

IN THE SUPREME COURT OF THE STATE OF NEVADA

EDILFREDO CHAVEZ,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 53365

FILED

MAY 12 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of three counts of sexual assault of a minor under 14 years of age, three counts of statutory sexual seduction, two counts of lewdness with a child under 14 years, two counts of use of a minor in producing pornography and two counts of possession of visual presentation depicting sexual conduct of a child. Eighth Judicial District Court, Clark County; Donald M. Mosley, Judge. Appellant raises two claims.


First, appellant argues that the district court erred by denying his challenge to the State's peremptory challenges of three African-American jurors in violation of Batson v. Kentucky, 476 U.S. 79 (1986). When reviewing a Batson challenge, we give great deference to "[t]he trial court's decision on the ultimate question of discriminatory intent." Diomampo v. State, 124 Nev. 414, 422-23, 185 P.3d 1031, 1036-37 (2008) (quoting Walker v. State, 113 Nev. 853, 867-68, 944 P.2d 762, 771-72 (1997)). Here, the district court found that the State's removal of the challenged jurors was not based on a systematic exclusion of any particular race. See Kaczmarek v. State, 120 Nev. 314, 333, 91 P.3d 16, 29 (2004) ("Unless a discriminatory intent is inherent in the prosecutor's


explanation, the reason offered will be deemed race neutral.” (quoting Hernandez v. New York, 500 U.S. 352, 360 (1991))). Because the record supports the district court’s determination, we conclude that the district court did not err by rejecting appellant’s Batson challenge.

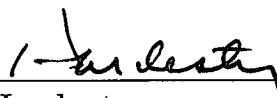
Second, appellant argues that his convictions for possession of child pornography violate double jeopardy because those counts are lesser-included offenses of the production counts. However, we rejected this argument in Wilson v. State, 121 Nev. 345, 358-59, 114 P.3d 285, 294-95 (2005). Accordingly, this claim lacks merit.

Having considered appellant’s claims and concluded that they lack merit, we

ORDER the judgment of conviction AFFIRMED.


_____, C.J.
Douglas


_____, J.
Pickering


_____, J.
Hardesty

cc: Hon. Donald M. Mosley, District Judge
Clark County Public Defender
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk