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. |
| Marion B. Powell, Appellant. |
| Appellate Case No. 2013-002537 |
| Appeal From Beaufort County Brooks P. Goldsmith, Circuit Court Judge |
| Unpublished Opinion No. 2016-UP-297 Submitted June 1, 2016 – Filed June 15, 2016 |
| AFFIRMED |

Christopher James Moore, of Richardson Patrick Westbrook & Brickman, LLC, and Chief Appellate Defender Robert Michael Dudek, both of Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Assistant Attorney General Jennifer Ellis Roberts, both of Columbia; and Solicitor Isaac McDuffie Stone, III, of Bluffton, for Respondent.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following authorities: State v. Liverman, 398 S.C. 130, 137, 727 S.E.2d 422, 425 (2012) ("In criminal cases, the appellate court sits to review errors of law only."); id. at 137-38, 727 S.E.2d at 425 ("Whether an eyewitness identification is sufficiently reliable is a mixed question of law and fact."); id. at 138, 727 S.E.2d at 425 ("In reviewing mixed questions of law and fact, where the evidence supports but one reasonable inference, the question becomes a matter of law for the court."); State v. Traylor, 360 S.C. 74, 81, 600 S.E.2d 523, 526-27 (2004) ("The United States Supreme Court has developed a two-prong inquiry to determine the admissibility of an outof-court identification.^[1] First, a court must ascertain whether the identification process was unduly suggestive. The court must next decide whether the out-ofcourt identification was nevertheless so reliable that no substantial likelihood of misidentification existed."); Liverman, 398 S.C. at 138, 727 S.E.2d at 425 ("Generally, the decision to admit an eyewitness identification is at the trial [court's] discretion and will not be disturbed on appeal absent an abuse of discretion.").

AFFIRMED.²

HUFF, SHORT, and THOMAS, JJ., concur.

¹ See Neil v. Biggers, 409 U.S. 188, 199-200 (1972) (holding the court should consider the following factors under the totality of the circumstances when evaluating the likelihood of misidentification: "[1] the opportunity of the witness to view the criminal at the time of the crime, [2] the witness' degree of attention, [3] the accuracy of the witness' prior description of the criminal, [4] the level of certainty demonstrated by the witness at the confrontation, and [5] the length of time between the crime and the confrontation").

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