**OPINION SUMMARY**

**MISSOURI COURT OF APPEALS EASTERN DISTRICT**

**DIVISION FIVE**

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|---|---|---|
| STATE OF MISSOURI, | ) | No. ED89968 |
| | ) | |
| Respondent, | ) | |
| | ) | Appeal from the Circuit Court of |
| vs. | ) | the City of St. Louis |
| | ) | |
| TYRONE C. BATEMAN, | ) | Honorable Joan L. Moriarty |
| | ) | |
| Appellant. | ) | FILED: February 24, 2009 |

**OPINION SUMMARY**

Tyrone Bateman (hereinafter, "Bateman") appeals from the trial court's judgment convicting him of murder in the first degree, Section 565.020 RSMo (2000), and armed criminal action, Section 571.015 RSMo (2000). Bateman raises two points on appeal. First, Bateman challenges the sufficiency of the evidence to support the murder conviction in that he claims the State failed to prove beyond a reasonable doubt that he coolly reflected prior to shooting the victim. Second, Bateman argues the trial court erred in overruling his objection to the State's peremptory strike of an African-American venireperson in violation of Batson v. Kentucky, 476 U.S. 86 (1987).

REVERSED AND REMANDED FOR A NEW TRIAL.

Division V Holds: While the State presented sufficient evidence to sustain Bateman's first degree murder conviction in that he coolly reflected prior to shooting the victim, we must reverse and remand the cause for a new trial because the trial court clearly erred when it improperly analyzed Bateman's Batson challenge and wrongfully relied upon the State's mischaracterizations of the venireperson's comments. We find the State's facially race-neutral explanation was pretextual and racially motivated, and thus, in violation of Batson.

Opinion by: George W. Draper III, J. Nannette A. Baker, C.J., concurring
Kenneth M. Romines, J., dissents

Attorneys for Appellants: Jessica Hathaway

Attorney for Respondents: Shaun J. Mackelprang

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