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.

Robert Max Watkins, Appellant.

Appellate Case No. 2016-000966

Appeal From Greenville County Edward W. Miller, Circuit Court Judge

Unpublished Opinion No. 2018-UP-103 Submitted February 1, 2018 – Filed March 7, 2018

AFFIRMED

Robert Max Watkins, pro se.

Attorney General Alan McCrory Wilson and Senior Assistant Deputy Attorney General Megan Harrigan Jameson, both of Columbia; and Solicitor William Walter Wilkins, III, of Greenville, all for Respondent. **PER CURIAM:** Robert Watkins, pro se, appeals a circuit court order denying his motion for a new trial based on after-discovered evidence. On appeal, Watkins argues the circuit court abused its discretion by (1) denying his motion for a new trial pursuant to *Brady v. Maryland*¹ and (2) denying his motion for a new trial on the grounds he did not sufficiently meet the test for a new trial based on after-discovered evidence. We affirm² pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to the motion for a new trial based on the alleged *Brady* violation: *State v*. *Dunbar*, 356 S.C. 138, 142, 587 S.E.2d 691, 693-94 (2003) ("In order for an issue to be preserved for appellate review, it must have been raised to *and ruled upon* by the [circuit court]. Issues not raised and ruled upon in the [circuit] court will not be considered on appeal." (emphasis added)).

2. As to the motion for a new trial based on the after-discovered evidence: State v. Harris, 391 S.C. 539, 545, 706 S.E.2d 526, 529 (Ct. App. 2011) ("In order to warrant the granting of a new trial on the ground of after-discovered evidence, the movant must show the evidence (1) is such as will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial by the exercise of due diligence; (4) is material to the issue; and (5) is not merely cumulative or impeaching."); State v. Irvin, 270 S.C. 539, 545, 243 S.E.2d 195, 197-98 (1978) ("The granting of a new trial because of after-discovered evidence is not favored, and this [c]ourt will sustain the [circuit] court's denial of such a motion unless there appears an abuse of discretion."); *State* v. Mercer, 381 S.C. 149, 166, 672 S.E.2d 556, 565 (2009) ("In this post-trial setting, our jurisprudence recognizes the gatekeeping role of the [circuit] court in making a credibility assessment."); id. at 167, 672 S.E.2d at 565 ("On review, [the appellate court] may not make [its] own findings of fact. The deferential standard of review constrains [the appellate court] to affirm the [circuit] court if [its decision is] reasonably supported by the evidence.").

AFFIRMED.

HUFF, GEATHERS, and MCDONALD, JJ., concur.

¹ 373 U.S. 83 (1963).

² We decide this case without oral argument pursuant to Rule 215, SCACR.