

SUPREME COURT OF LOUISIANA

No. 15-KH-1378

STATE EX REL. JESSE CHRISTIAN

v.

STATE OF LOUISIANA

**ON SUPERVISORY WRITS TO THE TWENTY-SIXTH
JUDICIAL DISTRICT COURT, PARISH OF WEBSTER**

PER CURIAM:

Denied. Relator fails to show he received ineffective assistance of counsel under the standard of Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). We attach hereto and make a part hereof the District Court's written reasons denying relator's application.

Relator has now fully litigated his application for post-conviction relief in state court. Similar to federal habeas relief, see 28 U.S.C. § 2244, Louisiana post-conviction procedure envisions the filing of a second or successive application only under the narrow circumstances provided in La.C.Cr.P. art. 930.4 and within the limitations period as set out in La.C.Cr.P. art. 930.8. Notably, the Legislature in 2013 La. Acts 251 amended La.C.Cr.P. art. 930.4 to make the procedural bars against successive filings mandatory. Relator's claims have now been fully litigated in state collateral proceedings in accord with La.C.Cr.P. art. 930.6, and this denial is final. Hereafter, unless he can show that one of the narrow exceptions authorizing the filing of a successive application applies, relator has exhausted his right to state collateral review. The District Court is ordered to record a minute entry consistent with this per curiam.

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STATE OF LOUISIANA WEBSTER PARISH CRIMINAL DOCKET NO.: 85,030
VERSUS _____ DY 26TH JUDICIAL DISTRICT COURT
JESSE CHRISTIAN WEBSTER PARISH, LOUISIANA

RULING

Petitioner, JESSE CHRISTIAN, pled guilty to the responsive charge of Attempted Manslaughter on August 27, 2012. He was sentenced on October 15, 2012, to serve twenty (20) years at hard labor with credit for time served. On May 9, 2014, Petitioner filed a *pro se* "Application for Post-Conviction Relief." The District Attorney's Office filed its Answer on June 5, 2014. On January 8, 2014, Petitioner filed a *pro se* letter inquiring as to the status of his Application. Petitioner's Application asserts the following two (2) claims:

1. The conviction of a person who is mentally incompetent to stand trial is a violation of his right to due process and a fair trial.
2. Defense counsel rendered ineffective assistance when he failed to notify the Court of his client's history of mental illness.

In Claim I, Petitioner asserts "[t]he duty of defense counsel required that he give notice to the Court that the defendant's competence was in question." Petitioner argues his attorney, Mr. Mike Miller, was fully informed that Petitioner had been treated for mental illness, and that his family had a history of depression and mental illness. Petitioner asserts his attorney's failure to inform the Court allowed for a violation of Petitioner's right to due process. Petitioner contends he was convicted and sentenced while mentally incompetent. In support, Petitioner cites "medical records, Exhibit A."

In response to Claim I, the State contends that "mental illness" is not a bar to entering a valid guilty plea, and Petitioner has failed to provide any documentation to support the degree or type of mental illness he claims to have suffered. The State asserts the Petitioner does not claim that he did not understand the nature of the charge against him or that he did not have the mental competency to understand his guilty plea. The State argues that the Petitioner has failed to provide any evidence that he was incompetent at the time of his guilty plea and is not entitled to post-conviction relief upon his bare claim that he suffered a "mental illness."

In Claim II, Petitioner asserts that, by making his defense counsel aware of his mental history, the defendant expected his attorney to make a reasonable decision to disclose this information to the Court. Petitioner contends that Mr. Miller's failure to inform the Court of Petitioner's mental illness cannot be considered reasonable or strategic. Petitioner argues that Mr. Miller's failure results in constitutionally ineffective assistance of counsel.

In response to Claim II, the State contends that Petitioner fails to state the mental illness he claims to have suffered and fails to provide any medical records or documentation to support his claim. The State asserts there is no "Exhibit A" attached to Petitioner's *pro se* Application for Post-Conviction Relief. As such, the State argues that general conclusions and unsupported. The State further argues that Petitioner makes generalized complaints about his appointed counsel, but fails to show that his counsel's performance was deficient or how he was prejudiced by the actions of counsel.

