, Defendant brought a shotgun from his bedroom and "propped the gun . . . at the corner" of the hallway nearby the living room. Scott left the residence on foot and began walking down the street. While walking, Scott heard a single gunshot. Scott could not identify the direction from where the shot had been fired. Scott turned around and began walking back toward the residence.

Palmer testified Defendant and Spells were giving him a "hard time" about being fired from Salsarita's Fresh Mexican Grill. They were drinking and joking around, and Spells "got up. He was animated and he fell into the wall, made a hole in the wall." Spells apologized and Defendant replied, "he didn't give a da[ ] about that hole." Palmer testified Defendant and Spells began arguing. Defendant began punching holes in the wall with a hammer. Defendant then went and got the shotgun.

Palmer stated he got between Defendant and Spell to "de-escalate" the

situation. Palmer testified he heard a gunshot and "guess[ed]" Defendant fired the shot. Palmer later testified he saw Defendant pull the trigger and the shot impacted Spells in the face. Spells fell to the ground bleeding with a missing jaw. Palmer testified he "immediately [knew] that [Spells] was dead."

Scott arrived at the residence shortly afterwards and went into Defendant's bedroom with him. Scott left and went to a Wal-Mart store to purchase bleach or ammonia. Palmer and Defendant rolled Spells' body into the living room rug, moved him into Defendant's bedroom, and tried to mop up the floor.

After Gholston arrived back at the residence, and before she went inside, Palmer approached her and asked for a cigarette. Gholston though the question "was weird" because she does not "smoke tobacco" and Palmer had never asked her for anything before. Gholston asked both Defendant and Palmer where Spells was located. Both men told her Spells had gone for a walk.

Gholston went into her and Spells' bedroom and saw his cellphone "on the bed, and [stated] he never leaves his phone." Gholston also noticed "the carpet was gone and the furniture was moved."

Gholston got into her car and "drove around the neighborhood looking for Spells." Scott returned with the ammonia. Scott, Palmer, and Defendant began cleaning the house with the supplies Scott had purchased. The three disposed of Spells' avulsed teeth, bone fragments, and body parts. Defendant and Palmer loaded Spells' "body in [Palmer's] van." Palmer, Scott, and Defendant got into Palmer's van

and drove off with Defendant driving.

"When [Gholston] noticed that [Palmer's] van was gone, she went back in the house." Gholston noticed "[t]he furniture had been moved back, and it smelled like ammonia and bleach." She observed "a big hole in the wall" and "little splatters of blood on the floor and on the wall." Gholston spotted what she believed to be an area where "blood had been dragged" "all the wall up to the [neighbor's] carport." Gholston called the police and filed a missing person's report.

Officers responded and conducted an initial sweep of the residence. Charlotte-Mecklenburg Police Officer Robert Preston responded and "smell[ed] bleach inside the house" and noticed "holes in the drywall." Inside the trash cans outside the residence, officers identified "a[] suspected piece of jaw with teeth," "cleaning product," "several towels and wash cloths," "a suspected tooth," and a spent shotgun shell.

Defendant, Scott, and Palmer stopped at a gas station. Defendant filled "a little red canister" with gasoline. Defendant drove to a field, where Defendant and Palmer removed Spells' body wrapped inside the rug from the car and placed him onto the ground. Defendant poured the gasoline onto Spells' body and placed "two coins" on his body. Defendant then struck a match and set the rug and Spells' body ablaze. Defendant drove the group away.

Defendant drove to his "other girlfriend," Kristine Johnson's, house. Palmer testified he thought Defendant gave Johnson the shotgun. Johnson testified she

observed Defendant "was fidgeting" and "smelled like gasoline."

Defendant gave Johnson a bag of clothes to clean. A pair of pants inside the bag smelled of gasoline. Johnson washed them twice, but washing could not get the gasoline smell out of the pants. Johnson threw out the pants. Marcus Harris came to Johnson's house and Defendant gave him a bag. Harris testified he observed a "gun" located inside the bag.

Defendant then drove to another friend's, "Brandon's," home located in Greensboro. Defendant, Palmer, and Scott took showers at Brandon's house. Palmer drove to a carwash, cleaned out his van, and threw out all remaining remnants from the evening into a dumpster.

Palmer drove back to Brandon's house and picked up Defendant and Scott. Palmer drove to Carolina Mall in Concord, where they were arrested. Investigators noted a strong odor of gasoline, cleaning agents, and motor oil and observed a "suspected charred piece of suspected blood clumped together" inside Palmer's van.

