

**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 Supreme Court**

Eric D. Tessner, Petitioner,
v.
State of South Carolina, Respondent.

Appellate Case No. 2009-143986

Appeal From Florence County
Michael G. Nettles, Trial Judge
Thomas A. Russo, Post-Conviction Relief Judge

Memorandum Opinion No. 2012-MO-021
Submitted May 23, 2012 – Filed June 6, 2012

AFFIRMED

Appellate Defender Robert M. Pachak, South Carolina
Commission on Indigent Defense, Division of Appellate
Defense, of Columbia, for Petitioner.

Attorney General Alan Wilson, Chief Deputy Attorney
General John W. McIntosh, Assistant Deputy Attorney
General Salley W. Elliott, and Assistant Attorney
General David Spencer, all 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 judge's finding that petitioner did not knowingly and intelligently waive his right to a direct appeal, we grant certiorari on petitioner's Question I 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 the petition for a writ of certiorari as to petitioner's Question II.

Petitioner's convictions and sentences are affirmed pursuant to Rule 220(b)(1), SCACR, and the following authorities: *Mincey v. Arizona*, 437 U.S. 385 (1978); *State v. Wright*, 391 S.C. 436, 706 S.E.2d 324 (2011).

AFFIRMED.

**TOAL, C.J., PLEICONES, BEATTY, KITTREDGE and HEARN, JJ.,
concur.**