



# The South Carolina Court of Appeals

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POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

June 09, 2021

Mr. Robert Michael Dudek, Esquire  
PO Box 11589  
Columbia SC 29211

Mr. David A. Spencer, Esquire  
PO Box 11549  
Columbia SC 29211

Re: The State v. Varsheen Antuan Smith  
Appellate Case No. 2018-000373

Dear Counsel:

Enclosed is the decision of the Court. The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

Very truly yours,

*V. Claire Allen*

CLERK

cc: Alan McCrory Wilson, Esquire  
The Honorable Brooks P. Goldsmith

**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.

Varsheen Antuan Smith, Appellant.

Appellate Case No. 2018-000373

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Appeal From Beaufort County  
Brooks P. Goldsmith, Circuit Court Judge

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Unpublished Opinion No. 2021-UP-199  
Submitted May 1, 2021 – Filed June 9, 2021

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**AFFIRMED**

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Chief Appellate Defender Robert Michael Dudek, of  
Columbia, for Appellant.

Attorney General Alan McCrory Wilson and Senior  
Assistant Attorney General David A. Spencer, both of  
Columbia, for Respondent.

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**PER CURIAM:** Varsheen Antuan Smith appeals his convictions for kidnapping, possession of a handgun by a person convicted of a violent crime, and possession of a weapon during the commission of a violent crime and concurrent sentences of five years' imprisonment for each gun conviction and twenty-five years'

imprisonment for the kidnapping conviction. Initially, Smith's counsel filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), asking to be relieved as counsel and arguing the trial court erred by admitting evidence that Monte Ver'mon Steve was found murdered weeks after Andre Frazier's kidnapping. After an *Anders* review, this court ordered the parties to brief the *Anders* issue and to include a preservation analysis.

Because Smith agreed the State could present evidence of Steve's death and Tyrone Wallace's murder charge, Smith only wanted the trial court not to permit the State to discuss any evidence related to his charge for accessory after the fact, and the evidence presented at trial was consistent with what Smith requested, we affirm pursuant to Rule 220(b), SCACR, and the following authorities: *TNS Mills, Inc. v. S.C. Dep't of Revenue*, 331 S.C. 611, 617, 503 S.E.2d 471, 474 (1998) ("An issue conceded in a lower court may not be argued on appeal."); *State v. Benton*, 338 S.C. 151, 156-57, 526 S.E.2d 228, 231 (2000) (holding an issue was unpreserved for appellate review when the appellant conceded the issue at trial); Jean Hoefler Toal et al., *Appellate Practice in South Carolina* 187 (3d ed. 2016) ("An issue is not preserved for appellate consideration if it has been conceded in the trial court."); *State v. Brown*, 389 S.C. 84, 95, 697 S.E.2d 622, 628 (Ct. App. 2010) ("[The defendant] got the relief asked for and cannot complain on appeal.").<sup>1</sup>

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

**LOCKEMY, C.J., and HUFF and HEWITT, JJ., concur.**

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<sup>1</sup> Smith's preservation argument relying on *State v. Forrester*, 343 S.C. 637, 541 S.E.2d 837 (2001), is not meritorious. First, as discussed above, Smith agreed the State could present evidence of Steve's death and Wallace's murder charge. Additionally, Smith's pretrial objection focused on the admission of *evidence*; he did not object based on an *argument* and did not raise an objection during opening statements. *See generally id.* at 642, 541 S.E.2d at 840 ("[W]here a judge makes a ruling on the *admission of evidence* on the record immediately prior to the introduction of the evidence in question, the aggrieved party does not need to renew the objection." (emphasis added)). Next, Smith contends he did not need to reobject when the first witness testified; however, the first witness only mentioned that Steve's mother filed a missing person report for Steve. Not until ten witnesses later did an investigator testify about finding Steve's remains and Wallace's subsequent murder charge, and Smith did not object to this testimony.

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