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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0162**

State of Minnesota,
Respondent,

vs.

Artshayia Monia Pargo,
Appellant.

**Filed March 3, 2025
Affirmed in part and remanded
Harris, Judge**

Hennepin County District Court
File No. 27-CR-22-12285

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Mary F. Moriarty, Hennepin County Attorney, N. Nate Summers, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebrook, Chief Appellate Public Defender, Steven P. Russett, Assistant Public Defender, St. Paul, Minnesota (for appellant)

Considered and decided by Harris, Presiding Judge; Ross, Judge; and Cochran, Judge.

NONPRECEDENTIAL OPINION

HARRIS, Judge

Appellant challenges her conviction of aiding or abetting felony theft, in violation of Minnesota Statutes section 609.52, subdivision 2(a)(1) (2020), arguing that the evidence is insufficient to support her conviction, and that the prosecutor plainly erred by eliciting

profile testimony. Alternatively, appellant argues that the district court clearly erred when it denied her *Batson* challenge to the state's use of a peremptory strike. Appellant raises additional arguments in a pro se supplemental brief. We affirm in part and remand to the district court for further findings on appellant's *Batson* challenge.

FACTS

The facts below summarize the evidence received during the jury trial, viewed in the light most favorable to the jury's verdict. On June 23, 2022, appellant Artshayia Monia Pargo and T.M. went to Kohls in Maple Grove and filled a shopping cart with merchandise. Kohls' surveillance footage shows Pargo and T.M. walking throughout the store together placing merchandise into the same shopping cart. A contractor, who was finishing a paint job at the entrance, noticed T.M. exiting the store with the shopping cart full of clothes with the tags and sensors still attached; Pargo followed about five or six feet behind her. The contractor suspected Pargo and T.M. of theft, took photos of them leaving the store, and took photos of their vehicle and license plate. The contractor observed T.M. put the items in the vehicle and T.M. drove away with Pargo in the passenger seat. The contractor called 911 and observed the vehicle run a stop sign.

Officer D.S. was patrolling nearby when he observed T.M. and Pargo's vehicle fail to yield to another car while exiting the Kohl's parking lot, nearly resulting in a collision. As he began a traffic stop, his partner was alerted about the theft at the Kohl's location where T.M. and Pargo had just exited. The license plate on the alert matched that of the vehicle that Officer D.S. was stopping. Officer D.S. identified T.M. as the driver of the vehicle, Pargo as the passenger, and a third individual in the backseat. He also identified

a Kohl's shopping cart in the vehicle that contained miscellaneous clothing, some of which were still on hangers and had tags attached.

Respondent State of Minnesota charged Pargo, with aiding or abetting felony theft for intentionally aiding another, in violation of Minnesota Statutes section 609.52, subdivision 2(a)(1), and 609.05, subdivision 1 (2020).¹ The case proceeded to a jury trial in May 2023.

During voir dire, the state attempted to strike juror 13 for cause, which the district court denied. The state was concerned about his ability to be fair to the state because of how he described his role as a potential juror. Juror 13 told the court that he did not "feel comfortable passing judgment on anybody." When asked whether his feelings would change if Pargo's race was different, juror 13 answered affirmatively. He stated:

Yeah. I would be the only Black person in here defending . . . an Asian American or a white American. I probably wouldn't feel as obligated . . . to be that protector . . . in that room to – provide where . . . others might not be able to understand the lifestyle. It would be different if she was a different – different race because I can't . . . speak on anybody else. I – I can only speak on the lifestyle that – that I know.

The state also argued that juror 13's comments showed a concern for the consequences or potential punishment on the defendant. Pargo objected to the state's motion, arguing that it implicated her right to a fair and representative jury because juror 13 was the only Black person in the jury pool. After hearing both parties' arguments, the district court denied the state's motion to strike for cause. The district court stated that

¹ T.M. was charged with felony theft in a separate case.

although juror 13's comments appeared to hold the state "to a very high standard, higher than the standard of proof beyond a reasonable doubt to prove guilt," juror 13 "rehabilitate[d] himself" in many of his responses to questioning.