The State further contends that Petitioner failed to demonstrate, but for counsel's alleged errors, that the result of his case would have been different (that he would not have entered a guilty plea to the offense of attempted manslaughter and would have insisted on going to trial). The State asserts Petitioner has failed to produce any evidence that he was incompetent at the time of his plea, and he has failed to establish that his counsel rendered ineffective assistance of counsel because he cannot prove that there is a reasonable probability that he was in fact incompetent when he pled guilty. The State also asserts that the transcript of Petitioner's guilty plea contradicts his claim that he was incompetent when he entered his guilty plea.

The Court finds that the substance of Petitioner's Claim I and Claim II both concern the issue of ineffective assistance of counsel. As such, the Court will address both Claim I and Claim II as a singular claim regarding ineffective assistance of counsel. The guidelines for evaluating claims of ineffective assistance of counsel were set forth in Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Under Strickland, in order for a defendant to demonstrate that counsel's assistance was so defective as to require reversal of the conviction, he must demonstrate that the deficient performance prejudiced him to such an extent that he was deprived of a fair trial. Strickland also provides that the standard to be used in judging attorney performance is that of reasonably effective assistance of counsel considering

all the circumstances. The defendant must show that his counsel's performance fell below an objective standard of reasonableness. There is a strong presumption that the conduct of counsel falls within the wide range of reasonable professional assistance. Also, according to Strickland, with regard to a showing of prejudice, the defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. See also State v. Ball, 554 So.2d 114 (La.App.2d Cir.1989).

The defendant has the burden of proving that certain acts by his counsel were deficient and that this deficiency led to an unreliable outcome. State v. Wry, 591 So.2d 774 (La. App. 2 Cir.,1991). Hindsight is not the proper perspective for judging the competence of counsel's decisions. Neither may an attorney's level of representation be determined by whether a particular strategy is successful. State v. Brooks, 505 So.2d 714 (La.1987), cert. denied 484 U.S. 947, 108 S.Ct. 337, 98 L.Ed.2d 363 (1987). State v. Wry, *supra*.. The defendant must make both showings to prove that counsel was so ineffective as to require reversal. State v. Sparrow, 612 So.2d 191, 199 (La. App. 4 Cir. 1992). Courts must judge the reasonableness of counsel's conduct on the facts of the particular case, viewed as of the time of counsel's conduct, and scrutiny of counsel's performance must be highly deferential. Roe v. Flores-Ortega, 528 U.S. 470, 120 S.Ct. 1029, 1034-35, 145 L.E.2d 985 (2000).

During his guilty plea colloquy, the Court notes Petitioner was specifically asked by whether he had an opportunity to discuss his case with his lawyer, and Petitioner responded, "Yes, sir, I have." Petitioner was also asked whether he was satisfied with his lawyer's representation to which he responded, "Yes, sir, I am." The Court further notes that Petitioner was specifically asked whether he understood the charge to which he was pleading guilty, and he answered, "Yes, sir, I do." The transcript from Petitioner's guilty plea colloquy shows the following exchange between the Court and Petitioner:

THE COURT: All right, sir. First of all, here today are you under the influence of any type of medication, drugs, or alcohol?

MR. CHRISTIAN: No, sir, Your Honor.

THE COURT: All right. How old are you?

MR. CHRISTIAN: I am forty-eight years old.

THE COURT: And how far have you gone in school?

MR. CHRISTIAN: I went to the seventh grade, Your Honor.

THE COURT: Are you able to read and write?

MR. CHRISTIAN: Yes, sir. I have a college level in comprehension in reading.

THE COURT: Okay. And have you had an opportunity to discuss your case with your lawyer?

MR. CHRISTIAN: Yes, sir, I have.

THE COURT: Are you satisfied with the job your lawyer's done in representing you?

MR. CHRISTIAN: Yes, sir, I am.

