

**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 Supreme Court**

John M. Burgess, Petitioner,

v.

Katherine C. Hunter, Respondent.

Appellate Case No. 2022-000661

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS

Appeal from Pickens County
Edward W. Miller, Circuit Court Judge

Memorandum Opinion No. 2024-MO-010
Heard March 26, 2024 – Filed April 24, 2024

AFFIRMED IN RESULT

Stephen N. Garcia, of Garcia Law Firm, LLC, of
Greenville, for Petitioner.

Andrew F. Lindemann, of Lindemann Law Firm, P.A., of
Columbia, for Respondent.

PER CURIAM: We granted a writ of certiorari to review the court of appeals' decision in *Burgess v. Hunter*, Op. No. 2022-UP-036 (S.C. Ct. App. filed Feb. 2, 2022). While we do not reject the court of appeals' reliance on issue preservation rules to dispose of this appeal, we have carefully reviewed the record in light of the allegations of misconduct. Assuming issue preservation rules did not pose an obstacle, the appeal would not succeed on the merits. We find the allegations directed at the trial court are without merit, for the record reveals no evidence in support of the allegations of improper nonverbal gestures. Moreover, Petitioner's Rule 59, SCRPC, motion was untimely, and the juror affidavit was patently inadmissible pursuant to Rule 606(b), SCRE. Accordingly, we affirm the court of appeals in result.

AFFIRMED IN RESULT.

BEATTY, C.J., KITTREDGE, FEW, JAMES and HILL, JJ., concur.