STATE OF MINNESOTA
IN COURT OF APPEALS
A07-1526

State of Minnesota,
Respondent,

vs.

Susanne Jean Beutz,
Appellant.

Filed December 9, 2008
Affirmed
Stauber, Judge

Mille Lacs County District Court
File No. K104778

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Janice S. Kolb, Mille Lacs County Attorney, Mark J. Herzing, Assistant County Attorney, Courthouse Square, 525 Second Street Southeast, Milaca, MN 56353 (for respondent)

Lawrence Hammerling, Chief Appellate Public Defender, Sara L. Martin, Assistant Public Defender, Suite 300, 540 Fairview Avenue North, St. Paul, MN 55104 (for appellant)

Considered and decided by Stoneburner, Presiding Judge; Worke, Judge; and Stauber, Judge.

U N P U B L I S H E D O P I N I O N

STAUBER, Judge

On appeal from her conviction of four counts of first-degree controlled-substance crime, fourth-degree controlled-substance crime, and use of a police radio during a crime, appellant argues that the district court clearly erred in rejecting her *Batson* challenge to the peremptory strike of a Native American veniremember and abused its discretion by allowing the state to introduce *Spreigl* evidence. We affirm.

FACTS

During the summer of 2004, Mille Lacs County police received information that methamphetamine was being manufactured on a property shared by appellant Susanne Jean Beutz and Alroy Heddan. Police executed a search warrant on the premises and discovered evidence consistent with the manufacture, sale, and use of methamphetamine. Appellant was subsequently charged with four counts of first-degree controlled-substance offenses, one count of fourth-degree controlled-substance possession, and one count of using police radios during commission of a crime.

The case proceeded to trial. During jury selection, the state used a peremptory challenge to strike a Native American woman who happened to be the only racial minority veniremember. Appellant objected to the challenge, claiming that it was racially motivated. The district court found that appellant had made a prima facie showing of racial discrimination, but after concluding that the veniremember was removed for race-neutral reasons, the court allowed the peremptory strike.

At trial, the defense claimed that Heddan independently operated the methamphetamine business without appellant's knowledge or participation. Conversely, the state argued that appellant had "an active hand" in the operation, and noted that appellant would have been aware of the drug enterprise because obvious evidence of methamphetamine production and sales was present throughout the property that she shared with Heddan. Over defense objection, the district court allowed the state to support its theory by introducing evidence that on November 20, 2005, while appellant awaited trial on the current charges and lived alone at the residence, police executed another search warrant on the property and found precursors of methamphetamine production.

At the close of evidence, appellant was convicted of all charges. This appeal followed.

D E C I S I O N

I.

Appellant challenges the dismissal of G.B., a Native American veniremember, as racially motivated and argues that the allegedly discriminatory decision renders her conviction unconstitutional. A prosecutor's use of a peremptory challenge to exclude a person from a jury based on race violates a defendant's right to equal protection under the United States Constitution. *Batson v. Kentucky*, 476 U.S. 79, 86, 106 S. Ct. 1712, 1717 (1986); *State v. Henderson*, 620 N.W.2d 688, 703 (Minn. 2001). A party objecting to a peremptory challenge on *Batson* grounds must first establish a prima facie case of purposeful discrimination by showing that a member of a racial group has been

peremptorily excluded from the jury and that the circumstances of the case raise an inference that race motivated the exclusion. *Batson*, 476 U.S. at 96, 106 S. Ct. at 1723; *State v. DeVerney*, 592 N.W.2d 837, 843 (Minn. 1999).

If the party raising the *Batson* challenge establishes a prima facie case of discrimination, the burden shifts to the state to provide a race-neutral reason for exercising the peremptory challenge. *Batson*, 476 U.S. at 97, 106 S. Ct. at 1723. Race-neutral explanations do not need to be "persuasive." *State v. Reiners*, 664 N.W.2d 826, 832 (Minn. 2003) (quotation omitted). Rather, the explanation will be deemed race-neutral "[u]nless a discriminatory intent is inherent in the prosecutor's explanation." *Purkett v. Elem*, 514 U.S. 765, 768, 115 S. Ct. 1769, 1771 (1995) (quotation omitted).

Finally, the district court must determine whether the opponent of the peremptory strike has proven purposeful discrimination. *State v. Pendleton*, 725 N.W.2d 717, 726 (Minn. 2007). Whether racial discrimination prompted the peremptory challenge is a factual determination that depends largely on the district court's evaluation of credibility. *Henderson*, 620 N.W.2d at 703 (stating that finding of racial discrimination is factual determination); *State v. James*, 520 N.W.2d 399, 403 (Minn. 1994) (noting that whether party proved racial discrimination turns largely on district court's evaluation of credibility). This court gives great deference to the district court's evaluation of the genuineness of a prosecutor's response, and will not reverse a district court's resolution of a *Batson* challenge absent proof that the state's proffered reason for the challenge was pretextual and that the district court clearly erred. *State v. McDonough*, 631 N.W.2d 373, 385 (Minn. 2001) (stating that appellate courts review district court's *Batson*

determination for clear error); *Henderson*, 620 N.W.2d at 703-04 (requiring clear proof of pretextual reason for peremptory challenge); *James*, 520 N.W.2d at 404 (noting that appellate courts defer to the district court's credibility determinations).

Here, the district court determined that the defense had established a prima facie case of discrimination, but upheld the peremptory strike because the state offered two credible, race-neutral reasons for its decision. Specifically, the state indicated that G.W. was removed because (1) her brother had multiple criminal convictions and (2) she had read a news article about the case. A peremptory strike may be based on convictions of a veniremember's close family members. *State v. Martin*, 614 N.W.2d 214, 222-23 (Minn. 2000). And a veniremember's exposure to media accounts of the circumstances surrounding the charges could unduly influence the veniremember's judgment.

Appellant argues that the state's justifications were pretextual because (1) the state did not question G.B. about the circumstances surrounding her brother's convictions; (2) other veniremembers indicated that they or close family members had been involved in the court system; and (3) G.B. claimed that she did not "remember [the] details" of the news article she had read.

However, appellant overlooks the fact that the state did not inquire about the circumstances surrounding *any* of the convictions disclosed by the veniremembers, and G.B. was the only veniremember who had a close family member with multiple criminal convictions. Moreover, the district court found that G.B. might have "some possible knowledge" of the case after reading the news article. Because we give great deference to the district court's opportunity to evaluate the credibility of the prosecutor and

veniremember, we conclude that the district court did not commit clear error in upholding the peremptory strike.

II.

Appellant argues that the district court abused its discretion by allowing the state to present *Spreigl* evidence that on September 20, 2005, while appellant awaited trial on the current charges and lived alone at the residence, police executed another search warrant on the property and found precursors of methamphetamine production. The district court permitted the introduction of the evidence to prove that appellant had knowledge of the methamphetamine manufacturing operation and was "willing to maintain or renew" it.

The admission of *Spreigl* evidence lies within the sound discretion of the district court and will not be reversed absent a clear abuse of discretion. *State v. Spaeth*, 552 N.W.2d 187, 193 (Minn. 1996). To prevail, an appellant must show error and prejudice resulting from the error. *State v. Loebach*, 310 N.W.2d 58, 64 (Minn. 1981).

Evidence of other crimes or bad acts, also known as *Spreigl*[1] evidence, is not admissible to prove the character of a person or that the person acted in conformity with that character in committing an offense. Minn. R. Evid. 404(b). However, *Spreigl* evidence may be admissible to prove factors such as motive, intent, identity, knowledge, and common scheme or plan. Minn. R. Evid. 404(b). *Spreigl* evidence shall only be admitted if:

[1] *Spreigl* analysis applies to both prior and subsequent crimes or bad acts. *State v. Kennedy*, 585 N.W.2d 385, 390 (Minn. 1998).

> (1) notice is given that the state intends to use the evidence; (2) the state clearly indicates what the evidence is being offered to prove; (3) the evidence is clear and convincing that the defendant participated in the other offense; (4) the *Spreigl* evidence is relevant and material to the state's case; and (5) the probative value of the *Spreigl* evidence is not outweighed by its potential for unfair prejudice.

