

*Prosper v. State*

During voir dire, counsel for the defense objected to peremptory strikes exercised by the prosecution against black venire members. The judge held a hearing at which the defendant testified that he was black and that none of the selected jury persons were black. His counsel then began reciting facts into the record. The prosecutor voiced his opinion that if counsel was going to testify, then he should be sworn in first. Defense counsel declined to be sworn, stating that “he was just giving the Court what he asked for.” The prosecutor was then sworn in and provided his reasons for striking various jurors. In reviewing the appeal of the defendant’s conviction, the Court of Criminal Appeals deplored the actions of the trial court in presenting a poorly-developed record with regards to such an important issue as a *Batson* challenge. The Court stated that unsworn statements were improper evidence and indicated that in order to preclude the temptation to accept such improper testimony, counsel should be sworn before being permitted to make such statements in the future.