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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

<p>JAVAREE Q. BULLOCK,</p> <p>Petitioner - Appellant,</p> <p>v.</p> <p>DAVID L. RUNNELS,</p> <p>Respondent - Appellee.</p>
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No. 07-16738

D.C. No. CV-06-03548-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Argued and Submitted June 10, 2009
San Francisco, California

Before: SCHROEDER, TASHIMA and BERZON, Circuit Judges.

Javaree Q. Bullock appeals the district court’s denial of his 28 U.S.C. § 2254 habeas petition challenging his California conviction for second degree robbery and possession of a firearm by a felon on the ground it was obtained in violation of his right to equal protection of the law, as enunciated in Batson v. Kentucky, 476

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

U.S. 79 (1986). The trial court denied defense counsel's four Batson motions, the first because it determined there was no prima facie showing of racial discrimination, and the latter three because the prosecutor offered race-neutral reasons for the challenges that the court concluded were genuine. The California Court of Appeal found no reversible error and affirmed the conviction and sentence of 21 years.

The Court of Appeal could reasonably have determined, given the trial court's own comments upon Bullock's first Batson motion, that the prosecutor was improperly offering reasons she knew were acceptable to the court. Under the AEDPA standard by which we are bound, it was not unreasonable for the Court of Appeal to defer to the trial court's determination regarding the prosecutor's credibility in proffering her reasons for the challenges.

Similarly, the Court of Appeal could have viewed the record as indicating that defense counsel was not given adequate opportunity to respond to the prosecutor's proffered reasons for the peremptory challenges. The Court of Appeal's conclusion that the trial court did not improperly curtail defense counsel's ability to respond to the prosecutor's proffered justifications, however, was not unreasonable. Petitioner has made no suggestion of what would have been added to the record had counsel been permitted to speak further.

The district court's denial of habeas corpus relief is AFFIRMED.