Circuit Court for Baltimore City
Case No. 121194004

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 903

September Term, 2023

BRANDON BESHORE
v.

STATE OF MARYLAND

Zic,
Kehoe, S.,
Getty, Joseph M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kehoe, J.

Filed: September 20, 2024

A jury in Baltimore City convicted the Appellant, Brandon Beshore, of murder in the second degree and carrying a dangerous weapon with the intent or purpose of injuring an individual in an unlawful manner. The court sentenced Mr. Beshore to three years for carrying of a dangerous weapon and a consecutive thirty-year sentence for second degree murder. Mr. Beshore argues that the prosecution improperly used its peremptory strikes to create a racially biased jury and that the sentence for carrying a dangerous weapon should merge with the murder conviction under the rule of lenity. For reasons that we will outline, we affirm the judgment of the circuit court.

I. Factual background

We will set forth such facts as are necessary to address the issues raised by this Appeal.

A. The Incident

In the early morning of June 21, 2021, Mr. Beshore, who had been up all night, feeling ill from withdrawal, decided to take a bus into Baltimore City so that he could purchase some heroin. A recent acquaintance told Mr. Beshore that he could purchase good heroin for a low price in the area surrounding the intersection of Pennsylvania Avenue and North Avenue. After he arrived in the vicinity of Pennsylvania Avenue and North Avenue, he purchased four capsules of heroin on Baker Street near a playground. After he purchased the heroin, he boarded a bus to return home. During this bus ride, he sniffed a sufficient quantity of the heroin that he had purchased to become high.

Having missed his stop, he got off the bus near North Avenue and Belair Road, retrieved his mountain bike from the rack on the front of the bus and began to ride it. He asked a stranger, Daurell Hudson[1] ("Mr. Hudson"), for directions. Mr. Hudson asked Mr. Beshore if he liked to get high. They agreed to go to an area where Mr. Hudson could sell Mr. Beshore heroin.

They went into an alley near Pennsylvania Avenue and North Street. Mr. Beshore placed his mountain bike against a wall and reached for his wallet. Mr. Hudson put Mr. Beshore in a head lock by wrapping his arms around Mr. Beshore's neck. Mr. Beshore kept pulling forward to break the head lock when he discerned that Mr. Hudson was reaching for something. Mr. Beshore felt a sharp pain in his leg and fell forward with his hands on the ground. As they struggled, a knife fell to the ground. Both Mr. Beshore and Mr. Hudson tried to grab the knife. Mr. Beshore believed that Mr. Hudson was stabbed as they were struggling. Mr. Beshore saw Mr. Hudson fall. At the time that Mr. Hudson fell, Mr. Beshore had the knife.

At approximately 8:00 a.m., two witnesses, Andre Jones and Korey Farrar were riding in Mr. Jones' vehicle on their way home from work. They both noticed two men fighting in an alley. Mr. Jones noticed that Mr. Hudson, a Black man, had Mr. Beshore, a Caucasian man, in a choke hold and was attempting to go through his pockets. Mr. Farrar saw that Mr. Beshore got the knife from Mr. Hudson. They both observed Mr. Beshore

[1] The Indictment and Verdict Sheet indicate the victim's name is "Daurell Hudson". The transcript spells his name as "Darrell Hudson".

chasing Mr. Hudson out of the alley. They both could see Mr. Beshore poking Mr. Hudson with the knife as he fled out of the alley. Mr. Jones and Mr. Farrar got out of the vehicle to see what was happening. By the time that they got to the scene Mr. Hudson was on the ground, and there was blood everywhere.

After Mr. Hudson fell to the ground, Mr. Beshore noticed several people crowding around him. He was unfamiliar with the area and unsure as to whether the people who had come there would harm him. He put the knife in his pocket. He gathered his belongings, which had been scattered on the ground, and put them in a bag.

Mr. Beshore asked Mr. Jones and Mr. Farrar if they had seen that the Black man had been trying to rob him. Mr. Jones told Mr. Beshore that he saw that the Black man had been trying to rob him. Mr. Jones also perspicaciously told Mr. Beshore that, at the moment he started to chase the Black man out of the alley, he would be charged with murder. Mr. Beshore appeared to be stunned by Mr. Jones' assessment and got onto his bicycle in an attempt to leave the scene. Mr. Beshore was having trouble peddling, lost control of his bicycle and fell off. Mr. Beshore testified that he was scared for his life and acted entirely in self-defense.

