

FILED: March 14, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-7437
(5:18-hc-02063-BO)

JAMES GREGORY ARMISTEAD

Petitioner - Appellant

v.

SUPERINTENDENT MILLIS

Respondent - Appellee

JUDGMENT

In accordance with the decision of this court, a certificate of appealability is denied and the appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

UNPUBLISHED**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 18-7437

JAMES GREGORY ARMISTEAD,

Petitioner - Appellant,

v.

SUPERINTENDENT MILLIS,

Respondent - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Terrence W. Boyle, Chief District Judge. (5:18-hc-02063-BO)

Submitted: March 8, 2019

Decided: March 14, 2019

Before NIEMEYER and HARRIS, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

James G. Armistead, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

James Gregory Armistead seeks to appeal the district court's order dismissing his 28 U.S.C. § 2254 (2012) petition without prejudice as successive. The order is not appealable unless a circuit justice or judge issues a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1)(A) (2012). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2012). When the district court denies relief on the merits, a prisoner satisfies this standard by demonstrating that reasonable jurists would find that the district court's assessment of the constitutional claims is debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see Miller-El v. Cockrell*, 537 U.S. 322, 336-38 (2003). When the district court denies relief on procedural grounds, the prisoner must demonstrate both that the dispositive procedural ruling is debatable, and that the petition states a debatable claim of the denial of a constitutional right. *Slack*, 529 U.S. at 484-85.

We have independently reviewed the record and conclude that Armistead has not made the requisite showing. Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:18-HC-2063-BO

JAMES GREGORY ARMISTEAD,)
Petitioner,)
v.)
SUPERINTENDENT MCMILLIS)
Respondent.)

ORDER

On March 15, 2018, James Gregory Armistead ("Armistead" or "petitioner"), a state inmate, filed pro se a petition seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. See Pet. [D.E. 1]. Armistead also filed motions seeking to proceed without prepayment of fees [D.E. 4], to amend his petition [D.E. 8], to compel discovery [D.E. 9, 11], and to appoint counsel [D.E. 12]. The matter is before the court for preliminary review pursuant to Rule 4 of the Rules Governing § 2254 cases in the United States District Courts.

Discussion:

As an initial matter, because this petition is still subject to initial review, the respondent has not been served. Accordingly, the court summarily grants Armistead's motion to amend his petition. See Fed. R. Civ. P. 15(a)(1).

Armistead's instant section 2254 petition contests the constitutionality of his May 1, 2012, conviction and sentencing in Beaufort County Superior Court. See Pet. [D.E. 1], Am. Pet. [D.E. 8]. The court previously considered Armistead's earlier section 2254 habeas petition challenging the

same May 1, 2012, conviction and sentencing. See Armistead v. Perritt, No. 5:15-HC-2019-F (E.D.N.C. March 9, 2016). In that earlier proceeding, the court addressed Armistead's petition on the merits, granted summary judgment for the respondent, dismissed the petition, and denied a certificate of appealability. See id., Order [D.E. 19] at 15.

Under the Antiterrorism and Effective Death Penalty Act ("AEDPA"), prior to filing a "second or successive" application for habeas relief in the district court, a petitioner incarcerated pursuant to a state judgment "shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." 28 U.S.C. § 2244(b)(3)(A). A claim is "second or successive" when a petitioner challenges the "the same custody imposed by the same judgment of a state court." Burton v. Stewart, 549 U.S. 147, 153 (2007) (per curiam).

Here, because Armistead's instant petition addresses the petitioner's same May 1, 2012, conviction and sentencing, this petition, even as amended, is "second or successive." See Burton, 549 U.S. at 153. Thus, because Armistead failed to obtain authorization from the United States Court of Appeals for the Fourth Circuit ("Fourth Circuit") before filing, the court lacks jurisdiction to review the instant petition. See 28 U.S.C. § 2244(b)(3)(A); Burton, 549 U.S. at 153. Moreover, because the court lacks jurisdiction to consider the instant petition, Armistead's pending motions seeking to compel discovery [D.E. 9, 11] and to appoint counsel [D.E. 12] are rendered moot.

Finally, the court concludes that reasonable jurists would not find the court's treatment of any of petitioner's claims debatable or wrong and that none of the issue presented by petitioner are adequate to deserve encouragement to proceed further. See 28 U.S.C. § 2253(c); Buck v. Davis, ___ U.S. ___, ___ 137 S. Ct. 759, 773 (2017); Miller-El v. Cockrell, 537 U.S. 322, 336–38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000).

