NEWS RELEASE

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AG ANNOUNCES COURT UPHOLDS JEFFERSON MURDER CONVICTION

(MONTGOMERY) – Attorney General Luther Strange announced that the Alabama Court of Criminal Appeals on Friday upheld the murder conviction of a Birmingham man. Rodriquez Maurice Williams, 24, was convicted by a jury in Jefferson County Circuit Court in January of 2010 for the murder of Jamie Hedgeman.

Evidence presented at trial stated that Williams was with four other people on the porch of an apartment in Kimbrough Homes, also known as the Wenonah Projects. Williams was heard saying he was going to "get" the victim, Hedgeman. When Hedgeman walked near the group, words were exchanged, and sometime after Hedgeman reached the corner of the building, Williams and another man, Cortez Towns, were seen shooting in Hedgeman's direction. Afterward Williams and Towns drove away in a brown Cadillac. Hedgeman reached his mother's apartment where he told her his attackers were in a brown Cadillac. Hedgeman died of the excessive bleeding caused by the gunshot wound he suffered during the attack.

The case was prosecuted at trial by Jefferson County District Attorney Brandon Falls' Office. Williams was convicted and sentenced to 30 years of imprisonment, and subsequently sought to have his conviction reversed on appeal.

The Attorney General's Criminal Appeals Division handled the case during the appeals process, arguing for the Alabama Court of Criminal Appeals to affirm the conviction. The Court did so in a decision issued on Friday, May 20. Cortez Towns also was convicted for the murder of Hedgeman, and Towns' conviction previously was upheld by the Court of Criminal Appeals in a decision issued on September 17, 2010.

Attorney General Strange commended Assistant Attorneys General Michael Dean and James Prude of the Attorney General's Criminal Appeals Division for their successful work in these cases.

**For additional information regarding this case, a copy is attached of the memorandum opinion of the Alabama Court of Criminal Appeals.*

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Court of Criminal Appeals

State of Alabama
Judicial Building, 300 Dexter Avenue
P. O. Box 301555
Montgomery, AL 36130-1555

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Presiding Judge
MARY BECKER WINDOM
J. ELIZABETH KELLUM
LILES C. BURKE
J. MICHAEL JOINER
Judges

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MEMORANDUM

CR-09-1047 Jefferson Circuit Court CC-09-1759

Rodriquez Maurice Williams v. State of Alabama

BURKE, Judge.

Rodriquez Maurice Williams was convicted of murder, a violation of § 13A-6-2(a)(1), Ala. Code 1975, and sentenced to serve a term of 30 years in prison.[1] After Williams was

[1]Williams's case was consolidated with the case of his co-defendant, Cortez Towns. Cortez was also was convicted of murder and sentenced to serve a term of 30 years in prison. Cortez appealed to this Court, and we affirmed the trial court's judgment in an unpublished memorandum. Towns v. State, (CR-09-0919, September 17, 2010) ___ So. 3d ___ (Ala. Crim.

convicted and sentenced, he filed a motion for a new trial, which the trial court denied. Williams appealed.

At trial, the State presented the following evidence:

Rebecca Hedgeman testified that on November 1, 2008, her son, Jamie Hedgeman, was shot and killed. At that time, Jamie lived with Rebecca, his sister, and his brothers in the Kimbrough Homes housing development, which is also known as the Wenonah Projects. Rebecca testified that during the day on November 1, 2008, Jamie entered the apartment where they lived and told her that he had been shot and that the people who shot at him were in a brown Cadillac.

Keonya Williams testified that on November 1, 2008, while she was on the porch of her apartment in Kimbrough Homes, she saw Williams, Montrell Towns, Cortez Towns, Christopher Gunn, and another male hanging out on the back porch of a nearby apartment in Kimbrough Homes. Keonya testified that she heard Williams say that he was "going to get that nigger," but she did not know who he was talking about. (R. 119.) About that same time, she saw Jamie walking up the sidewalk. As Jamie walked by, she heard someone in Williams's group say something to Jamie. Jamie turned around and grinned, and then he proceeded on his way. Keonya then saw Montrell "run down the sidewalk around the other side" carrying a gun. Keonya testified that she yelled at Jamie to warn him. Jamie turned toward Keonya, but he turned back around and kept walking toward his apartment. According to Keonya, as Jamie turned back around, "the other boys that [were] on the porch, they went in the back door." (R. 120.) When Jamie "hit the corner, [Keonya] heard a lot of gunfire." (R. 120.) After the shooting, Keonya saw Williams and Cortez get into a brown Cadillac and drive away from the scene. Keonya never saw Jamie or Williams with a gun.