The state used a peremptory strike to remove juror 13. Pargo later asserted a *Batson* challenge, arguing that the strike was based on the prospective juror's race. The district court denied Pargo's *Batson* challenge, concluding that she failed to establish a prima facie case of racial discrimination.

At trial, the district court heard testimony from the contractor working near the entrance of the store, the Kohl's loss-prevention supervisor, and a law-enforcement officer whose testimony is consistent with the facts as set forth above.

The loss-prevention supervisor testified that part of his training was to recognize certain behaviors of theft, such as bringing large bags, backpacks, or duffle bags; rapidly selecting merchandise regardless of size or price; and avoiding main aisles. In reviewing the surveillance footage, he testified that he witnessed Pargo and T.M. "walking around the store together" and "avoiding the main aisles." He described both Pargo and T.M. rapidly selecting merchandise as they walked throughout the store.

While questioning the loss-prevention supervisor, the state presented Kohl's surveillance footage as evidence. In one clip, T.M. pushed the shopping cart near a rack of clothes located close to the exit. The loss-prevention supervisor testified that staging carts near the exit door is typical behavior of shoplifters because "[t]hey want to take a good look around . . . [to see] if they can get out without anybody seeing them." He said that people attempting to shoplift/steal will "continue to look like they're shopping."

The jury found Pargo guilty of aiding and abetting felony theft. The district court sentenced Pargo to a stay of imposition, which included 30 days of local confinement and three years of supervised probation. Pargo appeals.

DECISION

Pargo raises three arguments on appeal. First, she contends that her conviction must be reversed because there is insufficient evidence that she knowingly and intelligently aided T.M. in carrying out the theft. Second, Pargo argues that she is entitled to a new trial because the state committed plain error by eliciting inadmissible testimony that Pargo fit the profile of a retail thief. Finally, Pargo argues that she is entitled to a new trial because the district court clearly erred by denying her *Batson* challenge to the state's peremptory strike of the only Black person in the jury pool. We address each argument in turn.

I. There is substantial evidence to support Pargo's conviction.

Pargo first argues that her conviction must be reversed because there is insufficient evidence that she knowingly and intelligently aided T.M. in carrying out the theft. When reviewing a sufficiency of the evidence challenge, we consider whether the state relied on direct or circumstantial evidence at trial. *State v. Segura*, 2 N.W.3d 142, 155 (Minn. 2024). For an element proven by direct evidence, “we painstakingly review the record to determine whether that evidence, when viewed in the light most favorable to the verdict, was sufficient to permit the jurors to reach the verdict which they did.” *Id.* (quotation omitted).

For an element proven by circumstantial evidence, we apply “a heightened two-step standard” of review to the sufficiency of the evidence. *Loving v. State*, 891 N.W.2d 638,

643 (Minn. 2017). We first “identify the circumstances proved,” disregarding evidence inconsistent with the verdict. *State v. Harris*, 895 N.W.2d 592, 601 (Minn. 2017). Then we “determine whether the circumstances proved are consistent with guilt and inconsistent with any rational hypothesis except that of guilt.” *State v. Silvernail*, 831 N.W.2d 594, 599 (Minn. 2013) (quotation omitted). In doing so, we “give no deference to the jury’s choice between reasonable inferences.” *Harris*, 895 N.W.2d at 601.

Under Minnesota law, a defendant is guilty of theft if she “intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other’s consent and with intent to deprive the owner permanently of possession of the property.” Minn. Stat. § 609.52, subd. 2(a)(1). A person is criminally liable for the crime of another if she “intentionally aids, advises, hires, counsels, or conspires with or otherwise procures the other to commit the crime.” Minn. Stat. § 609.05, subd. 1. The phrase “intentionally aids” requires “(1) that the defendant ‘knew that his alleged accomplices were going to commit a crime,’ and (2) that the defendant ‘intended his presence or actions to further the commission of that crime.’” *State v. Milton*, 821 N.W.2d 789, 805 (Minn. 2012) (quoting *State v. Mahkuk*, 736 N.W.2d 675, 682 (Minn. 2007)). Accomplice liability also attaches when the defendant “plays some knowing role in the commission of the crime and takes no steps to thwart its completion.” *State v. Swanson*, 707 N.W.2d 645, 658-59 (Minn. 2006) (quotation omitted).

