

STATE OF LOUISIANA

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NO. 2004-KA-0765

VERSUS

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COURT OF APPEAL

EDDIE GIVENS

*

FOURTH CIRCUIT

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STATE OF LOUISIANA

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MURRAY, J., CONCURS AND ASSIGNS REASONS

The difficulty in this case, both for the trial court and for this court in reviewing the trial court, is the fact that we are trying to determine in 2003 if peremptory challenges exercised in 1997 were based on gender. The Supreme Court found that Mr. Givens had established a *prima facie* case of gender discrimination, and remanded for a hearing at which the State would present gender-neutral reasons for the peremptory strikes of potential male jurors.

The two assistant district attorneys testified, to the best of their recollection, as to the reasons that they decided to strike jurors, Harris, Wilfred, Sylve, Forest, Bartholomew and Jones, and counsel for Mr. Givens was allowed to cross examine on those reasons in an attempt to show that the stated reasons were a mere pretext. Although the trial court did not allow defense counsel to cross-examine the witnesses with regard to comparative treatment of the different jurors, I cannot say that the trial court erred when it determined that the peremptory strikes of the above six jurors were not based on gender. I, therefore, agree that the decision of the trial court should be affirmed.