

**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.

Rajshun Bernard Foster, Appellant.

Appellate Case No. 2019-001571

Appeal From Cherokee County
R. Keith Kelly, Circuit Court Judge

Unpublished Opinion No. 2022-UP-057
Submitted January 1, 2022 – Filed February 9, 2022

AFFIRMED

Tommy Arthur Thomas, of Irmo, for Appellant.

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

PER CURIAM: Rajshun Bernard Foster appeals his murder conviction for which the trial court sentenced him to thirty-five years' imprisonment. On appeal, Foster

argues the trial court erred in charging the jury that it could infer malice from the use of a deadly weapon because our supreme court issued *State v. Burdette*¹ during the pendency of his appeal. Because Foster failed to object to the jury charge at trial, we affirm pursuant to Rule 220(b), SCACR, and the following authorities: *Burdette*, 427 S.C. at 505, 832 S.E.2d at 583 ("Our ruling today is effective in this case and in those cases which are pending on direct review or are not yet final, *so long as the issue is preserved.*" (emphasis added)); *State v. Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("Issues not raised and ruled upon in the trial court will not be considered on appeal.").

AFFIRMED.²

THOMAS, GEATHERS, and VINSON, JJ., concur.

¹ 427 S.C. 490, 832 S.E.2d 575 (2019).

² We decide this case without oral argument pursuant to Rule 215, SCACR.