

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

STATE OF MISSOURI, RESPONDENT,

v.

ALAN R. CLARK, APPELLANT.

DOCKET NUMBER WD68543

DATE: December 16, 2008

Appeal From:

CLAY COUNTY CIRCUIT COURT

THE HONORABLE MICHAEL J. MALONEY, JUDGE

Appellate Judges:

Division Two: Joseph P. Dandurand, P.J., Harold Lowenstein and James Smart, JJ.

Attorneys:

Kent Denzel, Esq., Columbia, MO, **for appellant.**

Jeremiah W. Nixon, Esq. and Daniel N. McPherson, Esq., Jefferson City, MO, **for respondent.**

MISSOURI APPELLATE COURT OPINION SUMMARY
COURT OF APPEALS – WESTERN DISTRICT

STATE OF MISSOURI,

RESPONDENT,

V.

ALAN R. CLARK,

APPELLANT.

WD68543

Clay County

Before Division Two Judges: Joseph P. Dandurand, P.J., Harold Lowenstein and James Smart, JJ.

Alan R. Clark appeals his convictions and sentences for murder in the first degree, unlawful use of a weapon, and two counts of armed criminal action. Clark claims that: (1) the trial court erred in overruling his **Batson** objection to the State's peremptory strike to remove a venireperson from the jury, asserting that the strike was racially discriminatory, and (2) the trial court abused its discretion in admitting a surveillance videotape, claiming that the video was not relevant evidence and served only to prejudicially inflame the jurors. The points are denied, and the judgments of conviction are affirmed.

AFFIRMED.

Division Two holds:

- (1) Where, in response to a timely **Batson** challenge, the prosecutor provided three race-neutral reasons for the peremptory strike of a venireperson – namely, (1) that she was morally opposed to gambling, and some events in the case took place at the Argosy Casino; (2) that her brother had been charged with a criminal offense, and (3) that she had experience with the law – as the opponent of the strike, Clark did not meet his burden of proving purposeful discrimination. This court declined to consider arguments about pretextual strikes which were raised for the first time on appeal.
- (2) Where a surveillance video was logically relevant for the purpose of showing the condition and location of the victim's body at the time of arrival at the casino, and the video was legally relevant because its probative value was not outweighed by its prejudicial effect on the jury, the trial court did not abuse its discretion in admitting the video.

Opinion by: Joseph P. Dandurand, Judge

December 16, 2008

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