In the Missouri Court of Appeals
Eastern District

DIVISION FIVE

STATE OF MISSOURI, Respondent, v. JKAI S. MABIN, Appellant.	)))))))))	ED113014 Filed: May 19, 2026

Appeal from the Circuit Court of the City of St. Louis
The Honorable Theresa C. Burke, Judge

Introduction

Following a jury trial, the circuit court convicted Jkai S. Mabin of one count of first-degree assault and one count of armed criminal action. The circuit court sentenced Mabin to thirteen years' imprisonment.

Mabin appeals, arguing that the circuit court erred by denying his *Batson*[1] challenge and abusing its discretion by overruling his objection to the testimony of uncharged conduct. He also claims that the circuit court plainly erred by sentencing without a jury. The circuit court's judgment is affirmed.

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[1] *Batson v. Kentucky*, 476 U.S. 79, 106 S. Ct. 1712 (1986).

Factual and Procedural Background

In June 2022, Victim met Rayna Gholston on a dating app and agreed to meet in person. On their first date, they were outside of Victim's apartment when two armed men approached them and told Victim not to run. When Victim ignored the instructions and ran, the armed men shot at him. Victim escaped unharmed.

Less than a week later, an officer responded to a call about shots fired. Upon arrival, the officer saw what he considered a suspicious vehicle. The officer then saw Gholston and Sylvester Murry hiding in the front seats. A search of the vehicle revealed two semi-automatic guns. The officer arrested Gholston and Murry as Mabin walked out of a nearby apartment building. Mabin approached the officer and asked what his brother was being charged with. As Mabin advanced towards the officer, he was arrested.

Officers interviewed Gholston, who stated that she, Mabin, and Murry conspired to rob Victim. She also stated that Mabin shot at Victim during the attempted robbery.

During jury selection, Mabin challenged the State's strike of Juror 22 under *Batson*. After the State provided its reasons for the strike and Mabin argued that the proffered reasons were pretextual, the circuit court denied Mabin's challenge.

At trial, Gholston testified that on the day of their arrest Mabin became angry that the mother of his child would not let him into her apartment. Mabin objected and asked for a continuing objection. The circuit court overruled Mabin's objection. The jury found Mabin guilty, and the circuit court entered judgment, sentencing Mabin to thirteen years' imprisonment. Mabin appeals.

Batson Challenge

Mabin claims the circuit court clearly erred by denying his *Batson* challenge to the State's preemptory strike of Juror 22. Mabin argues this violated his rights to due process and a fair trial because the State's reasons to strike Juror 22 were pretextual.

Standard of review

In reviewing a circuit court's findings on a *Batson* challenge, this Court reviews the circuit court's findings for clear error. *State v. Meeks*, 495 S.W.3d 168, 172 (Mo. banc 2016). Findings are clearly erroneous if "the reviewing court is left with the definite and firm conviction that a mistake has been made." *Id*. (quoting *State v. Bateman*, 318 S.W.3d 681, 687 (Mo. banc 2010)). A circuit "court's decision will only be overturned if it is clearly erroneous and the reviewing court is left with a definite and firm conviction that the [circuit] court made a mistake." *State v. Carter*, 415 S.W.3d 685, 689 (Mo. banc 2013).

"The Equal Protection Clause prohibits parties from using a peremptory challenge to strike a potential juror based on race." *Meeks*, 495 S.W.3d at 172. A *Batson* challenge is resolved by a three-step process:

> First, a defendant must challenge one or more specific venirepersons struck by the State and identify the cognizable racial group to which they belong. Second, the State must provide a race-neutral reason that is more than an unsubstantiated denial of discriminatory purpose. Third, the defense must show that the State's explanation was pretextual and the true reason for the strike was racial.

State v. McFadden, 369 S.W.3d 727, 739 (Mo. banc 2012) (quoting *State v. McFadden*, 191 S.W.3d 648, 651 (Mo. banc 2006)).

The State's reasons for a strike are presumed race-neutral absent a showing of discriminatory intent. *State v. Gholson*, 700 S.W. 3d 613, 623 (Mo. App. 2024); *State v. Parker*, 836 S.W.2d 930, 934 (Mo. banc 1992). The existence of pretext is determined by a non-exclusive list of factors, including: "the explanation in light of the circumstances; similarly situated jurors not struck; the relevance between the explanation and the case; the demeanor of the State and excluded venire members; the court's prior experiences with the prosecutor's office; and objective measures relating to motive." *McFadden*, 369 S.W.3d at 739 (quoting *State v. Johnson*, 284 S.W. 561, 571 (Mo. banc 2009)). "The chief concern is whether the explanation is plausible in light of the totality of the facts and circumstances of the given case." *Carter*, 415 S.W.3d at 689.