Louann Williams, Keonya's mother, testified that on November 1, 2008, she was walking to the apartment in Kimbrough Homes where her daughter lived. As Louann walked, Jamie walked by her. Around this time, Louann saw Williams sitting in a Cadillac with another person. According to Louann, as she approached her daughter's apartment, her

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App. 2010) (table).

daughter appeared at the door and yelled at Jamie. Louann then heard gunshots and ran into her daughter's apartment. After the shooting, Louann saw Williams come out of the back door of Myeisha Williams's apartment with a gun in his hand. Louann saw Williams get into the Cadillac with some other people, including Cortez, and drive away.

Jerry Jones lived in Kimbrough Homes next door to Myeisha Williams, who was Williams's girlfriend. Jones testified that on November 1, 2008, he was awakened by rapid gunfire that was nearby. Jones testified that he heard as many as 14 shots from three or four different guns. Jones testified that he looked out his window and saw Jamie going back toward his mother's house. Jones saw Williams, Cortez, and two or three other males get into a Cadillac and drive away. Jones did not actually see any guns that day.

Steven Davis testified that around the time of the shooting, he was on the front porch of his apartment, which was two doors down from Keonya's apartment. Davis heard Jamie and someone in Williams's group exchanging "words" and "going back and forth." (R. 130.) Davis then saw Jamie walk into Mr. Red's store and come back out with a drink. Then, according to Davis, "there was some more words said." (R. 131.) After that encounter, Jamie turned around and walked up the sidewalk and around the corner. Davis testified that at that point, Keonya yelled at Jamie and he turned around. Davis then saw Williams and Cortez shooting in Jamie's direction.

Officer Roxann Murry, was the primary crime scene technician investigating Jamie's death. Murry collected five 9mm shell casings, fifteen .40-caliber shell casings, and a shotgun shell casing from around the sidewalk area near apartment 2816A in Kimbrough Homes. Officer Murry observed defects on some of the nearby apartments where bullets had struck the apartments. Officer Murry also assisted Detective Roy Bristow in recovering a 12-gauge shotgun, two .38 caliber handguns, and a 9mm handgun from a toolshed behind the home of Daryl Blount, who was the boyfriend of Montrell Towns's mother.

Officer Perry Gordon, a firearm and toolmark examiner with the Birmingham Police Department, examined the shell casings that had been collected. Gordon testified that all

the .40-caliber shell casings were fired from the same weapon, but no .40-caliber weapon was recovered for comparison. Gordon further testified that at least three of the 9mm shell casings were fired from the 9mm handgun that was recovered from the toolshed behind Blount's house and that identification of the other two 9mm shell casings was inconclusive. Concerning the shotgun shell casing, Gordon testified that it could neither be identified nor eliminated as having been fired from the 12-gauge shotgun recovered from the toolshed behind Blount's house.

Dr. Gary Simmons, the forensic pathologist who performed the autopsy on Jamie, testified that a gunshot completely severed Jamie's right subclavian artery and damaged his right jugular vein. Those injuries caused Jamie to bleed excessively, which caused his death.

At the close of the State's evidence, Williams moved for a judgment of acquittal. That motion was denied by the trial court.

Williams presented the following evidence:

Terrence Johnson testified for the defense. Johnson testified that on November 1, 2008, Montrell and Jamie exchanged words near Myeisha's apartment and then Jamie walked away. Johnson testified that a short time later, he saw Jamie holding a gun and approaching the apartment. As Jamie approached, Johnson went inside. Johnson testified that after he entered the apartment, "shots went off" and he "got on the floor." (R. 229.) According to Johnson, Williams and Chris Gunn were on the floor with him and they remained on the floor the entire time of the shooting. Johnson testified that after the shooting, they "got to the car and left." (R. 230.) He further testified that during the shooting, he never saw Williams with a gun, but he did see Cortez with a gun. Johnson also testified that he never saw Jaime raise his gun or point it at anybody.

