

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County
Honorable Letitia H. Verdin, Circuit Court Judge

Appellate Case No: 2013-000656

RECEIVED
SEP 22 2014
SC Court of Appeals

THE STATE OF SOUTH CAROLINA,

Respondent,

vs.

CHRISTINA REECE,

Appellant.

RETURN TO PETITION FOR REHEARING

Respondent, by and through undersigned counsel, would respectfully show unto this Court:

I.

After appealing her convictions for three counts of felony driving under the influence, great bodily injury, Appellant moved this Court for an order declaring her convictions and sentences null and void and remanding the matter to the circuit court for a new trial. It was Appellant's contention that her earlier improper, interlocutory appeal from a pretrial order finding probable cause existed to obtain a blood sample deprived the Pickens County Court of General Sessions of jurisdiction to proceed with trial and the that the convictions and sentences obtained as a result of the trial were null and void. Specifically, Appellant argued to this Court in

her motion that because the remittitur from the earlier premature, improper appeal of the pretrial order was not issued until after the convictions were obtained and sentences pronounced, jurisdiction was not vested in the circuit court.

The State made Return to the Motion asserting the motion must be denied because the Supreme Court had already determined that Appellant's earlier appeal from the pretrial order was an improper, interlocutory appeal, which was not disputed by Appellant at the time of the Supreme Court's ruling. The State also provided this Court with numerous opinions finding that orders respecting pretrial discovery and refusals to suppress evidence are not immediately appealable as well as authority holding that an improper, interlocutory appeal does not transfer jurisdiction of the case to the appellate court and does not stay proceedings in the trial court.

This Court denied Appellant's motion by Order dated August 28, 2014. Appellant petitions this Court for rehearing reasserting the arguments he made in support of the motion which was denied by this Court.

II.

Respondent submits, first, that Appellant's Petition for Rehearing is improper under our appellate court rules and should not be entertained by this Court. Rule 221 (c), SCACR, specifically provides that the "appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing a party's appeal." The Order of this Court does not dismiss or have the effect of dismissing Appellant's appeal. Quite the contrary, the Order declines to dismiss the appeal. Accordingly, rehearing is not permitted by our rules and should be denied.

III.

Alternatively, the State reasserts and incorporates herein the arguments made in support of its request that this Court deny Appellant's motion. For all of the reasons and the authority

relied upon in its Return, the State submits that this Court's Order denying Appellant's motion was correct. Appellant fails to provide persuasive argument that the Order denying her motion was incorrect or that matters were overlooked or misapprehended that would alter the ruling. Appellant merely reasserts the same arguments previously made and appears not to appreciate the distinction in the decisions arising from timely, ripe appeals where jurisdiction is transferred to the appellate court and decisions arising from improper, premature appeals that cannot and do not transfer jurisdiction from the circuit court to the appellate court. This Court correctly dismissed Appellant's appeal and rehearing should be denied.

V.

WHEREFORE, having made Return to Petition for Rehearing, the State's submits that rehearing should be denied.

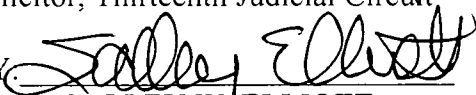
Respectfully submitted,

ALAN WILSON
Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

W. WALTER WILKINS
Solicitor, Thirteenth Judicial Circuit

BY:



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ATTORNEYS FOR RESPONDENT

September 22, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Pickens County
Honorable Letitia H. Verdin, Circuit Court Judge

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THE STATE,

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vs.

CHRISTINA REECE,


Appellant.

PROOF OF SERVICE

I, Angela Bennett, certify that I have served the within Return to Petition for Rehearing on Appellant by depositing two copies of the same in the United States mail, postage prepaid, addressed to his attorney of record, Robert M. Dudek, Esquire, South Carolina Commission on Indigent Defense, Division of Appellate Defense, Post Office Box 11589, Columbia, South Carolina 29211.

I further certify that all parties required by Rule to be served have been served.

This 22nd day of September, 2014.



ANGELA BENNETT
Administrative Assistant

Office of the Attorney General
Post Office Box 11549
Columbia, SC 29211
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ALAN WILSON
ATTORNEY GENERAL

September 22, 2014

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SC Court of Appeals

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Re: State v. Christina Reece
Appellate Case No: 2013-000656

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of Return to Petition for Rehearing in the above case.

Sincerely,

Salley W. Elliott
Senior Assistant Deputy Attorney General

SWE/ab
Enclosures

cc: Robert M. Dudek, Esquire
Ms. Trisha Allen, Victim Services