

**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**

Angelo Ham, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2024-000550

Appeal From Darlington County
George M. McFaddin, Jr., Circuit Court Judge

Unpublished Opinion No. 2026-UP-429
Submitted August 19, 2026 – Filed August 26, 2026

AFFIRMED

Senior Appellate Defender Lara Mary Caudy, of
Columbia, for Petitioner.

Attorney General Alan McCrory Wilson, Deputy
Attorney General Donald J. Zelenka and Assistant
Attorney General D. Russell Barlow, II, all of Columbia,
for Respondent.

PER CURIAM: Petitioner seeks a writ of certiorari from the granting of his
application for post-conviction relief (PCR). The PCR court found Petitioner was

entitled to a belated review of his direct appeal issues pursuant to *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974).

Because there is sufficient evidence to support the PCR judge's finding that Petitioner did not knowingly and intelligently waive his right to a direct appeal, we grant certiorari on Petitioner's Question 1 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).

On appeal, Petitioner argues the resentencing court erred in its consideration of the *Aiken v. Byars*¹ factors, specifically that the resentencing court misinterpreted several factors as aggravating factors instead of mitigating factors. We affirm pursuant to Rule 220(b), SCACR.

We hold the resentencing court did not abuse its discretion in sentencing Petitioner to life without the possibility of parole because it properly considered the mitigating factors of the attributes of youth. *See State v. Finley*, 427 S.C. 419, 423, 831 S.E.2d 158, 160 (Ct. App. 2019) ("When considering whether a sentence violates the Eighth Amendment's prohibition on cruel and unusual punishments, the appellate court's standard of review extends only to the correction of errors of law. Therefore, this court will not disturb the circuit court's findings absent a manifest abuse of discretion." (citations omitted)); *id.* ("An abuse of discretion occurs when the circuit court's finding is based on an error of law or grounded in factual conclusions without evidentiary support."); *State v. Smart*, 439 S.C. 641, 646, 889 S.E.2d 573, 576 (2023) (indicating the appellate court reviews "the entire record" in determining whether the sentencing court "thoroughly considered" a juvenile offender's "background and history in light of the *Aiken* factors"); *Aiken*, 410 S.C. at 544, 765 S.E.2d at 577 (holding any juvenile offender "who receives a sentence of life without the possibility of parole is . . . entitled to resentencing to allow the inmates to present evidence specific to their attributes of youth and allow the judge to consider such evidence in the light of its constitutional weight"); *id.* ("the factors a sentencing court consider[s] at a hearing must include: (1) the chronological age of the offender and the hallmark features of youth, including 'immaturity, impetuosity, and failure to appreciate the risks and consequence'; (2) the 'family and home environment' that surrounded the offender; (3) the circumstances of the homicide offense, including the extent of the offender's participation in the conduct and how familial and peer pressures may have affected him; (4) the 'incompetencies associated with youth—for example, [the offender's] inability to deal with police officers or prosecutors (including on a plea agreement)

¹ 410 S.C. 534, 765 S.E.2d 572 (2014).

or [the offender's] incapacity to assist his own attorneys'; and (5) the 'possibility of rehabilitation.'" (quoting *Miller v. Alabama*, 567 U.S. 460, 477-78 (2012))). The record demonstrates the court identified the *Aiken* requirements, recognized its duty to consider the total evidence in light of *Aiken*, and applied the facts of Petitioner's case to the *Aiken* factors at sentencing. Though Petitioner was fifteen, the court acknowledged Petitioner had fourteen infractions prior to his incarceration for these charges; he had a troubled home life and spent time in foster care; he committed a "horrific" homicide with minimal peer pressure; was able to assist his attorney with his case; and his criminal activity escalated from property infractions to armed robbery and murder to which he attempted to recant his guilty plea before the original sentencing court and tried to minimize his involvement to the resentencing court, both of which indicated difficulty rehabilitating. See *State v. Mack*, 441 S.C. 526, 540, 894 S.E.2d 820, 828 (Ct. App. 2023) (recognizing that mitigating factors must be "'carefully and thoughtfully considered' in the individualized sentencing proceeding" (quoting *Aiken*, 410 S.C. at 543, 765 S.E.2d at 577)); *Smart*, 439 S.C. at 646, 889 S.E.2d at 576 (indicating the appellate court reviews "the entire record" in determining whether the sentencing court performed a thorough *Aiken* analysis); *State v. Inman*, 395 S.C. 539, 570, 720 S.E.2d 31, 48 (2011) (Pleicones, J., concurring) ("A judge is presumed to weigh evidence properly."); *Aiken*, 410 S.C. at 545, 765 S.E.2d at 578 ("Without question, the judge may still determine that life without parole is the appropriate sentence in some of these cases in light of other aggravating circumstances.").

AFFIRMED.²

WILLIAMS, C.J., and MCDONALD and TURNER, JJ., concur.

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