

STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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**Mar 27 2024**

**S.C. SUPREME COURT**

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Certiorari to Williamsburg County

Honorable R. Kirk Griffin, Circuit Court Judge  
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ROBERT LEE REDDOCK,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2023-001321  
—————

PETITION FOR WRIT OF CERTIORARI  
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The PCR court correctly granted petitioner a belated appeal pursuant to *White v. State*, 263 S.C. 110, 108 S.E.2d 35 (1974), where the undisputed evidence showed petitioner never knowingly, voluntarily, and intelligently waived his right to a direct appeal because defense counsel did not properly inform petitioner of his right to a direct appeal..... 4

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## **ISSUE PRESENTED**

Whether the PCR court correctly granted petitioner a belated appeal pursuant to *White v. State*, 263 S.C. 110, 108 S.E.2d 35 (1974), where the undisputed evidence showed petitioner never knowingly, voluntarily, and intelligently waived his right to a direct appeal because defense counsel did not properly inform petitioner of his right to a direct appeal?

## STATEMENT

On December 12, 2019, a Williamsburg County grand jury indicted petitioner for two counts of armed robbery, two counts of conspiracy, failure to stop for blue light, and possession of a weapon during the commission of a violent crime.<sup>1</sup> App. 260-61. Petitioner's case was called to trial on June 14, 2021, before the Honorable R. Ferrell Cothran and a jury. App. 1. Virgil Barr represented petitioner and assistant solicitors, Warren Anderson and Ella Alston, represented the state. App. 1.

On June 17, 2021, the jury found petitioner not guilty of possession of a weapon during the commission of a violent crime but guilty of armed robbery.<sup>2</sup> App. 167, ll. 17-23. Judge Cothran sentenced petitioner to life without the possibility of parole. App. 183, l. 23-184, l. 4.

Thereafter, petitioner filed an application for post-conviction relief. App. 190-96. On June 13, 2023, an evidentiary hearing was held before the Honorable R. Kirk Griffin. App. 209-50. Petitioner was represented by Timothy Griffith and the state was represented by assistant attorney general T. Cruise Mitchell. App. 209.

On August 9, 2023, Judge Griffin signed an order granting belated appellate review pursuant to *White v. State*, and denied PCR as to all other claims. App. 251-59. Judge Griffin found defense counsel did not properly inform petitioner of his right to a direct appeal or pursue an appeal on petitioner's behalf. App. 255. Judge Griffin further found counsel should have made certain petitioner was fully aware of this right and in the absence of waiver by petitioner or pursue an appeal on his behalf. App. 255.

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<sup>1</sup> Petitioner was ultimately tried for armed robbery, possession of a weapon during the commission of a violent crime and criminal conspiracy. App. 36, ll. 2-9.

<sup>2</sup> The trial court granted petitioner's motion for directed a verdict as to criminal conspiracy. App. 128, ll. 8-9.

Petitioner now files this petition simultaneously with a brief addressing the direct appeal issue, as required by Rule 243, SCACR.

## ARGUMENT

The PCR court correctly granted petitioner a belated appeal pursuant to White v. State, 263 S.C. 110, 108 S.E.2d 35 (1974), where the undisputed evidence showed petitioner never knowingly, voluntarily, and intelligently waived his right to a direct appeal because defense counsel did not properly inform petitioner of his right to a direct appeal.

### **Relevant facts**

Petitioner testified at his evidentiary hearing that he wanted to appeal his conviction and sentence but that an appeal was never filed. App. 213, ll. 11-22; 214, ll. 3-11. Petitioner asked the PCR court to grant belated review of his case. App. 246, ll. 11-24.

Defense counsel testified that petitioner's trial was his first criminal trial after having graduated months before. App. 226, ll. 15-23. Counsel stated that petitioner had been represented by a public defender previously and he was referred this case where petitioner was facing life without the possibility of parole. App. 222, ll. 12-19. He testified that he and petitioner never discussed an appeal after petitioner was convicted. App. 222, ll. 5-12. Counsel claimed that he did not file an appeal in petitioner's case because he was not asked to file an appeal. App. 227, ll. 9-18.

At the end of testimony, PCR counsel argued petitioner was entitled to belated review because he was not given the opportunity to appeal where defense counsel never informed him of his right to an appeal. App. 246, ll. 11-24. Attorney for the state argued petitioner had not met his burden to show he was entitled to belated appeal. App. 247, ll. 1-10.

### **Discussion**

“To waive a direct appeal, a defendant must make a knowing and intelligent decision not to pursue the appeal.” *Simuel v. State*, 390 S.C. 267, 271, 701 S.E.2d 738, 739-740 (2010); *Clark*

*v. State*, 396 S.C. 164, 719 S.E.2d 708 (2011). “In the absence of an intelligent waiver by the defendant, counsel must either initiate an appeal or comply with the procedure in *Anders v. California*, 386 U.S. 738 (1967).” *Simuel* at 270.

“The appropriate scope of review of this Court is that any evidence of probative value is sufficient to uphold the PCR judge’s findings.” *Cherry v. State*, 300 S.C. 115, 119, 386 S.E.2d 624, 626 (1989).

Judge Griffin’s ruling is supported by the testimony from the evidentiary hearing. As Judge Griffin found, there was no evidence of a knowing, intelligent, and voluntary waiver of petitioner’s right to an appeal where defense counsel admitted he never spoke to petitioner about an appeal. The evidence supports Judge Griffin’s conclusion that petitioner is entitled to belated review of his conviction pursuant to *White*.

**CONCLUSION**

Petitioner respectfully requests this Court affirm the PCR court's decision that he is entitled to a belated direct appeal. Petitioner likewise requests that this Court grant his petition for writ of certiorari and allow full briefing on this issue, reverse the charges against him, and remand the case for a new trial



Sarah E. Shipe  
Appellate Defender

ATTORNEY FOR PETITIONER

This 27th day of March, 2024.