To be guilty of aiding and abetting, “the defendant does not need to have participated actively in the actual commission of the crime.” *State v. Hawes*, 801 N.W.2d 659, 668 (Minn. 2011). Instead, to determine whether a defendant played a knowing role

in the crime, the jury can infer the defendant's state of mind through circumstantial evidence, such as "the defendant's presence at the scene of the crime, a close association with the principal offender before and after the crime, a lack of objection or surprise under the circumstances, and flight from the scene of the crime with the principal offender." *State v. McAllister*, 862 N.W.2d 49, 53 (Minn. 2007). With these principles in mind, we consider whether the evidence is sufficient to support Pargo's conviction.

We begin our analysis by first identifying the circumstances proved. "In doing so, we winnow down the evidence presented at trial to a subset of facts that are consistent with the jury's verdict, and we disregard all evidence that is inconsistent with the verdict." *Segura*, 2 N.W.3d at 155.

The circumstances proved by the state's evidence include the following: (1) Pargo and T.M. arrived at and entered Kohl's together; (2) both walked through the store avoiding the main aisles and placed merchandise into the same shopping cart; (3) both pushed the shopping cart and communicated with each other as they moved throughout the store; (4) shortly before leaving the store, T.M. placed the shopping cart near the exit door; (5) neither Pargo nor T.M. attempted to pay for the merchandise before leaving; (6) the contractor observed the security tags and sensors attached to the merchandise in the shopping cart and suspected Pargo and T.M. of theft; (7) Pargo exited Kohl's shortly after T.M., and initially walked away from T.M., but then ran towards her and got in the passenger seat of the same car as T.M.; (8) photos taken by the contractor showed Pargo and T.M. as they crossed the parking lot; (9) the contractor witnessed T.M. place the shopping cart in the car; (10) both exhibited behavior that loss-prevention officers look for

when identifying potential retail thefts; and (11) the total value of the items recovered was \$2,185.

The second step of our analysis is to “identify the reasonable inferences that can be drawn from the circumstances proved when viewed ‘as a whole and not as discrete and isolated facts.’” *Id.* (quoting *State v. Hassan*, 977 N.W.2d 633, 640 (Minn. 2022)). In other words, if the circumstances proved as a whole “are consistent with a reasonable inference of innocence,” then the state’s circumstantial evidence is insufficient to uphold the defendant’s conviction. *Id.* at 157.

In this step we consider whether the circumstances proved support a reasonable inference that Pargo knew that T.M. would or did commit theft at Kohl’s. Here, Pargo arrived at the Kohl’s department store with T.M., walked throughout the store with T.M. and placing merchandise into the same shopping cart as T.M. Pargo followed T.M. with the shopping cart full of merchandise, with the tags and sensors still attached, and was with T.M. when she placed the cart near the exit door. Pargo did not appear surprised when T.M. left with the cart and unpaid merchandise, nor did she appear to object or thwart T.M.’s actions as they left the store. And as the contractor followed them out of the store taking photos, Pargo quickly ran to the same car in which T.M. placed the shopping cart and drove away. These circumstances proved are those from which a jury may infer intent to aid another in the commission of a crime—that is, Pargo was present at the scene of the crime, was closely associated with the principal offender before and after the crime, showed no objection or surprise under the circumstances, and fled the scene of the crime with the principal offender.

When the circumstances proved are viewed as a whole, one could reasonably infer that Pargo knew of T.M.'s plan to commit theft. Pargo, however, insists that the circumstances proved also allow the reasonable inference that T.M. acted unilaterally without her knowledge or intent, and argues that no evidence proved that she and T.M. planned to commit theft beforehand. She claims that T.M. left her with no other choice: either remain stranded at Kohl's and answer for her friend's unlawful conduct, or flee the scene of the crime with T.M. Pargo's argument is unavailing.

Even if Pargo did not plan the theft with T.M., or have knowledge of it beforehand, such knowledge can be acquired as the commission of the crime progressed. *McAllister*, 862 N.W.2d at 55. Rather than attempt to stop or object to T.M.'s conduct, Pargo fled with T.M. Additionally, these circumstances are inconsistent with any rational hypothesis except that of guilt.

