IN THE COURT OF CRIMINAL APPEALS OF TEXAS

NO. PD-1149-08

ERNEST MURRY MOORE, JR. Appellant

v.

THE STATE OF TEXAS

ON STATE'S PETITION FOR DISCRETIONARY REVIEW FROM THE FIRST COURT OF APPEALS HARRIS COUNTY

***Per curiam*.**

OPINION

Appellant, Ernest Murry Moore, Jr., was convicted of capital murder and sentenced to life in prison. Moore appealed, claiming, *inter alia*, that the trial court erred in denying his *Batson*[1] challenges to seven African-American jurors. The court of appeals agreed that the appellant met his burden to establish a *Batson* violation with respect to one of the jurors, reversed the judgment of the trial court, and remanded the case to that court for further proceedings. *See Moore v. State*, 265 S.W.3d 73, 90 (Tex. App.—Houston [1st Dist.] 2008).

[1] *Batson v. Kentucky*, 476 U.S. 79 (1986).

We granted the State's petition for discretionary review to determine whether the court of appeals "erred in holding that the trial court was required to find that the trial prosecutor engaged in purposeful racial discrimination when she exercised a peremptory challenge" against that particular juror.

Having examined the record and briefs in this case, we conclude that our decision to grant review was improvident. The State's petition for discretionary review is dismissed.

Delivered: July 1, 2009

Publish