

Sep. 25, 2018

State of South Carolina
In The Supreme Court

Certiorari to Berkeley County
Michael G. Nettles, Circuit Court Judge

Jermaine L. Cobbs

Petitioner

V.

State of South Carolina

Respondent

Appellate Case NO 2017-002629

Pro se for Writ of Certiorari

Amendment

Jermaine L Cobbs
84 Greenhouse Rd.
Trenton S.C. 29847

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OCT 01 2018

S.C. SUPREME COURT

Issue Presented

PCR judge erred in failing to find plea counsel ineffective for counsel incorrect sentencing advice on the lesser included offense on trafficking 28 to 100 grams of cocaine.

PCR judge erred in failing to find plea counsel ineffective for incorrectly advising Petitioner about the enhancement statute, S.C. 44-53-470

PCR judge erred in failing to find plea counsel ineffective for filing an untimely motion for reconsideration of sentence and not mention anything to defendant about the filing of the motion for reconsideration of sentence, and the reason for the filing of the motion.

State of the Case

On December 20, 2012 Jermaine L. Cobbs plead guilty to three charges, distribution of cocaine first offense, trafficking cocaine 28 to 100 grams first offense, and possession with intent to distribute cocaine second offense. Jermaine L. Cobbs receive time serve 27 months for distribution of cocaine first offense, and two 18 years sentence for trafficking cocaine 28 to 100 grams and possession with intent to distribute cocaine second offense. Jermaine L. Cobbs is currently serving his sentence at Trenton Correctional Institution.

Argument

Applicant should have been advised of the mandatory maximum and minimum sentence of the lesser included offense, Trial courts failure to inform defendant of the mandatory minimum sentence rendered his guilty plea involuntary. Boykin v. Alabama 395 U.S. 238, 89 Sct 1709 (1969), Pittman v. State, 337 S.C. 597, 524 S.E. 2d 623. Trial counsel was ineffective for failing to correct the solicitor and bring to the judge attention that the sentencing advice was incorrect. Also the judge failed to cure this erroneous advice. Stalk v. State (S.C.) 652 S.E. 2d 402. Have I known that the minimum for trafficking cocaine 28 to 100 gram first offense was 7 years I would have not plead guilty but had insist on going to trial.

Defendant had an possession of cocaine on his record in 1999, according to South Carolina Rule of Court statute 44-53-470, if counsel would have not misinterpret the enhancement statute, S.C. Code 44-53-470. When the correct interpretation of the statute indicated the trafficking should had been second offence. Counsel was ineffective for misadvising defendant on inhancing of his drug charges, have defendant known he was facing second offense drug charges on trafficking instead of third offense trafficking, he would had not pled guilty and insist on going to trial.

Counsel admitted that was the best plea deal he could had got his client an negotiate 18 years. 90 days after the guilty plea he file an motion for reconsideration of sentence, which you only have 10 day to do after your guilty plea. Stating the sentence imposed is unnecessarily severe under the circumstance.

Counsel admitted he only file the motion for reconsideration of sentence to get defendant to cooperate with law enforcement to get his sentence reduce. Counsel also admitted he never talk to defendant about the motion for reconsideration of sentence. In reality counsel only file the motion of reconsideration for sentence once defendant hire an attorney to do his PCR.

The PCR attorney was the counsel that took the defendant to

court on the motion for reconsideration of sentence which was denied. Defendant never knew anything about cooperating with the law enforcement to get his sentence reduced until the day of the PCR hearing. Counsel was ineffective for not filing a timely motion and explaining to defendant the reason for filing a motion for reconsideration of sentence.

Conclusion

Base on the foregoing argument, petitioner requests that this Court grant the petition and allow full briefing on the above-raised issue

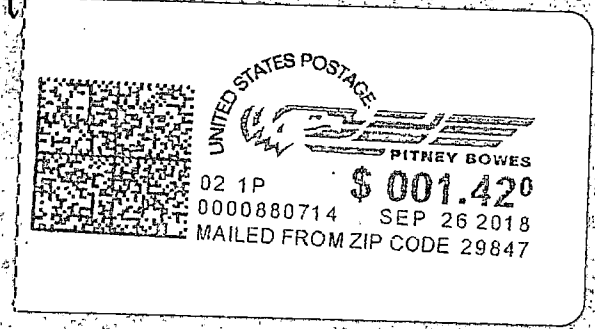
Jerrai L Cobb
Jermaine L Cobbs
Petitioner
Sept 25, 2018

Wherefore, I Jermaine L Cobbs
do attest to that the above
enclosed information and
documents in true accurate
in accordance with court
rules, therefore I am requesting
that the court accepts my
Supplement application

Respectfully Submitted
s/ J. Cobbs
Jermaine L Cobbs
84 Green House Rd
Trenton S.C. 29847
Sept 25, 2018

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SEP 26 2018

The Supreme Court of South Carolina
Daniel E. Shearouse, Clerk of Court