In light of the circumstances proved by the state, and when viewed as a whole, there is sufficient evidence to support Pargo's conviction.

II. Pargo is not entitled to a new trial based on alleged prosecutorial misconduct.

Pargo next argues that she is entitled to a new trial because the state committed plain error by eliciting inadmissible testimony that Pargo fit the profile of a retail thief. She claims that the prosecutor plainly erred by describing the typical behavior of retail thieves and then showing the jury the Kohl's surveillance footage and asserting that Pargo exhibited those behaviors. We are not convinced.

Because Pargo's counsel did not object at trial to the prosecutor's statements, we review the alleged error under the "modified plain-error test." *State v. Portillo*, 998

N.W.2d 242, 248 (Minn. 2023). Under this test, the defendant must show that the prosecutor's conduct constituted (1) error and (2) that the error was plain. *Id.* "If the defendant is successful, the burden then shifts to the state to demonstrate that the error did not affect the defendant's substantial rights." *Id.* (quotation omitted). Even if these three prongs are met, "we will not grant relief to correct the error unless our failure to do so will cause the public to seriously question the fairness and integrity of our judicial system. *Pulczynski v. State*, 972 N.W.2d 347, 359 (Minn. 2022).

We begin our analysis by identifying whether it was plain error for the state to elicit testimony from the supervisor about the typical behaviors of retail thieves and point out those behaviors in corresponding surveillance video.

A prosecutor's actions may amount to error or misconduct if the actions are "violations of clear or established standards," and "have the effect of materially undermining the fairness of a trial." *State v. Fields*, 730 N.W.2d 777, 782 (Minn. 2007). "[A]ttempting to elicit or actually eliciting clearly inadmissible evidence may constitute misconduct" by a prosecutor. *Id.* Profile evidence may be inadmissible if "the unfair prejudice to the defendant outweighs the probative value of the evidence." *State v. Heller*, 12 N.W.3d 452, 466 (Minn. 2024) (citing *State v. Williams*, 525 N.W.2d 538, 547-49 (Minn. 1994)).

The supreme court first addressed the admissibility of profile evidence in *Williams*, in which the state introduced testimony about the "drug courier profile" used by investigators. 525 N.W.2d at 541. The court explained that while character evidence involves generalizations based on the defendant's past acts, profile evidence "involves a

generalization based on the past acts of third persons.” *Id.* at 547–48 (quotation omitted). The profile evidence admitted in *Williams* included, among other things, buying airline tickets with cash shortly before departure time, flying to or from a “source city,” continuing to stare at luggage after checking it, failing to claim the luggage at baggage claim, and traveling with no luggage at all. *Id.* at 546. The supreme court held that this testimony was “clearly and plainly inadmissible” because it impliedly asked the jury to infer that the defendant must be guilty since her conduct “fit the profile.” *Id.* at 548.

State v. Loebach, is another example where the supreme court found impermissible profile evidence. 310 N.W.2d 58, 59 (Minn. 1981). There, the defendant challenged his conviction for third-degree murder of his three-month-old baby. At trial, the state’s expert witness testified generally about the characteristics of “battering parent syndrome,” such as among other things, low self-esteem, short temper, low empathy, isolation, and a lack of trust. *Id.* at 62-63. Although the witness “did not testify that [Loebach] possessed any of these characteristics,” the supreme court stated that the “obvious purpose” for this testimony “was to demonstrate that [Loebach] fit within the ‘battering parent’ profile.”² *Id.* at 63.

Our review of the record leads us to conclude that even if there was error, it was not plain. “An error is plain if it is clear or obvious, which is typically established if the error contravenes case law, a rule, or a standard of conduct.” *State v. Webster*, 894 N.W.2d 782,

² Despite concluding there was plain error, the supreme court held that the error was not prejudicial because there was overwhelming evidence of guilt and the “battering parent syndrome” testimony reflected only a small portion of the state’s case. *Id.* at 64.

787 (Minn. 2017) (quotation omitted). Unlike the testimony in *Loebach* and *Williams*, the loss-prevention supervisor here did not delve deep into the unique characteristics of unrelated habits in retail thieves. Instead, he described the behaviors he sees most often in retail thieves based on his training and experience without stating that Pargo fit such a profile. And as the prosecutor played the Kohl's surveillance footage for the jury, the loss-prevention supervisor merely identified those behaviors on display and explained its significance.

