

**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**

Shelly Faulling, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2025-000344

---

Appeal From Orangeburg County  
Edgar W. Dickson, Trial Judge  
Kristi F. Curtis, Post-Conviction Relief Judge

---

Unpublished Opinion No. 2026-UP-451  
Submitted September 1, 2026 – Filed October 14, 2026

---

**REVERSED AND REMANDED**

---

Deputy Chief Attorney for Capital Appeals David  
Alexander, of Columbia, for Petitioner.

Assistant Attorney General Danielle Dixon, 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 on Petitioner's PCR question one and proceed with a review of Petitioner's direct appeal pursuant to *Davis v. State*, 288 S.C. 290, 342 S.E.2d 60 (1986). We deny certiorari on Petitioner's remaining PCR questions.

On appeal, Petitioner argues the trial court erred in (1) trying him in his absence while he was being held in custody in the county jail, (2) denying his motion for continuance due to his absence, and (3) making an unconstitutional comment on the facts by instructing the jury that possession of more than one gram of methamphetamine raises the inference of an intent to distribute. We reverse and remand for a new trial pursuant to Rule 220(b), SCACR.

We hold the trial court erred when it failed to make findings of fact on the record that Petitioner received notice of his right to be present and was warned he could be tried in his absence after trial counsel moved for a continuance due to Petitioner's absence. *See State v. Ravenell*, 387 S.C. 449, 454, 692 S.E.2d 554, 557 (Ct. App. 2010) ("In criminal cases, the appellate court sits to review errors of law only."); *id.* ("An appellate court is bound by the trial court's factual findings unless they are clearly erroneous."). Trial counsel moved for a continuance based on Petitioner's absence, and the State additionally indicated the trial court must "make a finding of fact on the record that [Petitioner] received notice of his right to be present" and "that he could be tried in his absence should he fail to appear"; however, the trial court simply stated it denied Petitioner's motion. Therefore, because trial counsel moved for a continuance based on Petitioner's absence and the trial court failed to make the required findings of fact on the record, we hold the trial court reversibly erred and that Petitioner is entitled to a new trial on this basis. *See State v. Fairey*, 374 S.C. 92, 99, 646 S.E.2d 445, 448 (Ct. App. 2007) ("Although the Sixth Amendment of the Constitution guarantees the right of an accused to be present at every stage of his trial, this right may be waived."); *Ravenell*, 387 S.C. at 455, 692 S.E.2d at 557-58 ("A trial [court] must determine a criminal defendant voluntarily waived his right to be present at trial in order to try the defendant in his absence."); *id.* at 456, 692 S.E.2d at 558 ("The [court] must make findings of fact *on the record* that the defendant (1) received notice of his right to be present and (2) was warned he would be tried in his absence should he fail to attend." (emphasis added)); *see also State v. Wrapp*, 421 S.C. 531, 536, 808 S.E.2d 821, 823 (Ct. App. 2017) (determining the trial court erred in trying the

defendant in his absence without making specific factual findings that the defendant received notice of his right to be present and would be tried in absence should he fail to appear, and finding the issue was preserved "although trial counsel did not specifically object to the [trial] court's failure to make these factual findings" because "he moved for a continuance and objected to the trial proceeding due to the lack of adequate notice to [the defendant]").<sup>1</sup>

**REVERSED AND REMANDED.**<sup>2</sup>

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

---

<sup>1</sup> Because we hold Petitioner is entitled to a new trial on the basis of the trial court's failure to make the requisite findings of fact on the record prior to holding a trial in Petitioner's absence, we need not address whether the trial court erred in denying Petitioner's motion for a continuance or included an unconstitutional comment on the facts in its jury instruction. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (stating an appellate court does not need to address remaining issues when its resolution of a prior issue is dispositive of the appeal).

<sup>2</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.