Analysis

During jury selection, Mabin invoked a *Batson* challenge to the State's strike of Juror 22, asserting that strike was racially motivated. In response, the State said that it struck Juror 22 because she served on three criminal jury trials and was a human resource professional. The State further clarified that it was concerned individuals employed in human resources may be more "liberally inclined" and tend to follow their own set of rules that are incompatible with the criminal justice system. The State noted that it also struck the other human resource professional on the panel, Juror 38, who was a white woman. "Employment is a valid race-neutral basis for striking a prospective juror." *State v. Johnson*, 207 S.W.3d 24, 37 (Mo. banc 2006) (quoting *State v. Williams*, 97 S.W.3d 462, 472 (Mo. banc 2003)).

Mabin argued that the State's reasons were pretextual because: (1) Juror 22 only served on two criminal juries, not three, and the State did not strike another white venireperson with two criminal trials, and (2) the State had other reasons to strike the similarly situated white juror beyond simply her human resources experience. Mabin raises these same two arguments on appeal. However, neither argument demonstrates that the circuit court clearly erred in permitting the State's strike of Juror 22.

First, while Mabin is correct that Juror 22 did not serve on three criminal trials, she did serve on three total trials, two were criminal and one was civil. But a factual inaccuracy in the State's reason for the strike is not dispositive of pretext. *State v. Johnson*, 220 S.W.3d 377, 382 (Mo. App. 2007). Because the inquiry is whether the State's strike amounts to purposeful discrimination, a misstatement of fact alone does not render the strike discriminatory. *State v. Crawford*, 521 S.W.3d 669, 672 (Mo. App. 2017). Moreover, the State clearly considered service on multiple juries as a potential concern, and Juror 22 served on more juries than the white venireperson that Mabin identified. Contrary to Mabin's assertion, these jurors were not similarly situated. Furthermore, the State did not strike Juror 22 solely based on her jury service, it was her jury experience coupled with her being a human resource professional.

Second, Mabin questions the State's claim that it struck Juror 22 because she works in human resources. As part of its argument in support of this strike, the State noted that it also struck Juror 38, who was white and worked in human resources. Mabin argues that the strike is pretextual because the State did not question her about her employment and Juror 38 stated she may remain skeptical about testimony from another

prisoner because they could be getting "a sweet deal" for the testimony. Mabin believed that Juror 38's skepticism offered the State a more persuasive justification to strike Juror 38. Merely identifying additional reasons that the State may have wanted to strike a similarly situated juror, however, does not necessarily show that the State's given reason was pretextual. The circuit court had the opportunity to watch *voir dire*, observe the attorneys making their arguments, and was in a better position to determine the sincerity of the State's given reason.

Next, Mabin argues that the State may not overcome a *Batson* challenge by simply identifying the challenged juror's occupation. *McFadden*, 191 S.W.3d at 653. However, the State did not merely strike the venireperson on the basis of her employment title. The State articulated specific reasons it considered why human resource professionals made for bad jurors. The State also noted that those opinions had been formulated through the prosecutor's own experience. Additionally, the State demonstrated that it struck Juror 38, another juror employed as a human resource professional. Mabin failed to demonstrate the existence of similarly situated jurors who were not struck, which could indicate the State's strike was not race-neutral. *State v. Powell*, 707 S.W.3d 822, 827 (Mo. App. 2025).

Because Mabin failed to prove that the State's reasons for the strike were pretextual, the circuit court did not clearly error in overruling Mabin's *Batson* challenge.

Evidence of uncharged conduct

Next, Mabin claims that the circuit court abused its discretion by allowing Gholston to testify about uncharged conduct because it was irrelevant and highly

prejudicial. He asserts that the result of the trial would have been different but for the circuit court's alleged error.

Standard of Review

A circuit court has broad discretion to admit or exclude evidence at trial. *State v. Hunt*, 451 S.W.3d 251, 263 (Mo. banc 2014). This Court reviews the circuit court's admission of evidence for abuse of discretion. *State v. Primm*, 347 S.W.3d 66, 70 (Mo. banc 2011). Under this standard, the circuit court's decision is entitled to great deference and will not be disturbed unless it is clearly against the logic of the circumstances. *Id.*

Analysis

Gholston testified that on the night Mabin and Murry were taken into custody, she was with the two defendants outside Mabin's daughter's home. Mabin and his child's mother were talking. When Mabin was denied entry into the home, he became angry and fired his gun into the air. Mabin objected to this testimony, claiming it was evidence of an uncharged bad act and was irrelevant to the case at issue.