Even if we assume, without deciding, that there was plain error, the error did not affect Pargo's substantial rights. The state bears the burden of showing that there was "no reasonable likelihood that the absence of the misconduct in question would have had a significant effect on the verdict of the jury." *Portillo*, 998 N.W.2d at 251 (quotation omitted). To determine whether the absence of the error would have had a significant effect on the jury's verdict, "we consider the strength of the evidence against the defendant, the pervasiveness of the improper suggestions, and whether the defendant had an opportunity to (or made efforts to) rebut the improper suggestions." *Id.* (quotation omitted).

To begin, the state presented strong evidence that Pargo knowingly and intentionally aided T.M. to commit retail theft. The jury watched surveillance footage of Pargo and T.M. enter Kohl's together and walk throughout the store together placing merchandise into the same shopping cart. And when T.M. exited the store with the cart full of merchandise, Pargo fled the store and ran to the same vehicle as T.M. The state presented testimony from the contractor who witnessed Pargo exit Kohl's closely behind T.M., who took the stolen merchandise out of the store. There was additional testimony from Officer

D.S. who stopped Pargo and T.M. after a traffic violation and found the stolen merchandise in their car.

Pargo argues that the improper evidence was pervasive because the prosecutor repeatedly paused the surveillance footage while eliciting the profile testimony from the loss-prevention supervisor. The testimony, however, merely described what was being depicted in the surveillance footage. And as the state argues, it is unlikely that the jury's three-hour deliberation turned on the prosecutor's alleged error. To be sure, a large part of the state's case was the surveillance footage that captured Pargo's actions, which were consistent with that of theft. Moreover, Pargo had the opportunity to rebut any improper suggestions and argued during opening statement, cross-examination, and closing argument that she acted "totally normal."

In sum, the state presented strong evidence of Pargo's guilt, and any alleged error was not so pervasive to affect Pargo's substantial rights. Pargo responded to the state's arguments throughout trial and had opportunities to rebut any improper suggestions. Because the state's error likely did not have a significant effect on the jury's verdict, we conclude that even if there were plain error, it did not affect Pargo's substantial rights.

III. The district court erred by denying Pargo's *Batson* challenge.

Pargo finally argues that the district court clearly erred by denying Pargo's *Batson* challenge because the prosecutor's peremptory strike of the only Black person in the jury pool was based on racial discrimination. *Batson v. Kentucky*, 476 U.S. 79, 89 (1986). She contends that the error requires a new trial and, in the alternative, argues that a remand is

necessary to determine whether the prosecutor's asserted reason for striking that juror was race-neutral and not a pretext for racial discrimination.

Peremptory strikes allow a party to remove potential jurors without cause. *State v. Seaver*, 820 N.W.2d 627, 632-33 (Minn. App. 2012). “[E]ach party generally has a limited number of peremptory strikes in a jury trial.” *State v. Diggins*, 836 N.W.2d 349, 354 (Minn. 2013). The Equal Protection Clause of the Fourteenth Amendment “prohibits purposeful racial discrimination in jury selection, and in particular prohibits the [s]tate from using a peremptory challenge to strike a prospective juror on the basis of the juror’s race.” *Id.*; *see also Batson*, 476 U.S. at 85 (“More than a century ago, the [c]ourt decided that the [s]tate denies a [B]lack defendant equal protection of the laws when it puts him on trial before a jury from which members of his race have been purposefully excluded.”); U.S. Const. amend. XIV, § 1. Although the state is generally not required to justify its peremptory strike, the defendant may challenge the strike if they believe that the state removed the potential juror on the basis of race. This is known as a *Batson* challenge. *See Batson*, 476 U.S. at 83-84. Minnesota courts have applied the *Batson* framework to determine whether a prosecutor’s use of a peremptory challenge was race-based. *Diggins*, 836 N.W.2d at 354; *see also* Minn. R. Crim. P. 26.02, subd. 7(3).

