Circuit Court for Harford County
Case No. C-12-CR-19-001323

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 643

September Term, 2022

SHERON TASHAWN GARRETT

v.

STATE OF MARYLAND

Berger,
Arthur,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: April 4, 2023

*At the November 8, 2022, general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

Sheron Tashawn Garrett, appellant, appeals his convictions for first-degree murder, conspiracy to commit first-degree murder, and possession of a regulated firearm by a prohibited person. He raises a single issue on appeal: whether the circuit court erred in overruling his *Batson* challenge.[1] For the reasons that follow, we affirm.

During *voir dire*, appellant raised a *Batson* challenge based on the State having used two of its peremptory strikes against African-American jurors, Juror No. 41 and Juror No. 61. The trial court ruled that appellant had made a *prima facie* showing that the State's strikes had been based on race, and required the State to offer a race-neutral basis for striking those jurors. After hearing the State's stated reasons, the court found that it was "satisfied that the State has struck juror 41 for a non-discriminatory reason" but that it was "not persuaded on juror 61." The court therefore ordered juror 61 be "put [ ] back on the panel." Shortly after this exchange, and after the selection of all of the jurors other than the alternates, the court asked both attorneys if they accepted the empaneled jury. The prosecutor and defense counsel both affirmatively stated that the jury was acceptable. Defense counsel made no further objections during or following selection of the alternate jurors and accepted each alternative individually.

"Generally, a party waives his or her voir dire objection going to the inclusion or exclusion of a prospective juror (or jurors) . . . if the objecting party accepts unqualifiedly the jury panel (thus seated) as satisfactory at the conclusion of the jury-selection process." *State v. Stringfellow*, 425 Md. 461, 469 (2012). In contrast to objections

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

challenging specific *voir dire* questions and other matters incidental to jury selection, "[o]bjections related to the inclusion/exclusion of prospective jurors are treated differently for preservation purposes because accepting the empaneled jury, without qualification or reservation, 'is directly inconsistent with [the] earlier complaint [about the jury],' which 'the party is clearly waiving or abandoning.'" *Id*. at 470 (quoting *Gilchrist v. State*, 340 Md. 606, 618 (1995)).

We hold that appellant affirmatively abandoned his complaint about the State's use of its peremptory challenges by accepting the empaneled jury after the court denied his *Batson* challenge. *Compare Gantt v. State*, 241 Md. App. 276, 302-07 (2019) (holding that a defendant's acceptance of an empaneled jury waived prior *Batson* objection), *with Mills v. State*, 239 Md. App. 258, 271 n.4 (2018) (holding that accepting a jury "pursuant to my motions" preserved a *Batson* challenge for appellate review). Consequently, we shall affirm the judgments of the circuit court.

JUDGMENTS OF THE CIRCUIT COURT FOR HARFORD COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.