



The Supreme Court of South Carolina

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October 28, 2015

The Honorable Jeanette W. McBride
PO Box 2766
Columbia SC 29202-2766

REMITTITUR

Re: Ayree Henderson v. The State
Lower Court Case No. 2008CP4001696
Appellate Case No. 2014-001126

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court along with the earlier decision of the South Carolina Court of Appeals is enclosed.

Very truly yours,

CLERK

cc: Wanda H. Carter, Esquire
Megan Harrigan Jameson, Esquire

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Supreme Court**

Ayree Henderson, Respondent,

v.

State of South Carolina, Petitioner.

Appellate Case No. 2014-001126

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal from Richland County
G. Thomas Cooper, Jr., Circuit Court Judge

Memorandum Opinion No. 2015-MO-063
Heard September 23, 2015 – Filed October 28, 2015

CERTIORARI DISMISSED AS IMPROVIDENTLY GRANTED

Attorney General Alan M. Wilson and Assistant Attorney
General Megan H. Jameson, both of Columbia, for
Petitioner.

Deputy Chief Appellate Defender Wanda H. Carter, of
Columbia, for Respondent.

PER CURIAM: We granted certiorari to review the court of appeals' opinion in *Henderson v. State*, Op. No. 2014-UP-122 (S.C. Ct. App. filed March 19, 2014). We now dismiss the writ as improvidently granted.

DISMISSED AS IMPROVIDENTLY GRANTED

**TOAL, C.J., PLEICONES, BEATTY, KITTREDGE and HEARN, JJ.,
concur.**

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Ayree Henderson, Respondent,

v.

State of South Carolina, Petitioner.

Appellate Case No. 2010-167027

Appeal From Richland County
G. Thomas Cooper, Jr., Circuit Court Judge

Unpublished Opinion No. 2014-UP-122
Heard November 14, 2013 – Filed March 19, 2014

AFFIRMED

Attorney General Alan McCrory Wilson, Chief Deputy
Attorney General John W. McIntosh, Senior Assistant
Deputy Attorney General Salley W. Elliott, and Assistant
Attorney General Mary Shannon Williams, all of
Columbia, and Assistant Attorney General Tyson A.
Johnson, Sr., of Saluda, for Petitioner.

Deputy Chief Appellate Defender Wanda H. Carter, of
Columbia, for Respondent.

PER CURIAM: The State of South Carolina appeals the granting of post-conviction relief to Ayree Henderson, arguing the PCR court erred in finding a prior conviction for accessory after the fact of murder was prejudicial and was not a crime of dishonesty under Rule 609(a)(2), SCRE. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to ineffective counsel: *Strickland v. Washington*, 466 U.S. 668, 687 (1984) (stating to prove trial counsel was ineffective, the defendant must show (1) trial counsel's performance was deficient and (2) the deficiency prejudiced the defendant).
2. As to finding prior conviction for accessory after the fact of murder was not a crime of dishonesty: *Brown v. State*, 375 S.C. 464, 469, 652 S.E.2d 765, 768 (Ct. App. 2007) (stating "[t]his court gives great deference to the post-conviction relief (PCR) court's findings of fact and conclusions of law").
3. As to finding prior conviction was prejudicial: *State v. Martin*, 347 S.C. 522, 530, 556 S.E.2d 706, 710 (Ct. App. 2001) (stating "Rule 609(a)(1)[, SCRE,] requires the trial [court] to balance the probative value of the evidence for impeachment purposes against the prejudice to the accused"); *State v. Bryant*, 369 S.C. 511, 517-18, 633 S.E.2d 152, 156 (2006) (stating "we note that when the prior offense is similar to the offense for which the defendant is on trial, the danger of unfair prejudice to the defendant from impeachment by that prior offense weighs against its admission").

AFFIRMED.

HUFF, GEATHERS, and LOCKEMY, JJ., concur.