Under *Batson*’s three-step analysis, the defendant must establish a prima facie case that the state used a peremptory challenge to strike a potential juror on the basis of race. *Diggins*, 836 N.W.2d at 354. If the defendant establishes a prima facie case, “the burden shifts to the [s]tate to articulate a race-neutral explanation for exercising the peremptory challenge.” *Id.* (quotation omitted). Finally, if the state provides a race-neutral explanation,

the district court must then determine “whether the defendant has shown that the peremptory challenge was motivated by racial discrimination and that the [s]tate’s proffered explanation was merely a pretext for the discriminatory motive.” *Id.* at 355 (quotation omitted).

“[T]he existence of racial discrimination in the exercise of a peremptory challenge is a factual determination that is to be made by the district court and should be given great deference on review.” *State v. Reiners*, 664 N.W.2d 826, 830 (Minn. 2003). This deference recognizes “that the record may not reflect all of the relevant circumstances that the court may consider.” *State v. Pendleton*, 725 N.W.2d 717, 724 (Minn. 2007). The district court’s determination on a *Batson* challenge will not be reversed unless it is clearly erroneous. *Id.* A district court’s determination is clearly erroneous if it is “manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.” *In re Commitment of Kenney*, 963 N.W.2d 214, 221 (Minn. 2021) (quotation omitted).

The question for this court is whether the district court clearly erred in concluding that Pargo failed to establish a prima facie case of discrimination. To do so, the defendant must show “(1) that a member of a protected racial group has been peremptorily excluded from a jury and (2) that the circumstances of the case raise an inference that the exclusion was based on race.” *Pendleton*, 725 N.W.2d at 726. (quotation omitted). “An inference of racial discrimination can be drawn . . . upon ‘proof of disproportionate impact upon the racial group, e.g., the prosecutor totally excluded all blacks from the venire.’ *State v.*

Onyelobi, 879 N.W.2d 334, 345 (Minn. 2016) (quoting *State v. Moore*, 438 N.W.2d 101, 107 (Minn. 1989)).

In denying Pargo's *Batson* challenge, the district court found that the state's peremptory strike did not raise an inference that the strike was based on race. The district court also noted "that there was at least one other person of color on the jury that the [s]tate did not strike."

Pargo argues that the district court's findings were clearly erroneous because the prosecutor's peremptory strike excluded "the only Black juror, and hence all Black jurors, from the venire." Removing a "member of a racial minority does not necessarily establish a prima facie case of discrimination." *Id.* (quotation omitted). But in *Moore*, the supreme court held that the defendant established a prima facie case of discrimination when the prosecutor struck the only Black juror on the panel. 438 N.W.2d at 107; *see also State v. Everett*, 472 N.W.2d 864, 868 (Minn. 1991) (stating that the prima facie showing was met by the prosecutor's peremptory strike to remove the only Black juror); *State v. DeVerney*, 592 N.W.2d 837, 843 (Minn. 1999) (finding a prima facie case was established when the prosecutor peremptorily struck the only two Native American jurors when the defendant was also Native American).

The district court clearly erred when it determined that Pargo failed to show a prima facie case of discrimination. T.M. and Pargo are Black, and the state exercised its peremptory strike to remove the *only* Black juror from the jury pool. Although removing a member of a racial minority does not alone reflect racial motives, other circumstances here give rise to such an inference. For example, the juror spoke largely about his lived

experiences as a Black man and how that impacted his role as a juror, particularly during jury deliberations (where jury members are encouraged to bring in their life experiences and engage in vigorous debate). When the district court asked if he was concerned because he was “one of the only Black jurors in this case,” he said:

It’s something that’s in the back of my head. I don’t want to be the one that – you know, when it comes time to [jury deliberation], I don’t want to be the biggest opposer, but I also don’t want to not be here and [the rest of the jury] not know the lifestyle that we go through to even get put in certain . . . situations.”

And when the state asked the juror whether he “could add to the deliberation, add some context and some helpful information in the jury room, by adding those kinds of perspectives,” he affirmed unequivocally. He later added: “. . . I’ve known in my personal experience, that there are just people who don’t understand where I come from and the type of stuff that I, you know, go through.” Although the juror initially shared his concerns with the district court about serving on the jury, he answered affirmatively and unequivocally to the court’s, the state’s, and the defense counsel’s questions about his ability to be fair and impartial, following the court’s instructions, and voting to convict if there was proof beyond a reasonable doubt. These circumstances raise an inference that the state’s peremptory strike was based on race when it exercised its peremptory strike against the only Black juror on the jury pool.

