IN THE SUPREME COURT OF THE STATE OF NEVADA

MAJOR EVERETT LEAGUE,
Appellant,
vs.
THE STATE OF NEVADA,
Respondent.

No. 57669

FILED

JAN 12 2012

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY [signature]
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a judgment of conviction, pursuant to a jury verdict, of burglary while in possession of a firearm, battery with the intent to commit a crime, conspiracy to commit robbery, robbery with use of a deadly weapon, and eleven counts of grand larceny of a firearm. Eighth Judicial District Court, Clark County; Michael Villani, Judge. Appellant Major Everett League raises three issues on appeal.

First, League contends that the district court erred in denying his challenge, pursuant to Batson v. Kentucky, 476 U.S. 79 (1986), to two peremptory strikes based on racial discrimination. See Diomampo v. State, 124 Nev. 414, 422, 185 P.3d 1031, 1036 (2008) (explaining the three-pronged test for determining whether illegal discrimination has occurred). We disagree. The State explained that prospective juror number two believed he was treated unfairly by law enforcement because they illegally searched his vehicle and arrested him for having a deadly weapon and prospective juror number 178 was the only juror that had a strong preference for CSI-type scientific evidence. We conclude that these

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explanations for exercising the State's peremptory challenges were race-neutral and League has not demonstrated that those explanations were pretext for racial discrimination. See Hawkins v. State, 127 Nev. ___, ___, 256 P.3d 965, 967 (2011). Therefore, the district court did not err by rejecting League's Batson challenge.

Second, League contends that the district court erred by denying his motion to suppress a statement he gave to a police detective. We disagree. League was read his rights pursuant to Miranda v. Arizona, 384 U.S. 436 (1966), waived those rights, and responded to police questioning. In a second interview fourteen hours later, League was asked by the same detective if he remembered his rights from the night before and League responded affirmatively. League then agreed to continue to speak with the detective. We conclude that the original Miranda warnings were not rendered stale and that the district court did not err by denying League's motion. See Koger v. State, 117 Nev. 138, 142, 144, 17 P.3d 428, 431-32 (2001) (considering the totality of the circumstances in light of seven different factors); see also Mendoza v. State, 122 Nev. 267, 276, 130 P.3d 176, 181 (2006) (reviewing voluntariness of Miranda waiver de novo).

Third, League contends that the district court abused its discretion under NRS 176.015(2)(b)(2) by not sentencing him to a program of treatment pursuant to NRS 176A.280. We disagree. League was not eligible for this treatment program because he was convicted of battery with intent to commit a crime and the State did not stipulate to his assignment in a treatment program. See NRS 176A.290(2); NRS

200.400(1)(a). We therefore conclude that the district court did not abuse its discretion, see Houk v. State, 103 Nev. 659, 664, 747 P.2d 1376, 1379 (1987), and we

ORDER the judgment of conviction AFFIRMED.

_________________________, J.
Douglas

_________________________, J.
Gibbons

_________________________, J.
Parraguirre

cc: Hon. Michael Villani, District Judge
Phung H. Jefferson
Attorney General/Carson City
Clark County District Attorney
Eighth District Court Clerk