Kennedy, 585 N.W.2d at 389.

First, appellant claims that the state did not articulate a purpose for admitting the evidence. But there is no merit to this argument because the state specifically indicated that it would be offered to prove knowledge of the methamphetamine manufacturing process.

Next, appellant contends that the district court should have waited until the close of the state's case-in-chief before determining whether the evidence was necessary to the state's case. We disagree. Although the supreme court has recommended that district courts postpone decisions on the admissibility of *Spreigl* evidence until after the state's case-in-chief, the timing of the decision is generally left to the district court. *Compare State v. Bolte*, 530 N.W.2d 191, 197 n.2 (Minn. 1995) (noting that "[i]t is usually better practice" for the district court to postpone its final decision until after the state's case-in-chief), *with State v. DeWald*, 464 N.W.2d 500, 504 (Minn. 1991) (concluding that the district court properly exercised its discretion by making its ruling before trial).

Here, before the district court ruled on the state's motion, both sides were allowed to submit written memoranda in support of their arguments, and the state outlined the evidence it intended to offer during its case-in-chief. Thus, the district court had the opportunity to weigh the strength of the state's evidence before making its decision, and,

regardless, the state's need for the evidence is no longer an independent factor that must be satisfied before admission of *Spreigl* evidence. *See State v. Ness*, 707 N.W.2d 676, 689 (Minn. 2006) (holding that the state's need for the *Spreigl* evidence should be addressed only in the context of balancing probative value against potential prejudice, rather than as an independent requirement).

Appellant also contends that *Spreigl* evidence is irrelevant and is only being offered as propensity evidence. *Spreigl* evidence is relevant and material when there is a sufficiently close relationship between the *Spreigl* evidence and the charged offense in terms of time, place, and modus operandi. *Kennedy*, 585 N.W.2d at 390. The closer the relation between the *Spreigl* offense and the crime charged, the greater the relevance and probative value of the *Spreigl* evidence and the lesser the likelihood that it will be used for an improper purpose. *Id.*

We are satisfied that the *Spreigl* evidence was relevant for purposes of proving knowledge of the drug operation. Appellant defended against the controlled-substance charges by claiming that Heddan independently operated the methamphetamine business without her knowledge or participation. But the *Spreigl* evidence, which tends to prove that appellant lived alone at the residence during the subsequent search, supports the conclusion that appellant had knowledge of the drug operation. Moreover, the *Spreigl* incident and charged offenses are sufficiently proximate in time and place as they all occurred at appellant's residence over a period of 18 months.

Finally, appellant argues that the probative value of this *Spreigl* evidence was outweighed by the risk of unfair prejudice. Even relevant evidence may be excluded if its

potential for unfair prejudice substantially outweighs its probative value. Minn. R. Evid. 403. One consideration in this analysis is the state's need for the evidence. *See State v. Bell*, 719 N.W.2d 635, 639 (Minn. 2006) (stating that although district courts need not engage in independent necessity analysis, need for evidence is "naturally considered as part of the assessment of the probative value versus the prejudicial effect").

Appellant contends that the evidence is prejudicial to her case because it rebuts her claim that she was unaware of the drug operation. But appellant does not explain how this evidence is *unfairly* prejudicial. Unfair prejudice "does not mean the damage to the opponent's case that results from the legitimate probative force of the evidence; rather, it refers to the unfair advantage that results from the capacity of the evidence to persuade by illegitimate means." *Bolte*, 530 N.W.2d at 197 n.3 (quotation omitted). As the district court concluded, this evidence is highly probative of appellant's knowledge of the drug operation. The evidence is also important to the state's case because none of its witnesses had any personal knowledge of appellant's involvement in the operation. And, any potential prejudice was mitigated by the limiting instruction given to the jury. *Kennedy*, 585 N.W.2d at 392 (explaining that standard cautionary instructions to the jury lessen "the probability of undue weight being given by the jury to the evidence"). Accordingly, the district court did not abuse its discretion in admitting the evidence.

Affirmed.