“The *Batson* framework is designed to produce actual answers to suspicions and inferences that discrimination may have infected the jury selection process.” *Johnson v. California*, 545 U.S. 162, 172 (2005). And the burden to successfully establish a prima

facie case is low, as a defendant need only “produc[e] evidence sufficient to permit the [district court] to draw an inference that discrimination has occurred.” *Id.* at 170. Since we conclude that Pargo established a prima facie case of discrimination, the district court erred by failing to engage in a complete *Batson* analysis. Because of “the importance of clarity at each step of the analysis,” when the district court fails to follow this “prescribed procedure,” appellate courts will “examine the record without deferring to the district courts analysis.” *State v. Seaver*, 820 N.W.2d. 627, 633 (Minn. App. 2012). Here, while there is a sufficient record for this court to determine if the state’s reason for striking juror 13 was a race-neutral, there is not an adequate record for this court to discern whether Pargo carried her burden of proving purposeful discrimination.³

Pargo argues under *State v. McRae*, 494 N.W.2d 252, 260 (Minn. 1992) that we should remand “to give the district court ‘a chance’ to complete its *Batson* analysis.” We agree. When analyzing the remedy for a *Batson* violation, *McRae* reasoned that like a courtroom closure case where “the remedy should be appropriate to the violation,” the appropriate remedy in a *Batson* violation case may be a remand for a hearing, rather than a new trial. 494 N.W.2d at 260 (“[T]he appropriate remedy in [a] case [about] . . . whether the prosecutor improperly used the peremptory challenge to exclude the only black juror is to remand and give the trial court a chance to determine whether, in fact, the prosecutor’s

³ Although the district court determined that Pargo failed to establish a prima facie case of racial discrimination, it still allowed the state to articulate a race-neutral reason for striking juror 13. After allowing the state to articulate a race-neutral reason for striking juror 13, it asked Pargo if she would like to make a record on the state’s reason being pretextual. Pargo declined because the district court determined that she failed *Batson*’s first prong.

reason was a pretext to cloak a discriminatory intent or purpose.”) Unlike *McRae* where the court did not remand on the *Batson* issue because it was not satisfied that the prosecutor articulated a facially race-neutral basis for exclusion, here the prosecutor arguably articulated a facially race-neutral basis for exclusion requiring an analysis under step 3 of the *Batson* analysis. We therefore remand to the district court for an evidentiary hearing, at which it may reopen the record to make complete findings at each step of the *Batson* analysis. On remand, the district court should make express findings on whether the state met its burden of production of a race-neutral explanation. The district court should also make express findings whether Pargo met her burden of proving pretext and discriminatory intent. Before making these findings, the district court should allow input from both Pargo and the state.

IV. Pargo’s pro se arguments lack merit.

In her supplemental pro se brief, Pargo argues that: (1) T.M. was the one who physically stole the merchandise “but was found not guilty”; (2) Kohl’s loss-prevention supervisor testified that he “purposefully increased the price on all of the items [T.M.] lifted”; (3) no witness saw her take anything but did witness her “casually walk out the door” behind T.M.; and (4) her right to a speedy trial was violated. These arguments are not supported by the record. We review each argument in turn.

First, T.M.’s case was dismissed after she agreed to complete over 20 hours of community service. In any event, the outcome of T.M.’s case is irrelevant here. Second, Pargo claims that the loss-prevention supervisor increased the prices of items that Murphy took. A thorough review of the record reflects no such finding. Third, Pargo claims that

no one saw her take anything and that “casually” walking out of the store supports her innocence. As discussed above, there was sufficient evidence to support the jury’s determination of guilt. And finally, Pargo asserts that her right to a speedy trial was violated because her trial was drawn out over a year after the offense date. Regardless of the timing of Pargo’s jury trial, there is nothing in the record showing that she submitted a speedy trial request.

Affirmed in part and remanded.