

**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.

Damian D. Anderson, Appellant.

Appellate Case No. 2014-001779

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Appeal From Charleston County  
W. Jeffrey Young, Circuit Court Judge

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Unpublished Opinion No. 2015-UP-568  
Submitted October 1, 2015 – Filed December 23, 2015

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**AFFIRMED**

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Deputy Chief Appellate Defender Wanda H. Carter, of  
Columbia, for Appellant.

Attorney General Alan McCrory Wilson, Assistant  
Attorney General Christina Catoe Bigelow, and Assistant  
Attorney General Vann Henry Gunter, Jr., all of  
Columbia; and Scarlett Anne Wilson, of Charleston, for  
Respondent.

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**PER CURIAM:** Affirmed pursuant to Rule 220(b), SCACR, and the following  
authorities: S.C. Code Ann. § 14-7-1330 (1976) ("When a jury, after due and

thorough deliberation upon any cause, returns into court without having agreed upon a verdict, the court may state anew the evidence or any part of it and explain to it anew the law applicable to the case and may send it out for further deliberation. But if it returns a second time without having agreed upon a verdict, it shall not be sent out again without its own consent unless it shall ask from the court some further explanation of the law."); *State v. Freely*, 105 S.C. 243, 247, 89 S.E. 643, 644 (1916) (stating the purpose of the statute is "to prevent forced verdicts, and to prevent undue severity of jury service"); *State v. Kelly*, 372 S.C. 167, 171-72, 641 S.E.2d 468, 470-71 (Ct. App. 2007) (holding "[t]here is no case law requiring or suggesting that an *Allen*<sup>1</sup> charge be given when a juror retracts her verdict during polling and this [c]ourt will not impose such a requirement" and finding that when a juror states the announced verdict is not her verdict during jury polling, it does not necessarily indicate the jury is hopelessly deadlocked); *State v. Barnes*, 402 S.C. 135, 136-39, 739 S.E.2d 629, 629-631 (2013) (holding the trial court is not required to inform the jury its consent is necessary before deliberating a third time); *Freely*, 105 S.C. at 248, 89 S.E. at 644 ("If the circumstances satisfied the [court], in a wise exercise of [its] discretion, that the jury consented to the return, then it was lawful to return them."); *State v. Robinson*, 360 S.C. 187, 194, 600 S.E.2d 100, 103 (Ct. App. 2004) ("The jury's consent to resume or to discontinue deliberations is determined, either expressly or impliedly, by its response to the trial [court's] comments." (quoting *Buff v. S.C. Dep't of Transp.*, 342 S.C. 416, 422, 537 S.E.2d 279, 282 (2000))); *State v. Rowell*, 75 S.C. 494, 509, 56 S.E. 23, 28-29 (1906) (holding the jury's consent was implied when the jury did not indicate it was unwilling to deliberate a third time).

**AFFIRMED.**<sup>2</sup>

**FEW, C.J., and KONDUROS and LOCKEMY, JJ., concur.**

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<sup>1</sup> *Allen v. United States*, 164 U.S. 492 (1896).

<sup>2</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.