Police found Spells' body on 27 July 2018. Spells was "lying on his back, . . . parallel to the roadway." The medical examiner observed many "birdshot pellets" on the x-ray and concluded Spells had been shot at close range by the shotgun. The medical examiner also identified two coins with Spells' body.

Defendant was convicted of first-degree murder, concealment of death, conspiracy to commit concealment of death, and possession of a firearm by a felon on 21 May 2024. The trial court consolidated all charges under the first-degree murder

conviction and sentenced Defendant to life in prison without the possibility of parole. Defendant appeals.

II. Jurisdiction

Jurisdiction lies in this Court pursuant to N.C. Gen. Stat. §§ 7A-27(b) and 15A-1444(a) (2025).

III. Issues

Defendant argues the trial court erred in allowing racially-discriminatory preemptory strikes of jurors; and by preventing him from cross-examining two witnesses about the exact dates they were indicted.

IV. Peremptory Strikes

Defendant argues the trial court committed clear and prejudicial error by denying Defendant's *Batson* motion challenging peremptory strikes used against prospective jurors Nelson and Campbell. *Batson v. Kentucky*, 476 U.S. 79, 90 L. Ed. 2d 69 (1986).

A. Standard of Review

The standard of review for a trial court's ruling pursuant to *Batson v. Kentucky* is "highly deferential," and "a trial court's ruling on the issue of discriminatory intent must be sustained unless it is clearly erroneous." *Id.; Snyder v. Louisiana*, 552 U.S. 472, 477-79, 170 L. Ed. 2d 175, 181-82 (2008). This highly deferential standard requires an appellate court to "consider whether the trial court's ruling regarding [a] defendant's *Batson* challenge was clearly erroneous." *State v. Clegg*, 380 N.C. 127,

140, 867 S.E.2d 885, 897 (2022).

"Such clear error is deemed to exist when, on the entire evidence[,] the Court is left with the definite and firm conviction that a mistake has been committed." *Id.* at 141, 867 S.E.2d at 897 (internal quotation marks and citation omitted). A mistake cannot conclusively have been committed where "[t]wo permissible views of the evidence" exists. *State v. Lawrence*, 352 N.C. 1, 14, 530 S.E.2d 807, 816 (2000).

B. Analysis

The Supreme Court of the United States stated *Batson v. Kentucky's* analysis "provides a three-step process for a trial court to use in adjudicating a claim that a peremptory challenge was based on race[.]" *Snyder*, 552 U.S. at 476, 170 L. Ed. 2d at 180; *Batson,* 476 U.S. 79, 90 L. Ed. 2d 69.

> "First, a defendant must make a *prima facie* showing that a peremptory challenge has been exercised on the basis of race[; s]econd, if that showing has been made, the prosecution must offer a race-neutral basis for striking the juror in question[; and t]hird, in light of the parties' submissions, the trial court must determine whether the defendant has shown purposeful discrimination."

Id. at 476-77, 170 L. Ed. 2d at 180-81 (citation and internal quotation marks omitted).

The trial court found Defendant had failed to make a sufficient *prima facie* case to raise a *Batson* challenge. *Id.* The first step of the *Batson* analysis "'is not intended to be a high hurdle for defendants to cross. Rather, the showing need only be sufficient to shift the burden to the State to articulate race-neutral reasons for its peremptory challenge.'" *State v. Barden*, 356 N.C. 316, 345, 572 S.E.2d 108, 128

(2002), *cert. denied,* 538 U.S. 1040, 155 L. Ed. 2d 1074, 123 S. Ct. 2087 (2003) (quoting *State v. Hoffman,* 348 N.C. 548, 553, 500 S.E.2d 718, 722 (1998)).

In analyzing a *Batson* challenge raised during a jury selection process, an appellate court looks to the following non-exclusive factors:

> (1) the characteristic in question of the defendant, the victim and any key witnesses;
>
> (2) questions and comments made by the prosecutor during jury selection, which tend to support or contradict an inference of discrimination based upon the characteristic in question;
>
> (3) the frequent exercise of peremptory challenges to prospective jurors with the characteristic in question that tends to establish a pattern, or the use of a disproportionate number of peremptory challenges against venire members with the characteristic in question;
>
> (4) whether the State exercised all of its peremptory challenges; and,
>
> (5) the ultimate makeup of the jury in light of the characteristic in question.

