Circuit Court for Baltimore City
Case No.: 121054032

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1225

September Term, 2022

PERRY FORD

v.

STATE OF MARYLAND

Graeff,
Beachley,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 28, 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.

**This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Following a jury trial in the Circuit Court for Baltimore City, Perry Ford, appellant was convicted of second-degree assault. During jury selection, Ford made a *Batson*[1] challenge, which the trial court overruled. Then, during Ford's cross-examination, the court sustained the State's asked-and-answered objection, preventing Ford from asking further questions about the father of the victim's child. On appeal, Ford challenges both of these rulings. For the following reasons, we shall affirm.

Ford first contends the trial court erred in overruling his *Batson* challenge. During jury selection, the State used its first three peremptory challenges to strike Black men. This prompted a *Batson* challenge from Ford. The trial judge was then required to follow a three-step process: First, "[t]he burden is initially upon the defendant to make a *prima facie* showing of purposeful discrimination." *Whittlesey v. State*, 340 Md. 30, 46 (1995). Second, "[i]f the requisite showing has been made, the burden shifts to the State to come forward with a neutral explanation for challenging [B]lack jurors." *Id.* at 46-47 (cleaned up). This a low bar, as "[a]ny reason offered will be deemed race-neutral unless a discriminatory intent is inherent in the explanation." *Edmonds v. State*, 372 Md. 314, 330 (2002). Finally, if the State offers a race-neutral explanation, the defense "must demonstrate that the offered explanation merely is a pretext for a discriminatory intent or purpose." *Id.* The trial court must then "determine whether the defendant has carried his burden of proving purposeful discrimination." *Whittlesey*, 340 Md. at 47 (cleaned up).

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

Here, Ford asserts that the court failed to perform the third necessary step when it denied his motion because it did not determine whether it found the State's reason's persuasive. We first note that, after the State offered its race-neutral explanations, the trial court asked if Ford had "[a]ny argument[,]" in response. Ford responded, "Nope." The court then denied Ford's *Batson* challenge, stating that it found "that the State[had] proffered *sufficient* race neutral reasons." (Emphasis added.) Even assuming Ford did not waive his claim, we do not find any error. Although it may have been preferable for the trial court to state more explicitly that it was persuaded by the State's explanations, there are no "magic words" required. *See id.* at 48. We understand the trial court's use of the term "sufficient" to mean that it was persuaded by the State's race-neutral explanations, and "we presume that the trial judge properly applied the law." *Id*. It therefore did not err in denying Ford's *Batson* challenge.

Ford next contends that the trial court erred in limiting his cross-examination of the victim about whether she was "seeing another man," who "thought that he was the father of" the victim's "unborn child." "[A] witness may be cross-examined on such matters and facts as are likely to affect [their] credibility, test [their] memory or knowledge, show [their] relation to the parties or cause, [their] bias, or the like." *Lyba v. State*, 321 Md. 564, 569 (1991). But "the scope of an inquiry on cross-examination is subject to the trial judge's sound discretion." *Robinson v. State*, 298 Md. 193, 201 (1983). We thus review a trial court's decision to limit the scope of that inquiry for an abuse of discretion. *Thomas v. State*, 422 Md. 67, 73 (2011).

Here, the State objected after Ford asked if the victim's "unborn child" was possibly not Ford's. When asked for a proffer as to what else he intended to ask the witness, Ford indicated he wanted to ask whether the victim's relationship with another man "was more than just she [confided] in him." Assuming this was sufficient to preserve the objection, *see Mack v. State*, 300 Md. 583, 603 (1984), we are not persuaded the trial court abused its discretion in ending this inquiry. The witness had already testified, twice, that the baby was Ford's. She testified, three times, that she never told Ford that the baby was anyone else's. And she testified, repeatedly, that this other man was merely a former colleague, who she never dated, and a friend who was "more like a brother to [her] than anything[.]" Because it had already allowed several questions concerning who the father of the victim's child was and about the victim's relationship with another man, the trial court did not abuse its discretion in preventing further questions about the same subject.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.