



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

May 19, 2021

Ms. Kathrine Haggard Hudgins, Esquire
South Carolina Commission on Indigent Defense
Division of Appellate Defense
P.O. Box 11589
Columbia SC 29211-1589

Mr. Michael Douglas Ross, Esquire
PO Box 11549
Columbia SC 29211-1549

Re: The State v. Roy Gene Sutherland
Appellate Case No. 2018-002148

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

V. Claire Allen

CLERK

cc: Alan McCrory Wilson, Esquire
Barry Joe Barnette, Esquire
Melody Jane Brown, Esquire
Donald J. Zelenka, Esquire
The Honorable J. Derham Cole

**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**

The State, Respondent,

v.

Roy Gene Sutherland, Appellant.

Appellate Case No. 2018-002148

Appeal From Spartanburg County
J. Derham Cole, Circuit Court Judge

Unpublished Opinion No. 2021-UP-180
Submitted April 1, 2021 – Filed May 19, 2021

AFFIRMED

Appellate Defender Kathrine Haggard Hudgins, of
Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Deputy
Attorney General Donald J. Zelenka, Senior Assistant
Deputy Attorney General Melody Jane Brown, and
Assistant Attorney General Michael Douglas Ross, all of
Columbia; and Solicitor Barry Joe Barnette, of
Spartanburg, all for Respondent.

PER CURIAM: Roy Gene Sutherland appeals his conviction and life sentence for murder and possession of a weapon during the commission of a violent crime. On appeal, Sutherland argues the circuit court erred by refusing to dismiss the entire jury pool when the State, prior to jury selection, allowed family members and friends of the victim to introduce themselves to the jury pool and note their affiliation with a church. We affirm pursuant to Rule 220(b) of the South Carolina Appellate Court Rules.

The circuit court did not abuse its discretion in refusing to excuse the entire jury pool because evidence supports the circuit court's determination that William Lawrence Ashcraft's statement did not harm or prejudice Sutherland. Ashcraft's statement that he was a church deacon and the victim's relative's Sunday school teacher could not have had any bearing on the impartiality of the jury in light of the fact that his statement did not concern the victim and the victim's relative did not testify at trial. *See State v. Coaxum*, 410 S.C. 320, 327, 764 S.E.2d 242, 245 (2014) ("All criminal defendants have the right to a trial by an impartial jury." (quoting *State v. Woods*, 354 S.C. 583, 587, 550 S.E.2d 282, 284 (2001))); S.C. Code Ann. § 14-7-1020 (2017) (stating a court shall disqualify a juror "[i]f it appears to the court that the juror is not indifferent in the cause"); *Abofreka v. Alston Tobacco Co.*, 288 S.C. 122, 125, 341 S.E.2d 622, 624 (1986) ("The decision [to disqualify a juror] is within the sound discretion of the [circuit court]."); *State v. Spann*, 279 S.C. 399, 402, 308 S.E.2d 518, 520 (1983) ("A juror's competence is within the [circuit court]'s sole discretion and is not reviewable on appeal unless wholly unsupported by the evidence."); *Coaxum*, 410 S.C. at 327, 764 S.E.2d at 245 ("To protect both parties' right to an impartial jury, the [circuit] court must conduct voir dire of the prospective jurors to determinate whether the jurors are aware of any bias or prejudice against a party, as well as to 'elicit such facts as will enable [the parties] intelligently to exercise their right of peremptory challenge.'" (second alteration in original) (quoting *Woods*, 354 S.C. at 587, 550 S.E.2d at 284)).

AFFIRMED.¹

LOCKEMY, C.J., and HUFF and HEWITT, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.