Myeisha also testified for the defense. She testified that she lived in an apartment in Kimbrough Homes and that immediately prior to the shooting, she was in the living room of her apartment with her mother. Myeisha testified that Williams, Cortez, Johnson, and Gunn ran into the apartment

warning of an impending shooting. According to Myeisha, she and Cortez ran to the front door, and she saw Jamie approaching the apartment. Myeisha testified that shortly thereafter, Jamie began firing a gun at her apartment. She stated that Cortez ran out the front door and returned fire. Myeisha testified that during the shooting, Williams did not leave the apartment and did not have a weapon. Myeisha acknowledged that she had previously given a statement to a police detective in which she told him that Williams was not in the apartment during the shooting.

After the jury returned the verdict finding Williams guilty of murder, Williams "ask[ed] for a motion, not withstanding the verdict," claiming that the State failed to make a prima facie case of murder. (R. 361.) The trial court denied that motion.

I.

On appeal, Williams alleges that the evidence was insufficient to support his murder conviction. Specifically, Williams alleges that "[t]he State's evidence failed to exclude the reasonable hypothesis that someone other than Williams killed Jamie Hedgeman" and that "[t]he State's evidence was insufficient to prove that Williams acted as an accomplice." (Williams brief, at 18, 22.)

Concerning the standards governing this Court's review of the sufficiency of the evidence, this Court has held:

> "In deciding whether there is sufficient evidence to support the verdict of the jury and the judgment of the trial court, the evidence must be reviewed in the light most favorable to the prosecution. Cumbo v. State, 368 So. 2d 871 (Ala. Cr. App. 1978), cert. denied, 368 So. 2d 877 (Ala. 1979). Conflicting evidence presents a jury question not subject to review on appeal, provided the state's evidence establishes a prima facie case. Gunn v. State, 387 So. 2d 280 (Ala. Cr. App.), cert. denied, 387 So. 2d 283 (Ala. 1980). The trial court's denial of a motion for a judgment of acquittal must be reviewed by determining whether there existed legal evidence before the jury, at the

> time the motion was made, from which the jury by fair inference could have found the appellant guilty. Thomas v. State, 363 So. 2d 1020 (Ala. Cr. App. 1978). In applying this standard, the appellate court will determine only if legal evidence was presented from which the jury could have found the defendant guilty beyond a reasonable doubt. Willis v. State, 447 So. 2d 199 (Ala. Cr. App. 1983); Thomas v. State. When the evidence raises questions of fact for the jury and such evidence, if believed, is sufficient to sustain a conviction, the denial of a motion for a judgment of acquittal by the trial court does not constitute error. Young v. State, 283 Ala. 676, 220 So. 2d 843 (1969); Willis v. State."

Breckenridge v. State, 628 So. 2d 1012, 1018 (Ala. Crim. App. 1993).

Furthermore,

> "'Circumstantial evidence is not inferior evidence, and it will be given the same weight as direct evidence, if it, along with the other evidence, is susceptible of a reasonable inference pointing unequivocally to the defendant's guilt. Ward v. State, 557 So. 2d 848 (Ala. Cr. App. 1990). In reviewing a conviction based in whole or in part on circumstantial evidence, the test to be applied is whether the jury might reasonably find that the evidence excluded every reasonable hypothesis except that of guilt; not whether such evidence excludes every reasonable hypothesis but guilt, but whether a jury might reasonably so conclude. Cumbo v. State, 368 So. 2d 871 (Ala. Cr. App. 1978), cert. denied, 368 So. 2d 877 (Ala. 1979).'"

"Ward, 610 So.2d at 1191-92."

Lockhart v. State, 715 So. 2d 895, 899 (Ala. Crim. App. 1997).

