

**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**

Andre Martin, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2012-212088

Appeal From Anderson County
J.C. Nicholson, Jr., Circuit Court Judge

Unpublished Opinion No. 2014-UP-403
Submitted July 1, 2014 – Filed November 19, 2014

AFFIRMED

Appellate Defender Carmen Vaughn Ganjehsani, of
Columbia, for Petitioner.

Attorney General Alan McCrory Wilson and Assistant
Attorney General John Walter Whitmire, both of
Columbia, for Respondent.

PER CURIAM: Petitioner seeks a writ of certiorari from the denial of his application for post-conviction relief (PCR). 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 Question One 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 affirm pursuant to Rule 220(b)(1), SCACR, and the following authorities: *McCray v. State*, 271 S.C. 185, 187-88, 246 S.E.2d 230, 231 (1978) (holding, in the context of a belated appeal under *White v. State*, 263 S.C. 110, 208 S.E.2d 35 (1974), "a defendant can only raise and argue on the 'belated appeal' those issues which could have been raised and argued on a timely direct appeal"); *id.* at 188, 246 S.E.2d at 231 ("Accordingly, [this court's] review of any alleged trial errors is limited to those which would have been before the [c]ourt had a timely direct appeal been taken."); *State v. Johnston*, 333 S.C. 459, 462-64, 510 S.E.2d 423, 425 (1999) (stating, absent exceptional circumstances, "a challenge to sentencing must be raised at trial, or the issue will not be preserved for appellate review").

AFFIRMED.¹

HUFF, THOMAS, and MCDONALD, JJ., concur.

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