

**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**

Michael A. Williams, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2013-000137

ON WRIT OF CERTIORARI

Appeal From Richland County
John C. Few, Plea Judge
James R. Barber, III, Post-Conviction Relief Judge
J. Ernest Kinard, Jr., Post-Conviction Relief Judge

Unpublished Opinion No. 2016-UP-260
Submitted February 1, 2016 – Filed June 8, 2016

AFFIRMED

Appellate Defender Kathrine Haggard Hudgins, of
Columbia, for Petitioner.

Attorney General Alan McCrory Wilson and Assistant
Attorney General James Clayton Mitchell, III, both of
Columbia, for Respondent.

PER CURIAM: Petitioner pled guilty to two counts of armed robbery and two counts of kidnapping, and he received concurrent sentences of eighteen years' imprisonment for each conviction. Petitioner appealed,¹ and this court dismissed the appeal pursuant to *Anders v. California*.² Petitioner filed an application for post-conviction relief (PCR), which was denied and dismissed, and Petitioner did not seek certiorari from the denial. Petitioner filed a second PCR application pursuant to *Austin v. State*,³ alleging he was entitled to a belated review of his first PCR application. The second PCR court denied and dismissed Petitioner's second PCR application. Petitioner filed a petition for a writ of certiorari, which this court granted. This court ordered Petitioner to serve and file the appendix and briefs as provided by Rule 243(j), SCACR.

As to the belated review of the first PCR court, we find no evidence supported the second PCR court's finding Petitioner knowingly and voluntarily waived his right to seek appellate review of the denial of his first PCR application. Petitioner asserts his plea counsel was ineffective in failing to move to withdraw his guilty plea after he changed his testimony regarding whether he possessed a gun during the armed robberies and kidnappings for which he was convicted. However, Petitioner failed to present this argument to the first PCR court; thus, the issue is unpreserved. *See Kollé v. State*, 386 S.C. 578, 589, 690 S.E.2d 73, 79 (2010) (holding an argument must be raised to and ruled upon by the PCR court in order to be preserved for appellate review). Accordingly, we affirm the denial of Petitioner's first PCR application.

AFFIRMED.⁴

HUFF, A.C.J., and KONDUROS and GEATHERS, JJ., concur.

¹ *See State v. Williams*, Op. No. 2009-UP-218 (S.C. Ct. App. filed May 20, 2009).

² 386 U.S. 738 (1967).

³ 305 S.C. 453, 409 S.E.2d 395 (1991).

⁴ We decide this case without oral argument pursuant to Rule 215, SCACR.