"With respect to the weight of the evidence, it is well-settled that any 'inconsistencies and contradictions in the State's evidence, as well as [any] conflict between the State's evidence and that offered by the appellant, [go] to the weight of the evidence and [create a question] of fact to be resolved by the jury.' Rowell v. State, 647 So. 2d 67, 69-70 (Ala. Crim. App. 1994). '"'[T]he credibility of witnesses and the weight or probative force of testimony is for the jury to judge and determine.'"' Johnson v. State, 555 So. 2d 818, 820 (Ala. Crim. App. 1989), quoting Harris v. State, 513 So. 2d 79, 81 (Ala. Crim. App. 1987), quoting in turn Byrd v. State, 24 Ala. App. 451, 451, 136 So. 431, 431 (1931). 'We have repeatedly held that it is not the province of this court to reweigh the evidence presented at trial.' Johnson, 555 So. 2d at 820. '"When the jury has passed on the credibility of evidence tending to establish the defendant's guilt, this Court cannot disturb its finding."' Rowell, 647 So. 2d at 69, quoting Collins v. State, 412 So. 2d 845, 846 (Ala. Crim. App. 1982). Furthermore, '"[t]his Court must view the evidence in the light most favorable to the State, and 'draw all reasonable inferences and resolve all credibility choices in favor of the trier of fact.'"' D.L. v. State, 625 So. 2d 1201, 1204 (Ala. Crim. App. 1993), quoting Woodberry v. State, 497 So. 2d 587, 590 (Ala. Crim. App. 1986). 'Any issues regarding the weight and credibility of the evidence are not reviewable on appeal once the state has made a prima facie case.' Jones v. State, 719 So. 2d at 255."

Williams v. State, 10 So. 3d 1083, 1087 (Ala. Crim. App. 2008).

Concerning complicity, this Court has held:

"'Alabama's accomplice liability statute provides:

"'"A person is legally accountable for the behavior of another constituting a

criminal offense if, with the intent to promote or assist the commission of the offense:

"'"....

"'"(2) He aids or abets such other person in committing the offense...."

"'§ 13A-2-23, Ala. Code 1975.

"'"The words 'aid and abet' encompass all assistance by acts, words of encouragement, or support, or presence, actual or constructive, to render assistance should it become necessary. Wright [v. State, 494 So. 2d 936 (Ala. Crim. App. 1986)]; Sanders v. State, 423 So. 2d 348 (Ala. Cr. App. 1982). Actual participation in the crime need not be proved by positive testimony to convict someone of aiding and abetting. 'The jury is to determine whether the appellant's participation exists and the extent of it from the conduct of the parties and all the testimony presented.' Walls v. State, 378 So. 2d 1186, 1191 (Ala. Cr. App. 1979), cert. denied, Ex parte Walls, 378 So. 2d 1193 (Ala. 1980). Such facts as the defendant's presence in connection with his companionship, and his conduct at, before and after the commission of the act, are potent circumstances from which participation may be inferred.'

"'Henry v. State, 555 So. 2d 768, 769 (Ala. Crim. App. 1989).

"'"Any word or act contributing to the commission of a felony, intended and calculated to incite or encourage its accomplishment, whether or not the one so contributing is present, brings the accused within the statute that makes any person

> concerned in the commission of a felony, directly or indirectly, a principal.... No particular acts are necessary to make one an aider and abettor; the common enterprise or adventure may have been entered into on the spur of the moment without prearrangement or participation.'

"'Scott v. State, 374 So. 2d 316, 318-19 (Ala. 1979). And,

> "'"'[w]here the evidence is conflicting as to the defendant's connection as an accomplice or co-conspirator, a jury question is presented.' Sanders v. State, [423 So. 2d 348 (Ala. Crim. App. 1982)], citing Watkins v. State, 357 So. 2d 156, 160 (Ala. Cr. App. 1977), cert. denied, 357 So. 2d 161 ([Ala.] 1978)."

"'Henry, 555 So.2d at 770.'"

Peoples v. State, 951 So. 2d 755, 759 (Ala. Crim. App. 2006), quoting Peraita v. State, 897 So. 2d 1161, 1210 (Ala. Crim. App. 2003).

In the present case, to survive Williams's motion for judgment of acquittal, the State's evidence had to establish a prima facie case that Williams intentionally caused Jamie's death directly or that Williams aided or abetted another person in intentionally causing Jamie's death. See § 13A-6-2(a)(1), Ala. Code 1975 (providing that a person commits murder if "[w]ith intent to cause the death of another person, he or she causes the death of that person or of another person"). In his brief on appeal, Williams concedes that Davis testified that he saw Williams shooting a gun, but Williams points out that Davis saw at least one other person shooting a gun. Williams also states that

> "the State offered the testimony of Keonya ... who stated that immediately before the shooting began, she saw a boy, whom she could not identify, run down the sidewalk with a gun. (R.119). That is when she called out to [Jamie] to warn him. (R. 119.) At the

> same time she saw this boy running, she saw Williams, who had been sitting on Myeisha's back porch, run into the back door of Myeisha's apartment. (R. 120.) She never saw Williams with a gun. Keonya's testimony was corroborated by the two defense witnesses who also claimed that Williams was inside the house at the time of the shooting, and never had a gun."