State v. Wiggins, 159 N.C. App. 252, 263, 584 S.E.2d 303, 312 (2003) (citations omitted).

In *State v. Ross,* the prosecutor exercised his sole peremptory challenge against a black juror before the trial court. 338 N.C. 280, 284, 449 S.E.2d 556, 560 (1994). The Supreme Court of North Carolina rejected the defendant's argument he had established a *prima facie* case of purposeful racial discrimination where the prosecutor exercises a peremptory challenge solely against a black juror. *Id.* at 286,

449 S.E.2d at 561. The Court reaffirmed its holding in *Ross* in *State v. Quick*, where the prosecutor had used their only two peremptory challenges on black members of the venire. 341 N.C. 141, 145-46, 462 S.E.2d 186, 189 (1995)

No statements or questions by the prosecutor are in the record which give rise to any inference of racial discrimination. The only peremptory challenges were to potential jurors Nelson, who self-identified as mixed race; and Campbell, who self-identified as black. The prosecutor told the entire venire that racism should not infect the jury box. The prosecutor accepted 80% of eligible black jurors. Unlike in *Quick* and *Ross*, where the defendant was black and the victim was white, Defendant is black and the victim was black. The key witnesses, Palmer and Scott are both black. No factors in the record support any inference of racial discrimination.

Defendant's bare allegation of racial discrimination, based solely on the prosecutor's use of peremptory challenges against one black juror and one mixed race juror, does not establish a *prima facie* case of purposeful racial discrimination. The trial court correctly concluded Defendant had failed to establish a *prima facie* case. Defendant's argument is overruled.

V. Timing of Charges Against Co-Defendants

Defendant argues the trial court erred in prohibiting him from eliciting testimony from co-defendants Palmer and Scott about the timing of indictments of more serious charges. The State argues Defendant failed to preserve this issue for appellate review by failing to elicit the contested testimony in the presence of the jury

or to make a proffer of the testimony the witnesses would have given about the timing of the more serious charges.

Before Palmer and Scott were called to testify, the State raised an objection to Defendant cross-examining them about when the additional charges were brought. After a long colloquy, the trial court ultimately ruled the timing was not relevant. The trial court also noted a "caveat":

> if one of the witnesses brings it up for another unrelated purpose. And then we'll have to hit the timeout button and see what that's all about. But just as of now, based on the forecast of the evidence as brought forth by both parties, the Court is agreeable to cross-examination as to what the defendant -- what the codefendants were charged with at the time, when they made their initial interviews and now what they're indicted with or facing now that they're in court.

The trial court had made a preliminary ruling before the witnesses testified, the trial court also noted that its ruling was "just as of now, based on the forecast of the evidence as brought forth by both parties" and it may reconsider the ruling based upon the testimony actually presented. Defendant did not attempt to cross-examine the witnesses regarding the timing of their charges and did not ask the trial court to be allowed to make a proffer of the testimony they would have given about the timing.

In *State v. Cabe*, the defendant argued the trial court erred by "excluding evidence elicited from the testifying detective on cross-examination that defendant had volunteered to take a polygraph test. The State's objection was sustained, and defendant made no offer of proof." *State v. Cabe*, 136 N.C. App. 510, 514, 524 S.E.2d

828, 831 (2000). This Court held the defendant had waived review by his failure to make a record of what the testimony would have been and by his failure to argue plain error on appeal. This Court further held an "exception to the exclusion of evidence cannot be sustained where the record fails to show what the witness's testimony would have been had he been permitted to testify." *Id.* (citations omitted).

Here, as in *Cabe*, Defendant did not attempt to elicit this testimony from either Palmer or Scott. Defendant has not preserved this issue for appellate review. Defendant has not asked this Court to conduct plain error review of this issue or asserted any merits or prejudice. Defendant's argument is dismissed.

VI. Conclusion

The prosecutor's use of peremptory challenges does not establish a *prima facie* case of purposeful racial discrimination. The trial court correctly concluded Defendant had failed to establish a *prima facie* argument under the *Batson* factors. *Batson,* 476 U.S. at 95, 90 L. Ed. 2d at 87. Defendant failed to preserve the excluded testimony and the issue of the trial court's limitation on cross examination of Palmer and Scott, or to argue for plain error review.

Defendant received a fair trial, free from prejudicial errors he preserved and argued. We discern no error in the jury's verdicts or in the judgments entered thereon. *It is so ordered.*

NO ERROR.

Judges STROUD and MURRY concur.