At approximately 8:00 a.m., Audwyn John, an off-duty police officer, was finishing his shift as a security guard for Baltimore Gas & Electric ("BG&E").[2] He had been providing services for BG&E workers at the corner of Belair Road and Sinclair Lane. He

[2] With the approval of the Baltimore City Police Department, Officer John worked as a security guard as secondary employment. He was paid for this service apart from his compensation as a police officer.

notified dispatch of an assault and proceeded to where a crowd had assembled. When he arrived, people pointed to a white male on a bicycle as the individual who had committed the assault. Officer John, who was not in uniform, identified himself as a police officer and attempted to detain this individual, whom he identified as Mr. Beshore. Mr. Beshore resisted Officer John's attempt to detain him. Officer John called for his partner to help place Mr. Beshore in custody. He stated that Mr. Beshore commented that he had been robbed and was defending himself. He held Mr. Beshore until the investigative team arrived.

Officer Trina Slaughter came to the scene to find that Officer John had detained a Mr. Beshore. She placed Mr. Beshore in handcuffs and searched him for weapons. The purpose of this search was to ensure that he was safe to transport. She found a folding knife with a gold handle in his pocket. There was blood on the knife.

Mr. Beshore told Detective Seong Koo of the Baltimore Police Department that his name was Dustin Hart. After a search of the MVA database, Detective Koo was able to Dustin Hart was the name of someone else because the picture associated with Dustin Hart did not match Mr. Beshore.

Mr. Beshore was charged with first degree murder, second degree murder, voluntary manslaughter, openly carrying a dangerous weapon with the intent to injure and making a false statement when under arrest. A jury trial on these charges began on April 3, 2023.

B. Voir Dire

During voir dire, Mr. Beshore's counsel raised the following *Batson* challenge:

THE CLERK: Is juror 167 acceptable to the State?

MS. GALLO [the State's Attorney]: The State would thank and excuse juror number 167.

THE CLERK: Juror 167, you may have a seat in the gallery. Thank you.

MS. FINEGAR [Defense Counsel]: May we approach, please?

THE COURT: You may.

(Whereupon counsel and the Defendant approached the bench and the following ensued:)

MS. FINEGAR: Your Honor, at this juncture, I'm going to make a *Batson* challenge for the State. I believe that every person that they have struck has been the same, extensively [sic] the same race as my client. You know, we don't know how people identify. The first person didn't answer a question at all.

THE COURT: All right.

MS. FINEGAR: There's no reason to point to them. So I'm just making a *Batson* challenge at this point.

THE COURT: Do you wish to be heard?

MS. GALLO: Yes, Your Honor.

THE COURT: Yes.

MS. GALLO: As in regards to juror number eight[,] which is the first juror that I did strike, that individual did answer several questions, He or she indicated that she believes in prison reform intend to help reintroduce to society [sic]. She also indicated that family members have been convicted of crimes. And in that regard to juror number 76, which - -

THE COURT: Sixty-two was the next one. At least I have sixty-two.

MS. GALLO: I had regarding 62, um - - juror number 62 audibly and visibly made a reaction potentially. It was elicited from a response from the jury

panel when he was selected. Additionally, when he was struck, he also, again - -

THE COURT: He did the same thing.

MS. GALLO: Yes.

THE COURT: Okay. Seventy-six.

MS. GALLO: As it pertains to 76, this individual indicated that she worked in the legal system at a law firm and her brother was convicted of a felony in North Carolina. She also indicated that she was not a fan of blood and graphic videos may affect her.

THE COURT: Okay.

MS. GALLO: And pertaining to 167, I would submit because that juror did not answer any questions.

THE COURT: Fair Enough. All right. Thank you. The motion is denied.

After twelve jurors had been seated, the court made inquired of counsel:

THE COURT: Is the panel acceptable to defense?

MS. FINEGAR: Acceptable.

THE COURT: Is the panel acceptable to the State?

MS. GALLO: Acceptable.

Additional facts may be discussed as needed.

II. Questions presented

Mr. Beshore noted a timely appeal of his conviction to this court and presents the following issues on appeal, which we have rephrased:[3]

[3] Mr. Beshore set forth the issues as follows:
1. Did the Circuit Court err by denying Appellant's *Batson* challenge?

1. Did the trial court err by denying Appellant's *Batson* challenge?

2. Did the trial court err by not merging the Appellant's conviction for openly carrying a dangerous weapon with the intent to injure with the conviction for murder?

III. Discussion

A. Appellant's *Batson* challenge

1. The *Batson* challenge

Mr. Beshore contends that the circuit court erred in denying his *Batson* challenge because the State's peremptory strike on juror 167 was based on race and therefore constitutionally impermissible. Specifically, he argues that the State's justification for the strike, that juror 167 had not answered any questions during voir dire, was pretextual. The State contends that Mr. Beshore waived his *Batson* challenge by failing to object to the jury as empaneled. The State further posits that its reason for striking juror 167 was constitutionally permissible and not pretextual. We agree with the State and begin by addressing the validity of the trial court's ruling on the *Batson* challenge.

A party may raise a *Batson* challenge when the adverse party exercises peremptory strikes for an impermissible discriminatory purpose or on the assumption that a juror cannot be impartial. *Batson v. Kentucky*, 476 U.S. 79, 89 (1986); *Edmonds v. State*, 372 Md. 314, 329 2002). In *Batson*, the Supreme Court of the United States held that exercising peremptory strikes with the intent to exclude members of a protected class violates the

2. Under *Chilcoat,* was openly carrying a dangerous weapon with the intent to injure merely incidental to the murder?

Equal Protection Clause of the Fourteenth Amendment of the United States Constitution. 476 U.S. at 89. *Batson* established a three-factor test to determine whether the exercise of a peremptory challenge was racially discriminatory. Under *Batson*, if a criminal defendant makes a prima facie case of discriminatory exercise of peremptory challenges, the State must produce race-neutral explanations as to why it exercised its peremptory challenges. *Id*. at 97. The State cannot meet this burden by asserting that it did not discriminate or was exercising its official duties. *Id*. at 94. It must demonstrate that permissible racially neutral criteria and procedures have "produced the monochromatic result." *Id.* The prosecutor must articulate a neutral explanation in the case to be tried. *Id.* at 98. After these steps, it is incumbent on the trial judge to determine whether the objecting party has established purposeful discrimination. *Id*.

First, a party asserting a *Batson* challenge must make a prima facie case using some evidence to show that the other party has exercised its peremptory strikes in a discriminatory manner. *Batson*, 476 U.S. at 96-97; *Ray-Simmons v. State*, 446 Md. 429, 436 (2016) (citing *Purkett v. Elem*, 514 U.S. 765, 767 (1995)); *Bennett v. State*, 252 Md. App. 549, 560 (2021). Establishing a prima facie case requires a party to show they are a member of a cognizable group and the adverse party exercised peremptory challenges to the remove prospective members of the jury on the basis that they are of the same protected class as the objecting party. *Batson*, 476 U.S. at 96. Lastly, a criminal defendant must show that the totality of the factual circumstances raises an inference that the prosecutor used the peremptory challenge to exclude the jury member based on a discriminatory

purpose. *Id*. This issue becomes moot if the prosecution offers a race-neutral explanation for the peremptory challenges and the trial court has ruled on the ultimate question of intentional discrimination. *Bennett*, 252 Md. App. at 560-61 (citing *Hernandez v. New York*, 500 U.S. 352, 359 (1991)).

The second step in the *Batson* analysis shifts the burden to the proponent, requiring the State to produce a race-neutral explanation for their peremptory strike. *Batson*, 476 U.S. at 97. The party exercising the peremptory strike cannot meet this burden by asserting that it did not discriminate or was exercising its official duties. *Id*. at 94. The striking party must demonstrate that permissible racially neutral criteria and procedures have "produced the monochromatic result." *Id*. The explanation need not be persuasive or plausible but must be neutral, related to the case to be tried, clear and reasonably specific, and legitimate. *Spencer v. State*, 450 Md. 530, 552 (2016); *see Ray-Simmons*, 446 Md. at 436. The explanation will be deemed race neutral unless a discriminatory intent is inherent. *Edmonds*, 372 Md. at 332. If the court is satisfied that a neutral explanation has been provided, then the court proceeds to step three to determine if the opponent of the strike has proved purposeful racial discrimination. *Ray-Simmons*, 446 Md. at 437.