"Generally, evidence of prior bad acts is inadmissible to show the propensity of the defendant to commit the crime for which he is charged." *State v. Winfrey*, 337 S.W.3d 1, 11 (Mo. banc 2011). However, evidence of bad conduct is admissible "to establish motive, intent, the absence of mistake or accident, a common scheme or plan, or the identity of the alleged perpetrator." *Id.* (quoting *State v. Davis*, 211 S.W.3d 86, 88 (Mo. banc 2006)). The evidence must be logically relevant and legally relevant, meaning that its probative value outweighed its prejudicial effect. *Id*.

Even assuming it were error to admit the evidence, Mabin fails to demonstrate prejudice warranting reversal. This Court considers several factors when determining whether a reference to an uncharged bad act is prejudicial, "including 'whether the State prompted or emphasized the reference, whether the reference was fleeting and isolated, whether specific offenses were mentioned, whether an objection was made and sustained, and whether the reference played a decisive role in the verdict given the context of the State's case against the defendant.'" *State v. Greer*, 679 S.W.3d 531, 537 (Mo. App. 2023) (quoting *State v. Stafford*, 589 S.W.3d 705, 712 (Mo. App. 2019)). The reference to the shooting during direct examination was brief, and was not repeated or highlighted during closing argument. Viewed in the full context of the State's case, Mabin fails to demonstrate this evidence played a decisive role in the jury's verdict.

The circuit court did not abuse its discretion by allowing Gholston to testify to the incident with Mabin and the mother of his child.

Waiver of Jury Sentencing

Mabin claims that the circuit court erred by removing his statutory right to a jury recommended sentence because the State failed to prove he was a prior offender beyond a reasonable doubt under 558.016 RSMo Supp. 2024 and because he did not otherwise waive jury sentencing. Mabin concedes that this point was not properly preserved for appellate review and requests plain error review.

This Court agrees that there was no proof of a qualifying prior felony. No evidence was ever presented on this issue and the only felony conviction identified in the record was entered after the date of the commission of the assault at issue. Section

558.016.6 requires the conviction to precede the present offense. But this Court declines plain error review because Mabin waived his right to jury sentencing.

Standard of Review

Rule 30.20 permits appellate courts to exercise its discretionary authority to review unpreserved claims of error in a criminal proceeding. "Because a circuit court cannot be faulted for acting in a manner consistent with the behest of a party claiming error, appellate courts generally do no not review unpreserved claims of error." *State v. Jones*, 725 S.W.3d 577, 582 (Mo. banc 2025). An appellate court may review unpreserved claims of error regarding "the sufficiency of the information or indictment, verdict, judgment, or sentence." Rule 30.20. "Plain errors affecting substantial rights may be considered in the discretion of the court when the court finds that manifest injustice or miscarriage of justice has resulted therefrom." *Id.* Plain errors are those that are evident, obvious, and clear. *Jones*, 725 S.W.3d at 583.

Analysis

Jury sentencing is a statutory right, rather than a constitutional right. *State v. Emery*, 95 S.W.3d 98, 102 (Mo. banc 2003). But the right to a jury recommended sentence is not absolute. This right may be forfeited by an individual's prior or persistent status pursuant to section 558.016. It may also be waived by the defendant's own conduct. *Emery*, 95 S.W.3d at 102. An individual waives his statutory right by deciding to sit idle to the circuit court's error. *Id.* at 103.

Mabin asserts he did not waive jury sentencing because defense counsel stated in a pre-trial conference it was his "general rule" not to waive jury sentence. In the same

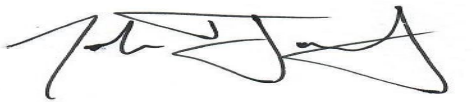
discussion, defense counsel also responded affirmatively when the circuit court asked whether Mabin had "priors." Defense counsel also stated his belief that Mabin's conviction would constitute a prior offense under 558.016 if the State presented evidence of it. The circuit court then stated that it would hold a hearing for the State to prove the priors on the morning of the trial. When that morning came, however, Mabin remained silent about the issue. Following his conviction, Mabin did not object to the circuit court dismissing the jury before conducting the sentencing stage of trial. Then, on the date of his sentencing, Mabin did not object to being sentenced by the circuit court without a jury.

Despite multiple opportunities to object or demand the prosecutor prove his prior conviction, Mabin did nothing to preserve his right to jury sentencing. Had he done so, the State would have been alerted to the issue and could have presented evidence of any prior convictions. Moreover, the circuit court would have known that Mabin had not waived his right under section 558.016.

Given defense counsel's seeming ambivalence toward the availability of jury sentencing, this Court sees no evident, obvious, and clear error in the circuit court sentencing Mabin without a jury.

Conclusion

The judgment is affirmed.



John P. Torbitzky, Chief Judge

Rebeca Navarro-McKelvey, Judge and
Denise Childress, Special Judge concur.