Conclusion:

For the reasons discussed above, the court:

- 1) GRANTS Armistead's motions to proceed without prepayment of fees [D.E. 4] and to amend his petition [D.E. 8];
- 2) DISMISSES WITHOUT PREJUDICE Armistead's habeas petition [D.E. 1,8] in order to allow him to seek the required authorization from the Fourth Circuit;
- 3) DENIES AS MOOT Armistead's motions seeking to compel discovery [D.E. 9, 11] and appoint counsel [D.E. 12];
- 4) DENIES a certificate of appealability; and
- 5) DIRECTS the clerk to close the case.

SO ORDERED, this the 3 day of October, 2018.

Terrence Boyle
TERRENCE W. BOYLE
United States District Judge

FILED: April 16, 2019

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 18-7437
(5:18-hc-02063-BO)

JAMES GREGORY ARMISTEAD

Petitioner - Appellant

v.

SUPERINTENDENT MILLIS

Respondent - Appellee

O R D E R

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 35 on the petition for rehearing en banc.

Entered at the direction of the panel: Judge Niemeyer, Judge Harris, and Senior Judge Traxler.

For the Court

/s/ Patricia S. Connor, Clerk

No. 373P10

TWENTY-SIXTH DISTRICT

SUPREME COURT OF NORTH CAROLINA

STATE OF NORTH CAROLINA)
v.)
RENNY DEANJELO MOBLEY)
From Mecklenburg
No. COA12-1315

**STATE'S RESPONSE TO DEFENDANT'S
PETITION FOR DISCRETIONARY REVIEW**

**TO: THE HONORABLE CHIEF JUSTICE AND ASSOCIATE JUSTICES
OF THE SUPREME COURT OF NORTH CAROLINA.**

NOW COMES the State of North Carolina, by and through Roy Cooper, Attorney General, and Larissa S. Williamson, Assistant Attorney General, and, responding to defendant's petition for discretionary review under N.C.G.S. § 7A-31(c)(2)and (3), moves that defendant's petition be denied.

In support of this motion and response, the State shows the following:

TABLE OF CASES AND AUTHORITIES

CASES

<u>State v. Childers</u> , 80 N.C. App. 236, 341 S.E.2d 760 (1986)....	11,13
<u>State v. Cronin</u> , 299 N.C. 229, 262 S.E.2d 277 (1980).	3,10,11,12,13,14
<u>State v. McBride</u> , 187 N.C. App. 496, 653 S.E.2d 218 (2007)....	11
<u>State v. Seeling</u> , 738 S.E.2d 427 (2013).	12

STATUTES

N.C.G.S. § 7A-31(c)	9,10,11
N.C.G.S. § 15A-924(a)(5)(2011).	11

Calabria and Ervin concurring) affirmed petitioner's conviction. State v. Armistead, No. COA12-1315 (N.C. Ct. App. August 6, 2013).

On September 9, 2013, the State received petitioner's petition for discretionary review. In the petition, petitioner contends the Court of Appeals erred by improperly expanding this Court's holding in State v. Cronin, 299 N.C. 229, 262 S.E.2d 277 (1980), which held that an indictment charging a defendant with obtaining property by false pretenses was "sufficient to raise a reasonable inference that the bank made the loan because it was deceived by defendant's false representation." *Id.*

The defendant further argues in his petition that the trial court erred by denying the defendant's motion to dismiss the false pretenses charges based on the insufficiency of the evidence. (Def. Petition, 1-2)

STATEMENT OF THE FACTS

The defendant was a participant in the Job Link program in Beaufort County, North Carolina. (T pp. 13-14). The Job Link program is administered through the Mid-East Commission, which is a regional council of government that operates a variety of programs. (T p. 13). The Mid-East Commission covers five counties, Beaufort, Bertie, Martin, Hertford, and Pitt. (T p. 10).

PROCEDURAL HISTORY

On May 10, 2010, the defendant was indicted for two counts of obtaining property by false pretenses and for being a habitual felon. (R pp. 6-8) On May 26, 2010 true bills of indictment were issued. (R pp. 5-7)

The matter was heard before The Honorable W. Russell Duke, Jr. on April 30 and May 1 of 2012 in Beaufort County Superior Court. The defendant was tried by jury, which found him guilty of both charges and guilty of the status of being a habitual felon. (T pp. 137, 155)

The defendant was sentenced to a minimum of 108 months and a maximum of 139 months. (T p. 160) The defendant was also required to pay restitution in the amount of \$331.74 and attorney's fees in the amount of \$900. (T p. 161)

