

**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.

Kurtino Weathersbee, Appellant.

Appellate Case No. 2014-002171

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Appeal From Richland County  
Maité D. Murphy, Circuit Court Judge

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Unpublished Opinion No. 2016-UP-239  
Submitted January 1, 2016 – Filed June 1, 2016

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**AFFIRMED**

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David Edward Belding, of Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Assistant  
Attorney General Jennifer Ellis Roberts, and Solicitor  
Daniel Edward Johnson, all of Columbia, for  
Respondent.

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**PER CURIAM:** Affirmed pursuant to Rule 220(b), SCACR, and the following  
authorities: Rule 29(b), SCRCrimP ("A motion for a new trial based on after-  
discovered evidence must be made within one (1) year after the date of actual

discovery of the evidence by the defendant or after the date when the evidence could have been ascertained by the exercise of reasonable diligence."); *State v. Harris*, 391 S.C. 539, 545, 706 S.E.2d 526, 529 (Ct. App. 2011) ("The granting of a new trial because of after-discovered evidence is not favored,' and this court will affirm the [circuit] court's denial of such a motion unless the [circuit] court abused its discretion." (quoting *State v. Irvin*, 270 S.C. 539, 545, 243 S.E.2d 195, 197-98 (1978))); *id.* ("In order to warrant the granting of a new trial on the ground of after-discovered evidence, the movant must show the evidence (1) is such as will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial by the exercise of due diligence; (4) is material to the issue; and (5) is not merely cumulative or impeaching.").

**AFFIRMED.**<sup>1</sup>

**HUFF, A.C.J., and WILLIAMS and THOMAS, JJ., concur.**

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<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.