(Williams's brief, at 18-19.) Based solely on those observations of the evidence, Williams alleges that "the State's evidence clearly failed to exclude the reasonable hypothesis that someone other than Williams shot and killed Jamie Hedgeman." (Williams brief, at 19.)

Williams also alleges that the State's evidence was insufficient to prove that he acted as an accomplice because, he says, "there was no evidence that the shooting was other than a spontaneous event." (Williams's brief, at 24.) However, as noted earlier, this Court has held that "the common enterprise or adventure may have been entered into on the spur of the moment without prearrangement or participation." Peoples, supra at 759.

While it is true that there was no direct evidence establishing that the shot that killed Jamie was fired from Williams's gun, it appears that Williams is confused as to the standards governing this Court's review of the sufficiency of the evidence. As stated earlier, "the test to be applied is whether the jury might reasonably find that the evidence excluded every reasonable hypothesis except that of guilt; not whether such evidence excludes every reasonable hypothesis but guilt, but whether a jury might reasonably so conclude." Lockhart, supra at 899. It is undisputed that Jamie died from a gunshot wound. Keonya testified that prior to the shooting, as Jamie was walking toward her and Williams's group, Williams stated that he was "going to get that nigger." (R. 119.) Davis testified that he saw Williams and Cortez shooting guns in Jamie's direction, and Louann testified that she saw Williams with a gun in his hand after she heard the shooting. Also, Rebecca testified that Jamie told her that the people who shot him were in a brown Cadillac, and more than one witness testified that after the shooting, Williams and Cortez left the scene in a Cadillac. See Ex parte Jones, 541 So. 2d

1052, 1053-55 (Ala. 1989) (explaining that evidence of the defendant's attempt to evade justice may be presented as tending to show the defendant's consciousness of guilt if the attempt is connected with other incriminating circumstances). Viewing the evidence in the light most favorable to the State, we conclude that the jury could have reasonably excluded every hypothesis except that of the Williams's guilt. The jury could have reasonably found that Williams intentionally caused Jamie's death directly or that Williams aided or abetted another person in intentionally causing Jamie's death. The conflicting evidence and the credibility of the witnesses were matters solely for the jury's determination.

II.

Williams also alleges that "[t]he State's evidence was insufficient to prove that Williams did not act in self-defense." (Williams brief, at 20.) The trial court instructed the jury on self-defense; thus, Williams is arguing that the trial court erred in not directing an acquittal based on his self-defense claim. To support that allegation, Williams relies on Smith v. State, 602 So. 2d 470 (Ala. Crim. App. 1992), which held:

> "'Once the issue of self-defense is raised, the State must prove that the accused did not act in self-defense in the sense that the State must prove a prima facie case of unjustified homicide.' Ex parte Johnson, 433 So. 2d 479, 481 (Ala. 1983). See also Howard v. State, 420 So. 2d 828 (Ala. Crim. App. 1982). Thus, the State continues to have the burden of proving all of the elements of homicide and 'must counter any evidence presented by the defendant which would raise a reasonable doubt as to the existence of one of those elements.' Johnson at 481. The weight and credibility of the evidence is for the jury's determination. Id."

602 So. 2d at 471.

Similarly, in Bean v. State, 492 So. 2d 647 (Ala. Crim. App. 1986), this Court held:

> "'When the issue [of self-defense] is present,

> the State must prove that the accused did not act in self-defense in the sense that the State must prove a prima facie case of unjustified homicide. However even if the evidence of self-defense is undisputed, the credibility of the defendant with respect to the evidence of self-defense is for the jury, and they may, in their discretion, accept it as true or reject it.'"