On appeal, petitioner argued that the trial court erred as follows: (1) by trying, convicting, and sentencing the defendant when the trial court lacked jurisdiction because of the facially invalid indictments, (2) by denying the petitioner's motion to dismiss the charges for insufficiency of evidence, and (3) by committing plain error by failing to instruct the jury that the state must prove beyond a reasonable doubt that the property must belong to someone other than the defendant. (Def. Brief pp. 1, 2) In an opinion filed August 6, 2013, the Court of Appeals (Judge Dillon with Judges

Participant Training/Job Search Agreement", on August 3, 2009. (T p. 17) The third paragraph of the agreement, on page two, states "only items required for training will be approved for payment." (T p. 18) The agreement further goes on to read "[r]equired items are defined as items required by all students in the class or program. You must obtain prior approval from your WIA Career Consultant if required items are needed that is not included on your ITA voucher." (T p. 18)

An ITA voucher is the individual training account voucher. (T p. 18) This voucher is issued by WIA to the school and authorizes charges for the participant. (T p. 18) The defendant received an ITA voucher and this voucher included tuition for Beaufort Community College, fees, books, and supplies. (T p. 18) Once accepted into the program, each participant is assigned a case manager and the participant is given access to general job search services. The adult program also had an appeals procedure and each participant had a right to file an appeal if he or she disagreed with decisions made regarding enrollment or supportive services. (T pp. 19, 20)

Under the Adult Program, the Defendant took several classes at Beaufort Community College. (T p. 94) These classes began around August or September of 2009. (T p. 94) On November 12, the defendant met with the head of the program and expressed his concerns that he had not received all of the services available to him and stated that he needed some tools for his classes. He was reminded that the

Job Link is a center that provides employment training. (T p. 10). Job Link received a contract to administer the funds of the Workforce Investment Act (WIA), which is federal legislation. (T p. 11). The WIA program includes three programs and all participants must meet eligibility requirements. (T p. 12) WIA provides the Adult Program, the Dislocated Worker Program, and the Youth Program. (T p. 12) The eligibility criteria for all of these programs are set forth in the federal guidelines. (T p. 12)

The Adult program primarily serves low income adults and allows participants to enroll in classes at local colleges. (T p. 12) A prospective participant must complete various documents and the information provided in those documents are used to determine eligibility for the programs. (T p. 13)

One such document is an application for the program. (T p. 14) The application includes a statement of income, which requires the applicant to reveal all sources of income. (T p. 14) On his application, the defendant declared, among other things, that he received public assistance through food stamps, was not receiving any additional income, and had not had a job in three years. The defendant was determined to be eligible and became a participant in the Adult Program of the WIA. (T p. 13).

The defendant was required to sign an agreement between himself and the program. (T p. 16) The defendant signed the agreement, entitled "Region Q WIA

submitted another check request for tools required in his electrical/electronic engineering technology courses. (T p. 26)

On December 8, 2009, the defendant purchased a Texas Instrument 89 Titanium calculator from Office Depot for \$161.61. (T p. 79) He paid using the check provided by Job Link. (T p. 79) On December 9, 2009, the defendant returned that calculator for a full monetary refund. (T pp. 79-80)

On December 14, 2009, the defendant's case manager gave him a check, endorsed to Lowe's in the amount of \$170.50, for the tools that he previously requested a week prior for his electrical engineering class. (T p. 29) On that same day, the defendant purchased several tools from Lowe's for the total amount of \$173.95. (T pp. 41-43) The items were purchased using the Job Link check in the amount of \$170.50 and twenty dollars in cash. (T p. 43)

Approximately one day later, the defendant returned to Lowe's and inquired about returning the items. (T p. 46) The Manager of Lowe's told him that it was store policy to wait fifteen days from the date of purchase in order to receive a refund for items purchased with a check. (T p. 46) On December 29, fifteen days after purchase, the defendant returned all of the items to Lowe's for a full cash refund. (T p. 44)

Beaufort County Community College's Bookstore Manager testified that, as a policy, the bookstore does not receive the actual check from Job Link. The

proper procedure was to speak with his case manager and to submit information to confirm the need, so that the program can get a price estimate of the tools. (T p. 66)

On November 19th, the defendant met with his Case Manager, and told her that he needed additional tools for his classes. (T pp. 66-67, 96-97) He then provided documentation confirming that a calculator, a National Electrical Code Book, and other items were required for his classes. The check request for those items were issued on November 23, 2009. At no time did the defendant state that he would return the materials to the stores from which they were purchased and use the money for another purpose. (T pp. 118, 120)