Upon provision of a neutral explanation, the court proceeds to step three to ascertain "whether the opponent of the strike has proved purposeful racial discrimination." *Id*. (quoting *Purkett*, 514 U.S. at 767). "[T]he decisive question will be whether counsel's race-neutral explanation for a peremptory challenge should be believed." *Edmonds*, 372 Md. at 330-31 (quoting *Hernandez*, 500 U.S. at 365). The answer "rests in large part on a

credibility assessment of the attorney exercising the peremptory challenge." *Id*. at 331. The trial court considers "the disparate impact of the prima facie discriminatory strikes on any one race; the racial make-up of the jury; the persuasiveness of the explanations for the strikes; the demeanor of the attorney exercising the challenge; and the consistent application of any stated policy for peremptory challenges." *Edmonds v. State*, 372 Md. at 330. The trial judge is best situated for such an assessment, and accordingly, "[a]n appellate court will not reverse a trial judge's determination as to the sufficiency of the reasons offered unless it is clearly erroneous." *Gilchrist v. State*, 340 Md. 606, 627 (1995).

In *Ray-Simmons*, the Maryland Supreme Court found that the prosecutor's representation that he wanted to replace a Black male juror with another Black male juror was not a racially neutral explanation because race and gender were at the heart of the peremptory strike. 446 Md. at 444-45.

In this case, Mr. Beshore's counsel met her obligation under step one by pointing out that the State had exercised five peremptory strikes, all against Caucasian people. The court invited the State to explain its exercise of these strikes. Moving to the second step, the State offered that the first juror that it struck had indicated support for prison reform and had a brother in prison; the second juror had an audible and visible reaction to having been selected; the third juror worked for a law firm, had a brother who had been convicted of a crime and was, in that juror's words, "not a fan of blood"[4]; and the fourth juror, juror 167, had not answered any questions. The trial court, satisfied with those explanations as

[4] It is a fair inference that blood would make this juror squeamish.

race neutral, succinctly denied the *Batson* motion. An appellate court is to show deference to the trial court's finding because it may turn on the credibility of the lawyer offering the explanation as to why the strike was used. *Hernandez*, 500 U.S. at 364-65.

Mr. Beshore argues that the State did not strike two other jurors, jurors 41 and 160, who, like juror 167, failed to answer any questions. The argument is that the State's supposedly race-neutral explanation as to why it struck juror 167 was pretextual. Mr. Beshore relies on *Spencer v. State*, where our Supreme Court stated that "the consistent application of any stated policy for peremptory challenges" was a factor to be considered in determining intent to discriminate. *See Spencer*, supra, 450 Md. at 559. In *Spencer*, the issue before the court was defense counsel's use of strikes to remove white people from the jury. *Id*. at 542-46. The trial court was concerned that in a trial a few days earlier, defense counsel had struck white jurors, determined that there was a pattern and ordered the stricken jurors to be seated. *Id*. Our Supreme Court found that the trial court erred in considering the tactics that the defense counsel had allegedly employed in the prior trial because the record was devoid of facts to support the court's findings as to the prior trial. *Id*. at 559.

There is no record of whether the striking of the four white venirepersons affected the racial makeup of the jury. As to the persuasiveness of the State's explanation for the strike, Mr. Beshore considers the State's justification that the venireperson did not answer any questions a "concession" that there was no other reason than race for the strike, but under some circumstances a potential juror's failure to participate in voir dire indicates that

they will not be attentive to the trial or to an attorney's arguments. In the absence of any other indicia that the State's counsel lacks credibility, the State's explanation is sufficient. Mr. Beshore relies only upon the consistency of the State's application of its stated policy for peremptory challenges, which is inconclusive here due to the paucity of information on record. Mr. Beshore does not provide any evidence about the race of jurors 41 and 160, who also did not answer any questions. Nor was there any discussion of those jurors by Mr. Beshore's counsel when she made her *Batson* motion or after the jury was seated during trial. Therefore, there is no record in this case for the court to determine whether the State's exercise of a peremptory strike on juror 167 was pretextual. We cannot find that the trial court judge, who was most effectively placed to determine the credibility of the challenging attorney, clearly erred in denying the *Batson* challenge.

2. Waiver of the *Batson* challenge

The State points out that Mr. Beshore's acceptance of the empaneled jury and acceptance of the alternate jurors constituted a waiver of his *Batson* argument. *Gilchrist*, 340 Md. at 618; *State v. Stringfellow*, 425 Md. 461, 465 (2012). Mr. Beshore counters that the objection was incidental and, therefore, not waived by his acceptance of the jury as seated. We are not persuaded by Mr. Beshore's argument.

