



# The South Carolina Court of Appeals

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April 03, 2023

The Honorable Amy W. Cox  
PO Box 3483  
Spartanburg SC 29304-3483

## **REMITTITUR**

Re: The State v. David V. L. Garrett  
Lower Court Case No. 2007GS4206003, 2007GS4206005  
Appellate Case No. 2020-001183

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in blue ink that reads "V. Claire Allen".

CLERK

Enclosure

cc: Alan McCrory Wilson, Esquire  
Melody Jane Brown, Esquire  
Barry Joe Barnette, Esquire

Lara Mary Caudy, Esquire  
Tommy Evans, Jr., Esquire  
Donald J. Zelenka, Esquire  
The Honorable R. Keith Kelly

**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.

David Viron Lewis Garrett, Appellant.

Appellate Case No. 2020-001183

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

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Unpublished Opinion No. 2023-UP-088  
Submitted January 1, 2023 – Filed March 15, 2023

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**AFFIRMED**

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Appellate Defender Lara Mary Caudy, of Columbia, for  
Appellant.

Attorney General Alan McCrory Wilson, Deputy  
Attorney General Donald Zelenka, Senior Assistant  
Deputy Attorney General Melody J. Brown, and  
Assistant Attorney General Tommy Evans, Jr., all of  
Columbia; and Solicitor Barry Barnette, of Spartanburg,  
all for Respondent.

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**PER CURIAM:** David Viron Lewis Garrett appeals his concurrent sentences of forty-five years' imprisonment for murder and twenty years' imprisonment for first-degree burglary. On appeal, Garrett argues the sentencing court abused its discretion by admitting over one hundred full-color autopsy photographs of the decedent. We affirm pursuant to Rule 220(b), SCACR, and the following authorities: *State v. Shuler*, 353 S.C. 176, 184, 577 S.E.2d 438, 442 (2003) ("The relevance, materiality, and admissibility of evidence are matters within the sound discretion of the trial court and a ruling will be disturbed only upon a showing of an abuse of discretion."); *State v. Quinn*, 430 S.C. 115, 125, 843 S.E.2d 355, 360 (2020) ("Generally, a sentencing [court] has great discretion in the kind of evidence [it] may use to assist [it] in determining the punishment to be imposed."); *In re M.B.H.*, 387 S.C. 323, 326, 692 S.E.2d 541, 542 (2010) ("A [court] must be permitted to consider any and all information that reasonably might bear on the proper sentence for a particular defendant."); *State v. Torres*, 390 S.C. 618, 623, 703 S.E.2d 226, 229 (2010) (holding "that autopsy photographs may be presented to the [factfinder] in an effort to show the circumstances of the crime and character of the defendant"); *State v. Haselden*, 353 S.C. 190, 199-200, 577 S.E.2d 445, 450 (2003) ("[N]otwithstanding the sometime gory nature of autopsy photographs, they are nonetheless admissible where they reveal the true nature of the attack . . . ."); *State v. Kelley*, 319 S.C. 173, 178, 460 S.E.2d 368, 370-71 (1995) ("To constitute unfair prejudice, the photographs must create a 'tendency to suggest a decision on an improper basis, commonly, though not necessarily, an emotional one.'" (quoting *State v. Alexander*, 303 S.C. 377, 401 S.E.2d 146 (1991))); *Haselden*, 353 S.C. at 199, 577 S.E.2d at 450 ("[I]n the sentencing phase, the scope of the probative value of such photos is much broader than at the guilt or innocence phase.").

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

**WILLIAMS, C.J., THOMAS, J., and LOCKEMY, A.J., concur.**

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