

**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**

Jerry Sims, Employee-Claimant, Appellant,

v.

Edwin Pate Vinyl Siding, Employer, and Uninsured
Employers' Fund, Carrier, Respondents.

Appellate Case No. 2015-001838

Appeal From The Workers' Compensation Commission

Unpublished Opinion No. 2016-UP-469
Submitted October 1, 2016 – Filed November 9, 2016

AFFIRMED

Stephen J. Wukela, of the Wukela Law Office, of
Florence, for Appellant.

Lisa C. Glover, of the State Accident Fund, of Columbia,
for Respondent Uninsured Employers Fund.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: S.C. Code Ann. § 42-1-360(2) (2015) (stating an employer is subject to
the South Carolina Workers' Compensation Act only if it employs four or more
employees in the same business within the state); *Edens v. Bellini*, 359 S.C. 433,

440, 597 S.E.2d 863, 867 (Ct. App. 2004) ("Where [an] issue involves jurisdiction, the appellate court can take its own view of the preponderance of the evidence."); *id.* ("As a result, this [c]ourt has the power and duty to review the entire record and decide the jurisdictional facts in accord with the preponderance of the evidence."); *Hernandez-Zuniga v. Tickle*, 374 S.C. 235, 244, 647 S.E.2d 691, 696 (Ct. App. 2007) ("The appellant bears the burden of showing that the [Appellate Panel]'s decision is against the preponderance of evidence."); *Harding v. Plumley*, 329 S.C. 580, 587, 496 S.E.2d 29, 33 (Ct. App. 1998) ("While the company may have on occasion employed some additional laborers and statutory employees, the record does not support a conclusion that it employed the 'same number of persons throughout the period with some constancy.'" (quoting *Patterson v. L.M. Parker & Co.*, 162 S.E.2d 571, 575 (N.C. 1968))).

AFFIRMED.¹

HUFF and SHORT, JJ., and MOORE, A.J., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.