In *State v. Ablonczy*, the Supreme Court recognized two groups of objections that can be raised during voir dire:

> The first group of objections goes "to the inclusion or exclusion of a prospective juror (or jurors) or the entire venire[.]" *Stringfellow*, 425 Md. at 469, (citing *Gilchrist*, 340 Md. at 617). In that case, unqualified acceptance of the jury panel waives any prior objections. *Id.* The second group of

> objections, on the other hand, which are "incidental to the inclusion [or] exclusion of a prospective juror or the venire[, are] not waived by accepting a jury panel at the conclusion of the jury-selection process[.]" *Id*. at 469, (citing *Gilchrist*, 340 Md. at 618).

474 Md. 149, 162 (2021). In *Stringfellow*, our Supreme Court noted that a party waives his or her voir dire objection regarding the inclusion or exclusion of a prospective jurors if that party accepts unqualifiedly the jury panel as satisfactory at the conclusion of the jury selection process. 425 Md. at 469. Nevertheless, a voir dire objection that is incidental to the exclusion or inclusion of a prospective juror is not waived by accepting the jury as seated but is preserved for direct appeal. *Id*. In *Stringfellow*, Judge Glenn T. Harrell, Jr. observed that accepting the empaneled jury is wholly inconsistent with the earlier complaint about the jury. *Id.* at 470. Objections are not related to the inclusion or exclusion of prospective jurors are not deemed to have been waived by the acceptance of the jury. *Id.* at 471.

Judge Harrell specifically noted that the following objections were waived upon acceptance of the empaneled jury:

> (1) an objection to a judge's refusal to strike prospective jurors for cause; (2) an objection to the exclusion of a juror because of his beliefs about capital punishment; (3) a defendant who failed to object to unacceptable venire members after using all of his peremptory strikes; (4) an objection to a venire not selected randomly from registered-voter lists; and, [sic] (5) an objection to prejudicial remarks made by the prosecutor in earshot of the venire.

Id. (cleaned up). Conversely, the following objections were deemed incidental to the exclusion or inclusion or prospective jurors and are not waived by failing to object to the empaneled jury:

> (1)an objection to a prior jury panel, where the judge excused that prior jury panel and called a second one from which was selected the jury that convicted the defendant; (2) an objection, made during voir dire, to being refused permission to inspect a prosecutor's notes on prospective jury members; and, [sic] (3) an objection to a judge refusing to ask a proposed voir dire question.

Id. at 470-71 (cleaned up). There is no need to reiterate an objection to an empaneled jury when that objection does not relate to the empaneled jurors. *Ablonczy*, 474 Md. at 165.

In the instant case, Mr. Beshore's objection addressed the State's use of its peremptory strikes to exclude specific jurors. His *Batson* challenge did not relate to any of the examples that Judge Harrell noted were incidental to the empaneling of the jury. *Stringfellow*, 425 Md. at 470-71. We agree with the State on this issue. Once Mr. Beshore indicated that the jury was acceptable, without reservation, the objection was waived. The acceptance of the jury was a tacit acknowledgement that the jury was fair. This objection was not incidental to the seating of the jury, and it was waived by Mr. Beshore's failure to renew his objection when the jury was empaneled.

B. Merger of Sentences and the Rule of Lenity

Mr. Beshore contends that the court erred in imposing separate sentences for both second degree murder and for carrying a dangerous weapon with intent to injure. "[A] defendant's convictions may be merged, for sentencing purposes, based on one of three grounds: '(1) the required evidence test; (2) the rule of lenity; and (3) the principle of fundamental fairness.'" *Coleman v. State*, 237 Md. App. 83, 99 (2018) (citing *Carroll v. State*, 428 Md. 679, 693-94 (2012)). Mr. Beshore concedes that the convictions do not merge under the required evidence test but argues that they should merge under either the

rule of lenity because the carrying of the weapon was incidental to the commission of murder or under the principles of fundamental fairness.