492 So. 2d at 650, quoting Mack v. State, 348 So. 2d 524, 529 (Ala. Crim. App. 1977) (citations omitted).

In Lockett v. State, 505 So. 2d 1281 (Ala. Crim. App. 1986), this Court explained the respective roles of the trial court and the jury in the treatment of a self-defense claim:

> "'The determination ... requires the application of the well-established rule, as stated in State v. Rash, [359 Mo. 215,] 221 S.W.2d [124,] at [124] [(1949)]:
>
> > "'"... Ordinarily self defense is in the nature of an affirmative defense, and a question for the jury. But whether the state's evidence, which is neither disputed nor contradicted, established self defense so as to make a killing justifiable homicide instead of murder or manslaughter is a question of law for the court." (Emphasis added.)'
>
> "'A further refinement of this rule is found in State v. Jackson, 522 S.W.2d 317 (Mo. App. 1975) and cases cited therein, where the court said, [at 319]:
>
> > "'"... But where the evidence is conflicting or of such a character that different inferences might reasonably be drawn therefrom, it is generally a question of fact for the jury to determine whether the accused acted in self-defense in a particular case. (cases cited) ... Only when all the evidence is undisputed and clear should a court dispose of a murder or

> manslaughter charge by acquittal without tendering the issue of self-defense to the jury (cases cited). Rarely, then, is self-defense declared by law so as to bar the submission of the homicide offense altogether." (Emphasis added.)'
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> "State v. Thornton, 532 S.W.2d 37, 42-43 (Mo. App. 1975) (footnote omitted). Cf. Raines v. State, 455 So. 2d 967, 974 (Ala. Cr. App. 1984).
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> "On rare occasions, the Alabama courts have reversed the trial court for its failure to direct an acquittal verdict where the prosecution's evidence in presenting the evidence of the killing also presented undisputed evidence of self-defense. See e.g., Bishop v. State, 23 Ala. App. 109, 121 So. 455 (1929); Simmons v. State, 22 Ala. App. 126, 113 So. 466 (1927). These two cases have been cited as authority for the following general principle: 'If the undisputed evidence shows clearly that the accused was in actual or apparent imminent peril and was unable to retreat, and there is no evidence warranting a finding that he was at fault, he is entitled to have the jury instructed to return a verdict of not guilty.' C. Gamble, McElroy's Alabama Evidence § 457.02(7) (3d ed. 1977). See also Hamby v. State, 254 Ala. 139, 47 So. 2d 218 (1950); Thompson v. State, 376 So. 2d 761, 764 (Ala. Cr. App.), rev'd on other grounds, 376 So. 2d 766 (Ala. 1979) (wherein the court noted that '[w]here the undisputed evidence clearly shows the victim to be at fault, the accused may be entitled to a directed verdict')."

505 So. 2d at 1284-85.

In the present case, to establish that Williams acted in self-defense, there must be some evidence that Williams used deadly physical force on Jamie to defend himself or a third person from what Williams reasonably believed to be the use or imminent use of unlawful deadly physical force by Jamie. § 13A-3-23(a), Ala. Code 1975. The only evidence that could possibly show such a belief is Johnson's testimony that he saw

Jamie holding a gun immediately before the shooting and Myeisha's testimony that Jamie began firing a gun at her apartment. However, both Johnson and Myeisha also testified that Williams did not leave the inside of the apartment or have a weapon during the shooting; thus, their testimony indicates that Williams did not use deadly physical force against Jamie and is inherently inconsistent with a finding of self-defense. Concerning the issue of self-defense, different inferences might reasonably be drawn from all the evidence that was presented in this case, and the evidence was not clear that Williams acted in self-defense. See Lockett, supra. The weight and credibility of the evidence, including the credibility of Johnson's and Myeisha's testimony, was for the jury's sole determination. Therefore, the trial court did not err in submitting Williams's self-defense claim to the jury and refusing to direct an acquittal based on his self-defense claim.

III.

Finally, Williams alleges that the trial court erred in denying his Batson v. Kentucky, 476 U.S. 79 (1986), motion. Specifically, Williams alleges that the trial court "erred in holding that Williams did not make a prima facie showing of racial discrimination where the State used ten of its twelve peremptory strikes to remove African-Americans from the venire, seven of whom had no interaction with the court and/or lawyers and had nothing in common other than their race." (Williams's brief, at 25.)

