

The Supreme Court of South Carolina

The State, Respondent,

v.

Thomas Stephen Acker, Petitioner.


Appellate Case No. 2022-000497

ORDER

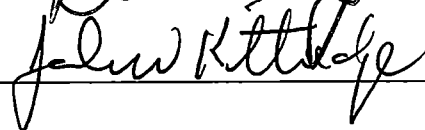
This matter is before the Court by way of a petition for a writ of certiorari to review the court of appeals' decision in *State v. Acker*, 435 S.C. 716, 869 S.E.2d 873 (Ct. App. 2022). Because Petitioner died pending this Court's consideration of his case, Petitioner's counsel now moves this Court to withdraw the court of appeals' opinion and abate Petitioner's case *ab initio*, extinguishing his convictions. In the alternative, Petitioner's counsel moves this Court to hold Petitioner's case was not rendered moot by Petitioner's death and allow the appeal to go forward.

Petitioner's counsel's motion is granted in part and denied in part. Petitioner's case is dismissed pursuant to *State v. Anderson*, 281 S.C. 198, 199, 314 S.E.2d 597, 597 (1984) (holding that the death of a criminal appellant prior to the disposition of an appeal abates that appeal and constitutes grounds for its dismissal). We decline to abate Petitioner's convictions *ab initio*. Furthermore, counsel's motion to withdraw the court of appeals' opinion is denied.

The State moves to hold the appeal in abeyance pending the determination of counsel's motion. Because the matter is presently held in abeyance, the motion is denied as moot.



C.J.



J.

John Cannon J.
Jerry Sanchez J.
D. Alan Li J.

Columbia, South Carolina
May 17, 2023

cc:
Kathrine Haggard Hudgins, Esquire
Alan McCrory Wilson, Esquire
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Barry Joe Barnette, Esquire
William M. Blicht, Jr., Esquire
The Honorable Jenny Abbott Kitchings