The rule of lenity is a matter of statutory construction that "the Court will not interpret a . . . criminal statute so as to increase the penalty that it places on an individual when such an interpretation can be based on no more than a guess as to what [the legislature] intended." *Monoker v. State*, 321 Md. 214, 222 (1990) (quoting *White v. State*, 318 Md. 740, 744-45 (1990)). In *Monoker*, the Supreme Court held that, based on the facts of that case, imposing separate penalties for solicitation and conspiracy were inappropriate under the principle of fundamental fairness. *Id*. at 223. The Court recognized that the gravamen to solicitation is the invitation to commit a crime and that the gravamen of conspiracy is the unlawful agreement to commit a crime. *Id*. at 220-21. In that case, Mr. Monaker, while in jail, had asked a fellow prisoner, Stanley Almony, to rob and harm the victim of the crime for which Mr. Monaker found himself incarcerated. *Id.* at 216. Mr. Almony ultimately agreed to carry out the proposed scheme. *Id*. at 216-17. The Court determined that Mr. Monaker's solicitation of Mr. Almony was part of the agreement for Mr. Almony to commit the crime, and, therefore, an additional sentence for solicitation was unjust. *Id.* at 223-24.

Mr. Beshore relies on *Chilcoat v. State* to argue that he picked the knife up when he was defending himself from the robbery and that his attempts to stab Mr. Hudson were part of that action. 155 Md. App. 394, 412 (2004). In *Chilcoat*, the defendant picked up a beer stein and used it to strike the victim's head repeatedly. *Id*. at 399. The Court held that the

defendant's moving towards the victim with the beer stein was incidental to the attack and did not fall within the ambit of carrying a weapon. *Id*. at 412

Our Supreme Court has made clear that "a primary purpose of statutes proscribing the carrying or employment of dangerous or deadly weapons is to discourage their use in criminal activity." *Biggus v. State*, 323 Md. 339, 357 (1991). "Where the underlying criminal activity does not itself necessarily involve the carrying or use of dangerous or deadly weapon, the carrying or use of a dangerous or deadly weapon, in violation of a statute like [Art. 27 § 36(a), now Crim. Law § 4-101,] is an aggravating factor warranting punishment in addition to the punishment imposed for the underlying criminal activity." *Id.*

In *Harrod v. State*, we determined that a conviction for the display of a weapon could be considered separately from a conviction for assault at sentencing. 65 Md. App. 128, 140-41 (1985). In that case, the defendant threw a hammer at a wall and pushed the blade of a knife into a banister near his wife's arm. *Id*. at 131. He then chased his wife and another man outside of the house. *Id*. Throwing the hammer and pushing a blade near his wife's arm but then chasing his wife and another out of the house constituted separate occurring events. *Id*. In that case, we held that there was no error in separately convicting the defendant for carrying of a dangerous weapon and assault. *Id.*

In the instant case, the sentences imposed on Mr. Beshore prompt us to examine the sequence of events from his encounter with Mr. Hudson until his death. Mr. Beshore and Mr. Hudson retreated to an alley, ostensibly for the purpose of Mr. Beshore's purchasing

heroin from Mr. Hudson. Mr. Hudson placed Mr. Beshore in a neck hold in an attempt to rob him. Mr. Hudson reached for a knife and cut Mr. Beshore's leg. They struggled further and the knife fell to the ground. Mr. Beshore gained control of the knife. Mr. Hudson ran out of the alley away from Mr. Beshore. Mr. Beshore chased after Mr. Hudson swinging the knife at him and poking him with it. Mr. Beshore stabbed Mr. Hudson and Mr. Hudson fell to the ground and died. This sequence indicates that Mr. Beshore's waiving of the knife as Mr. Hudson ran away was a separate incident from stabbing him. Therefore, we find no error in the trial court's imposition of separate sentences for second-degree murder and displaying a weapon for the purpose of harming another.

Finding no error, we affirm the jury's verdict and the court's imposition of separate sentences for carrying or displaying a dangerous weapon and second degree murder.

C. *Conclusion*

In conclusion, we find no error in the trial court's denial of Mr. Beshore's *Batson* challenge because the trial court accepted the State's race-neutral explanations as to why it used its peremptory strikes on certain prospective jurors. In addition, Mr. Beshore accepted the jury as empaneled thereby waiving his *Batson* challenge. Furthermore, the facts that gave rise to the conviction for displaying a dangerous weapon were sufficiently distinct from the facts of the murder as to merit a separate sentence. For those reasons, we affirm the decision of the Circuit Court for Baltimore City.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY IS AFFIRMED. APPELLANT TO PAY COSTS.