According to the record, after the jury was selected, defense counsel for Cortez made a Batson motion alleging that the State improperly "excluded a considerable number" of black prospective jurors from the jury. (3rd Supp. R. 88-89.) Defense counsel did not give any other reason for the motion. The trial court determined that six of the thirteen selected jurors were African-American. (3rd Supp. R. at 89.) Then the following exchange occurred:

> "[Defense counsel]: I adjoin [Cortez's counsel] in the Batson challenge citing the reasons they gave. Out of twelve strikes, ten were of African-American origin. And there's seven who were struck who had no exchange at all with the court and/or any

> of the attorneys as far as questions. So, other than based on their race, I don't see a race-neutral reason as to why they would have potentially been struck. They didn't have any sort of exchange at all with the court or with the attorneys.
>
> "THE COURT: I try to keep very good notes during the jury selection process. And I do note that each of the defense -- each of the defendants struck as their six strikes, each struck all whites on the panel. And based on the notes that I kept and on the history that I have with [the prosecutors] in this court, I find that you failed to make a prima facie case of discrimination in the selections.
>
> "So your motions are denied."

(3rd Supp. at 89-90.)

Assuming that Williams's assertion that the State used 10 of its 12 peremptory strikes to remove African-Americans from the venire is true[2], Williams failed to establish a prima facie case of racial discrimination. In Ex parte Walker, 972 So. 2d 737 (Ala. 2007), the Alabama Supreme Court held:

> "This Court has stated:
>
> > "'The burden of persuasion is initially on the party alleging discriminatory use of a peremptory challenge to establish a prima facie case of discrimination. In determining whether there is a prima facie case, the court is to consider "all relevant circumstances" which could lead to an inference of

[2]Although the record fails to contain any documents to indicate the race of the prospective jurors, Williams filed a third motion to supplement the record, requesting the strike list be added. This motion was denied. He had filed a second motion to supplement, requesting the full voir dire proceedings which had been granted. The race of the members of the venire was not reflected in the proceedings.

discrimination.'

"Ex parte Branch, 526 So. 2d 609, 622 (Ala. 1987). An objection based on numbers alone, however, does not support the finding of a prima face case of discrimination and is not sufficient to shift the burden to the other party to explain its peremptory strikes. Ex parte Trawick, 698 So. 2d 162 (Ala. 1997).

"Here, the trial court did not err in holding that [the defendant] did not present a prima facie case of discriminatory use of peremptory strikes by the State. [The defendant's] objection was based totally on the number of African-Americans the State struck from the jury. When the trial court asked for facts or evidence to support the objection, [the defendant] was unable to provide any. The trial court properly concluded that [the defendant] had not presented a prima facie case of discriminatory use of peremptory strikes."

972 So. 2d at 741-42.

Likewise, in the present case, Williams's Batson motion was based on the number of African-Americans the State struck from the jury. "'Alabama courts have repeatedly held that numbers alone are not sufficient to establish a prima face case of discrimination.' Vanpelt v. State, [Ms. CR-06-1539, December 18, 2009] ___ So.3d ___, ___ (Ala. Crim. App. 2009)." Reynolds v. State, [CR-07-0443, October 1, 2010] ___ So. 3d ___, ___ (Ala. Crim. App. 2010). Although he made a brief bare allegation concerning the questioning of the venire, he provided no facts to support his claim of discrimination. As this court stated in Williams v. State, [CR-08-2016, May 28, 2010] ___ So. 3d ___, ___ (Ala. Crim. App. 2010):

"In this case, there was simply no evidence presented indicating that any of the factors set out in Ex parte Branch, [526 So. 2d 609 (Ala. 1987)], which may be used to establish a prima facie case, existed. Regarding potential juror no. 133, R.N.J., the trial court denied Williams's Batson motion without requiring a response from the State. With

> respect to this challenge, Williams argued only that R.N.J. had not provided an adverse response to voir dire questioning and speculated as to the State's reasons for striking R.N.J., and further asserted generally that the jury was composed of too few minority ethnic groups.'"[I]t is important that the defendant come forward with facts, not just numbers alone, when asking the [trial] court to find a prima facie case."' Mitchell v. State, 579 So. 2d 45, 48 (Ala. Crim. App. 1991), quoting United States v. Moore, 895 F. 2d 484, 485 (8th Cir. 1990)."

Because a Batson claim based on numbers alone does not support a finding of a prima face case of discrimination and there is no inference of purposeful discrimination in the record, Williams motion was not sufficient to shift the burden to the State to explain its peremptory strikes. The trial court properly concluded that Williams had not presented a prima facie case of discriminatory use of peremptory strikes.

Based on the foregoing, the judgment of the trial court is affirmed.

AFFIRMED.

Welch, P.J., and Windom, Kellum, and Joiner, JJ., concur.