THE COURT: The charge you're pleading guilty to here this morning is said to have occurred in Webster Parish, on or about December 5th, 2011, and for purposes of this guilty plea, it's that you did attempt to commit the crime of manslaughter. And the alleged victim is Deputy John Byrd. So do you understand what it is you're pleading guilty to?

MR. CHRISTIAN: Yes, sir, I do.

THE COURT: The penalty for the crime of attempted manslaughter is imprisonment at hard labor for not more than twenty years. Do you understand that?

MR. CHRISTIAN: Yes, sir.

THE COURT: Do you understand that this a felony, so by entering the guilty plea you will have a felony conviction on your record that could be used against you in the future as a basis for an increased sentence under our state's habitual offender laws?

MR. CHRISTIAN: Yes, sir.

THE COURT: You understand you have right to a jury trial?

MR. CHRISTIAN: Yes, sir.

THE COURT: You understand you could choose to waive that right and tried by a judge alone?

MR. CHRISTIAN: Yes, sir.

THE COURT: If you chose to take the matter to trial whether before a judge or a jury, you would have the following rights. You would have the rights to make the district attorney prove you're guilty of the charge beyond a reasonable doubt. Do you understand that?

MR. CHRISTIAN: Yes, sir.

THE COURT: You understand that you would have the right to be represented by a lawyer and if you could not afford to hire your own, the Court would appoint one for you?

MR. CHRISTIAN: Yes, sir.

THE COURT: Do you understand you would have a right to be present at the trial and to confront and cross-examine any of the state's witnesses?

MR. CHRISTIAN: Yes, sir.

THE COURT: Do you understand you would have the right to compel witnesses by way of subpoena to come to court and testify on your behalf?

MR. CHRISTIAN: Yes, sir.

THE COURT: If you went to trial and you were found guilty, do you understand you would have a right to appeal the finding of guilt to a higher court?

MR. CHRISTIAN: Yes, sir.

THE COURT: And do you understand you would have the right to remain silent. That means no one could force you to say anything that would incriminate yourself.

MR. CHRISTIAN: Yes, sir.

THE COURT: Do you understand that by entering this guilty plea, you will be admitting that you're guilty and you'll be giving up the rights I've just gone over with you?

MR. CHRISTIAN: Yes, sir.

THE COURT: Other than what's been stated here in court today while you were present, has anyone made promises to you in an effort to get you to plead guilty?

MR. CHRISTIAN: No, sir.

THE COURT: Has anyone forced you to plead guilty?

MR. CHRISTIAN: No, sir.

THE COURT: And Mr. Miller, have you advised your client concerning this charge and his legal rights?

MR. MILLER: Yes, Your Honor.

THE COURT: Do you believe his answers here today and his guilty plea, are voluntary?


MR. MILLER: Yes, Your Honor.

Based on the transcript of Petitioner's guilty plea colloquy, the Court finds that Petitioner has failed to establish that his counsel, Mr. Miller, rendered ineffective assistance of counsel because there has been no evidence provided to show Petitioner was incompetent when he pled

guilty. Additionally, as noted by the State, the Court finds that there is no "Exhibit A" attached to Petitioner's *pro se* Application for Post-Conviction Relief. Based upon the allegations concerning the actions of Petitioner's counsel in this manner, the Court cannot find that counsel's performance fell below an objective standard of reasonableness. Furthermore, Petitioner has not shown a reasonable probability that but for his counsel's actions the result of the proceeding would have been different. Therefore, for each of these reasons, Petitioner's Application for Post-Conviction Relief is **DENIED**.

The Clerk of Court is directed to provide Petitioner, his custodian, his attorney and the District Attorney with a copy of this Ruling.

THUS DONE AND SIGNED this 15 day of January, 2015, in Minden, Webster Parish Louisiana.


HON. JEFF R. THOMPSON
DISTRICT JUDGE

Please Serve:

Mr. Jesse Christian, ID# 601838
WNC Birch B-2-40
P.O. Box 1260
Winnfield, LA 71483-1260

Custodian
Winn Correctional Center
P.O. Box 1260
Winnfield, LA 71483-1260

J. Schuyler Marvin, District Attorney
26th Judicial District