

MISSOURI COURT OF APPEALS WESTERN DISTRICT

STATE OF MISSOURI,

Respondent,

v.

ANGELA R. HENDERSON,

Appellant.

DOCKET NUMBER WD83661

Date: December 21, 2021

Appeal from:
Buchanan County Circuit Court
The Honorable Daniel F. Kellogg, Judge

Appellate Judges:
Division One: W. Douglas Thomson, P.J., and Alok Ahuja and Karen King Mitchell,
JJ.

Attorneys:
Jarrett A. Johnson, Kansas City for appellant
Evan J. Buchheim, Jefferson City for respondent

MISSOURI APPELLATE COURT OPINION SUMMARY+

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

STATE OF MISSOURI, Respondent,
v.
ANGELA R. HENDERSON, Appellant.

WD83661

Buchanan County

Before Division One Judges: W. Douglas Thomson, P.J., and Alok Ahuja and Karen King Mitchell, JJ.

Angela Henderson was charged in the Circuit Court of Buchanan County with second-degree murder, armed criminal action, and tampering with physical evidence. The charges arose from a murder in St. Joseph in December 2013. Henderson was convicted of all three counts following a jury trial in July 2016. This Court reversed Henderson’s convictions due to instructional error, *State v. Henderson*, 551 S.W.3d 593 (Mo. App. W.D. 2018), and a second jury trial was held in January 2020. The second trial again resulted in Henderson’s conviction on all three counts, and the circuit court sentenced her to consecutive terms of life imprisonment for murder, twenty-five years’ imprisonment for armed criminal action, and three years for evidence tampering.

Henderson appeals.

AFFIRMED.

Division One holds:

Henderson contends that the out-of-court statements of her adult son, Joshua Mollett, should not have been admitted at her trial. Henderson argues that Mollett’s statements could not bear “sufficient indicia of reliability” under § 491.075.1(1), RSMo, because the court had found Mollett to be incompetent as a witness under § 491.060(1), RSMo. Henderson essentially argues that out-of-court statements cannot be admitted from any person declared to be incompetent under § 491.060(1), RSMo, because – as a matter of law – such statements cannot be found sufficiently reliable under § 491.075.1(1), RSMo. We disagree. The court’s finding of incompetency was made as of the time Mollett’s trial testimony was sought, which was years after his extrajudicial statements. Further, the circuit court may have found Mollett to be incompetent as a witness for reasons unrelated to the reliability of his out-of-court statements. Moreover, because Mollett was confined to a mental-health facility at the time Henderson sought his testimony, the court’s

finding of incompetency may simply reflect that Henderson had failed to meet her burden to overcome the presumption that Mollett was incompetent.

Henderson's second Point argues that the circuit court abused its discretion in failing to dismiss a juror from the jury panel, when Henderson presented testimony from a family friend who was attending the trial that the juror had been engaging in non-verbal communication with members of the Victim's family in the courtroom gallery. The circuit court was not required to believe the testimony of Henderson's friend, however, and was entitled to reject Henderson's motion to remove the juror without hearing from the juror herself. Moreover, the testimony of Henderson's friend concerning what she had witnessed was vague as to whether any communication in fact occurred, and the nature of that communication. In these circumstances, the court was not required to dismiss the challenged juror, even if the court believed the testimony of Henderson's friend.

Opinion by: Alok Ahuja, Judge

December 21, 2021

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