

CLD-103

January 18, 2018

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 17-3358

UNITED STATES OF AMERICA

vs.

ZACHARY CHAMBERS, Appellant

(E.D. Pa. Crim. No. 10-cr-00770-002)

Present: CHAGARES, GREENAWAY, Jr., and GREENBERG, Circuit Judges

Submitted is appellant's application for a certificate of appealability under 28 U.S.C. § 2253(c)(1)

in the above captioned case.

Respectfully,
Clerk

ORDER

The foregoing request for a certificate of appealability is denied. Appellant has failed to demonstrate that reasonable jurists would find the District Court's assessment of his constitutional claim debatable or wrong. Slack v. McDaniel, 529 U.S. 473, 484 (2000). Specifically, reasonable jurists could not debate the District Court's credibility determination with respect to appellant's claim that trial counsel failed to inform him that his prior juvenile adjudications would increase his possible sentence to up to 30 years' imprisonment.

By the Court,

s/Joseph A. Greenaway, Jr.
Circuit Judge

Dated: February 13, 2018 ✓
PDB/cc: All Counsel of Record



A True Copy:

Patricia S. Dodsweat

Patricia S. Dodsweat, Clerk
Certified Order Issued in Lieu of Mandate

PA:1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : CRIMINAL No. 10-770-2
: :
v. : CIVIL NO. 15-5413
: :
ZACHARY CHAMBERS : :

ORDER RE: § 2255 PETITION ON REMAND

Baylson, J.

October 13, 2017

Defendant/Petitioner, Zachary Chambers, filed a Petition for Post-Conviction Relief under 28 U.S.C. § 2255. After a jury trial, Chambers was convicted of serious drug offense charges and received a sentence of 330 months, given his substantial involvement in the drug offenses that were subject of the trial and his prior record.

The Third Circuit affirmed Chambers' conviction on direct appeal.

On October 1, 2015, Chambers filed a pro se motion under § 2255, claiming ineffective assistance of trial counsel, Brady and Giglio violations by the Government and also a claim that he was entitled to relief under a recent Supreme Court case, McFadden v. United States. This Court denied Chambers' 2255 petition. On his pro se appeal, he filed a motion for a certificate of appealability limiting his appeal to McFadden, and ineffective assistance of trial counsel limited to an assertion that his trial counsel had failed to sufficiently investigate his criminal history and inform him that his prior juvenile adjudications would increase his sentence. The Third Circuit granted a certificate of appealability on July 11, 2016, solely as to the claim that trial counsel was ineffective for failing to inform Chambers that his juvenile adjudications would increase his sentencing exposure, and on August 24, 2016, vacated this Court's order denying the 2255 petition, in part, and remanded the matter for an evidentiary hearing.

The Court appointed Susan Lin, Esquire, as counsel for Defendant. The evidentiary hearing was held on April 14, 2017 at which both Chambers and his trial counsel, Caroline Cinquanto, Esquire, testified. The testimony at the evidentiary hearing by Chambers was contradicted on numerous points by Ms. Cinquanto, who presented documents from her file which supported her testimony she had specifically advised Chambers that his juvenile record would be relevant if he was convicted and that because of his prior convictions, she had strongly recommended that he plead guilty to the charges. The Government's brief relates in great detail the testimony at the evidentiary hearing and does so accurately. Ms. Cinquanto also testified that she had received and reviewed the presentence report with Chambers, which included each of his juvenile adjudications, and that Chambers never expressed any surprise or anger about his juvenile adjudications being included in the PSR calculation of his guidelines. Nor did Chambers ever request that Ms. Cinquanto withdraw and that new counsel should be appointed.

At the conclusion of the evidentiary hearing, the Court found that Ms. Cinquanto was completely credible and that Chambers was not credible. The record fully supports this Court's finding on credibility, which completely refutes Chambers' claim that he had ineffective counsel in any stage of this case.

Therefore, the Court will once again **DENY** Chambers' 2255 Motion, and will also **DENY** a certificate of appealability given the evidentiary record on remand, and the credibility findings stated at the hearing, and specified above.

BY THE COURT:

/s/ Michael M. Bayson

MICHAEL M. BAYSON
United States District Court Judge

**Additional material
from this filing is
available in the
Clerk's Office.**