

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

Appeal from Greenville County Court of Common Pleas
The Honorable R. Scott Sprouse, Circuit Court Judge

App. Case No. 2024-000090

David Quintan Jones, #00391227,.....Petitioner,

v.

State of South Carolina,.....Respondent.

PETITION FOR WRIT OF CERTIORARI

WILLIAM G. YARBOROUGH, III

LAUREN CAROLE HOBBS

WGY Law

308 West Stone Avenue

Greenville, South Carolina 29609

(864) 331-1612 | F: 864-271-0711

ATTORNEYS FOR PETITIONER

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QUESTION PRESENTED FOR REVIEW

- I. WHETHER THE PCR COURT CORRECTLY FOUND PETITIONER'S RIGHT TO A DIRECT APPEAL WAS NOT KNOWINGLY, VOLUNTARILY, OR INTELLIGENTLY WAIVED AND THAT HE IS THEREFORE ENTITLED TO A BELATED DIRECT APPEAL PURSUANT TO *WHITE v. STATE*, 263 S.C. 110, 208 S.E.2d 35 (1974).

STATEMENT OF THE CASE

In May 2019, Petitioner David Quintan Jones was arrested on five charges of first-degree criminal sexual conduct (victim under the age of eleven) ("CSC") of his biological daughter and was later indicted by the Greenville County Grand Jury. (App. pp. 515–527). He was tried by jury before the Honorable Perry H. Gravely on June 5th through 8th, 2023. The jury ultimately found him guilty on all charges. (App. p. 478, line 7—p. 479, line 15). Judge Gravely imposed a concurrent sentence of forty-five (45) years on each charge with 1496 days credit for time-served. (App. p. 490, lines 19-23; pp. 528–537).

On June 16th, 2023, Petitioner filed a Notice of Appeal with the South Carolina Court of Appeals (*State v. David Quintan Jones*, App. Case No. 2023-000987). On June 21st, 2023, Petitioner served the Notice of Appeal upon the State by hand delivery and filed a copy with the Greenville County Clerk of Court. On June 22, 2023, the appeal was dismissed pursuant to Rule 203(b)(2), SCACR for service of the Notice of Appeal upon the State outside of the ten day time frame. Petitioner's subsequent motion to reinstate was denied and the Remittitur was issued on September 7, 2023.

Petitioner through Counsel filed a post-conviction relief application on July 31, 2023 seeking a belated direct appeal pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974) on the basis that his appellate rights were not knowingly, intelligently, or voluntarily waived. (App. pp. 538–546). After conferring with Counsel for Respondent, Assistant Attorney General William Joseph Maye, a consent order granting the PCR application for a belated direct appeal was issued by the Honorable R. Scott Sprouse on January 17, 2024. (App. pp. 547–548). A notice of appeal was accordingly filed with this Court on January 19, 2024. This appeal follows and pursuant to Rule 243(i)(1), SCACR, this Petition for Writ of Certiorari is filed along with the Petitioner's Brief.

ARGUMENT

I. THE PCR COURT CORRECTLY FOUND THAT PETITIONER’S RIGHT TO A DIRECT APPEAL WAS NOT KNOWINGLY, VOLUNTARILY, OR INTELLIGENTLY WAIVED, AND HE IS THEREFORE ENTITLED TO A BELATED DIRECT APPEAL PURSUANT TO *WHITE v. STATE*, 263 S.C. 110, 208 S.E.2d 35 (1974).

Criminal defendants have a right to direct appeal in South Carolina. Counsel must therefore ensure that the defendant was fully aware of his appellate rights ,and in the absence of an intelligent waiver, either pursue an appeal in his behalf or comply with the procedure set forth in *Anders v. California*, 386 U.S. 738 (1967). *Smith v. State*, 309 S.C. 413, 416, 424 S.E.2d 480, 482 (1992) (citing *White*, 263 S.C. at 118, 208 S.E.2d at, 39).

Here, counsel was obligated to seek a direct appeal on Petitioner’s behalf in compliance with applicable procedures. The Notice of Appeal in this case was timely filed but served outside of the ten day time frame, and Petitioner’s appeal was consequently dismissed due to an error not of his own making. The circumstances and record do not evince an intelligent, knowing, or voluntary waiver by Petitioner of his right to direct appeal. *See Id* at 416-17 (holding that *White v. State* belated appellate review was warranted because the record did not evince a knowing or voluntary waiver of appellate rights). *See also generally, Brannon v. State*, 345 S.C. 437, 439, 548 S.E.2d 866, 867 (2001) (“A defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and may be accomplished by colloquy between court and defendant, between court and defendant's counsel, or both.”) (citations omitted). Therefore, the PCR Court correctly granted Petitioner a belated direct appeal pursuant to *White v. State*.

CONCLUSION

In light of the foregoing, this Court should uphold the ruling of the PCR Court granting Petitioner belated direct appeal review and accordingly review the direct appeal issues presented in his Brief on the merits.

Respectfully Submitted,

William G. Yarborough, III

Lauren C. Hobbis

By: s/ Lauren C. Hobbis
South Carolina Bar # 103190

WGY Law
308 West Stone Avenue
Greenville, South Carolina 29609
(864) 331-1612

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