

**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**

Matthew L. Jackson, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2024-000923

Appeal From Newberry County
B. Alex Hyman, Circuit Court Judge

Unpublished Opinion No. 2026-UP-400
Submitted July 15, 2026 – Filed August 5, 2026

AFFIRMED

Appellate Defender Sarah Elizabeth Shipe, of Columbia,
for Petitioner.

Attorney General Alan McCrory Wilson, Senior
Assistant Deputy Attorney General D. Russell Barlow, II,
and Assistant Attorney General Zachary William Jones,
all of Columbia, for Respondent.

PER CURIAM: Petitioner seeks a writ of certiorari from an order partially granting and partially denying his application for post-conviction relief (PCR). The PCR court found Petitioner was entitled to a belated review of his direct

appeal issue pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974). However, the PCR court found Petitioner was not entitled to relief on any other ground.

Because there is sufficient evidence to support the PCR court's finding that Petitioner did not knowingly and intelligently waive his right to a direct appeal, we grant certiorari and proceed with a review of the direct appeal issue pursuant to *Davis v. State*, 288 S.C. 290, 342 S.E.2d 60 (1986). We deny certiorari on Petitioner's remaining question.

At trial, the trial court instructed the jury on attempted murder and the lesser-included offenses of assault and battery of a high and aggravated nature (ABHAN) and second-degree assault and battery. The jury convicted Petitioner of ABHAN. On appeal, Petitioner argues the trial court erred in refusing to instruct the jury on the lesser-included offense of first-degree assault and battery when evidence presented at trial supported a first-degree assault and battery charge. We affirm pursuant to Rule 220(b), SCACR.

We hold the trial court did not err in refusing to instruct the jury on the lesser-included offense of first-degree assault and battery because (1) it was undisputed that Petitioner caused actual injury to Victim and (2) none of the evidence presented at trial tended to show Victim's injury involved nonconsensual touching of private body parts or lewd intent, or that the injury occurred during the commission of a separate offense. *See State v. Curry*, 410 S.C. 46, 52, 762 S.E.2d 721, 724 (Ct. App. 2014) ("This court will not reverse a [trial] court's decision to deny a specific request to charge unless the circuit court committed an error of law."); *State v. Williams*, 427 S.C. 148, 156, 829 S.E.2d 702, 706 (2019) ("In reviewing jury charges for error, [the appellate court] examine[s] the trial court's charge as a whole in light of the evidence and issues presented at trial."); *State v. Brown*, 362 S.C. 258, 262, 607 S.E.2d 93, 95 (Ct. App. 2004) ("If there is any evidence to support a jury charge, the trial [court] should grant the request."); *Williams*, 427 S.C. at 156, 829 S.E.2d at 706 ("In determining whether the evidence requires a charge on a lesser[-]included offense, [the appellate court] view[s] the facts in the light most favorable to the defendant."); S.C. Code Ann. § 16-3-600(B)(1) (2015) (providing that ABHAN occurs when a person "unlawfully injures another person, and: (a) great bodily injury to another person results; or (b) the act is accomplished by means likely to produce death or great bodily injury"); S.C. Code Ann. § 16-3-600(C)(1) (2015) (providing that first-degree assault and battery occurs when "the person unlawfully: (a) injures another person, *and* the act: (i) involves nonconsensual touching of the private

parts of a person . . . with lewd and lascivious intent; *or* (ii) occurred during the commission of a robbery, burglary, kidnapping, or theft; or (b) offers or attempts to injure another person with the present ability to do so, and the act: (i) is accomplished by means likely to produce death or great bodily injury; or (ii) occurred during the commission of a robbery, burglary, kidnapping, or theft" (emphasis added)).

AFFIRMED.¹

THOMAS, MCDONALD, and TURNER, JJ., concur.

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