After receiving the confirmation letter from the defendant's professors, the defendant's case manager obtained quotes for the materials. (T p. 67) The program ultimately determined that the calculator and other tools would be purchased from Office Depot and the book would be purchased from the school's book store. (T pp. 10-11, 29, 66-69)

On December 8, 2009, the defendant received a check from the program for the amount of \$161.24 for the purchase of a calculator. (T p. 24) This check was made payable to Office Depot. (T p. 24) He also received a book voucher made payable to Beaufort County Community College. (T p. 29) On that same day, the defendant

bookstore would actually receive a voucher from the student. (T p. 49) The student would have to purchase the book using that voucher. The student signs the voucher and receives a copy. The original voucher is sent to the Business Office for payment. (T p. 49)

In December of 2009, the defendant purchased three books using the voucher. Sometime after purchasing the books, an unidentified man came to the bookstore and tried to return two of the three books. (T p. 52) He had a copy of the receipt, which had the defendant's name on it. (T p. 54) The Manager determined that the book was purchased using Job Link funds and, therefore, refused to provide a monetary refund. (T p. 52) The refund, instead, had to be given to Job Link. (T p. 52) After being told of the policy, the man left the bookstore.

On December 17, 2009, the bookstore Manager wrote a letter to Job Link informing them of the situation. (T p. 53) In that letter he named the defendant as the person who attempted to return the books based upon the name on the voucher receipt that was provided. (T p. 54) He sent the letter to the defendant's case worker. (T p. 54)

After being alerted about the defendant's actions, Job Link contacted the Washington Police Department. (T p. 82) Detective Black spoke with the defendant. (T p. 83) The defendant admitted to the detective that he returned the items in order

to get money to pay his light bill. (T p. 85) After speaking with the defendant, Detective Black obtained warrants for the defendant's arrest for obtaining property by false pretenses and the defendant turned himself in. (T p. 86)

At the close of state's evidence, the defendant made a motion to dismiss based upon the insufficiency of evidence. (T p. 122) The trial court denied the motion and the defense put on no additional evidence.

**REASONS WHY THIS COURT SHOULD DENY DEFENDANT'S
PETITION FOR DISCRETIONARY REVIEW**

North Carolina General Statute § 7A-31(c) provides the guidelines by which a petition for discretionary review will be granted and the petition in this case fails to fulfill these guidelines. Under that statute, the petitioner must show: (1) the subject-matter has significant interest, (2) the cause involves legal principles of major significance to the jurisprudence of the state, or (3) the decision of the COA appears likely to conflict with a decision of the Supreme Court. See N.C.G.S. § 7A-31(c) (2001).

This petition does not address any of the three requirements for discretionary review. Petitioner contends discretionary review is appropriate in this case because the decision of the Court of Appeals improperly expands on the previous decision

from this Court in State v. Cronin, 299 N.C. 229, 262 S.E.2d 277(1980). The Petitioner contends that the Court of Appeals' opinion supports the validity of a false pretense indictment by "stacking inference upon inference to contradict the factual allegations of the indictment." (Def Br. 5) However, the decision here does not improperly expand the Cronin decision, but properly follows legal precedent. Essentially, the Petitioner disagrees with the decision in this case and is actually arguing that the Court of Appeals made the wrong decision. He is using his petition as a means to re-argue his motion to dismiss. This Court has already decided whether reasonable inferences can be used to support an indictment for false pretenses and North Carolina General Statute § 7A-31(c) does not allow a simple disagreement with the court's ruling as grounds to grant discretionary review.

The Court of Appeals decision in this case does not conflict with any prior decisions. In fact, the Court of Appeals actually decided this matter in accordance with this Court's decision in Cronin. To grant review on the basis asserted by the defendant would open the door to reviewing every case in which a defendant contends the Court of Appeals erred by holding there was sufficient evidence to withstand a motion to dismiss.

The legal principles involved here are well-settled. Therefore, this issue does not meet the required criteria of §7A-31(c) and the correct ruling of the Court of Appeals needs no further review.

Assuming arguendo and this Court decides, in its discretion, to determine whether the Court of Appeals' decision here improperly expands State v. Cronin, it would find that the Court of Appeals properly followed the *Cronin* decision.

An indictment must allege facts supporting every element of the offense charged. N.C.G.S. § 15A-924(a)(5) (2011). The elements of obtaining property by false pretenses are: (1) a false representation, (2) which is calculated and intended to deceive, (3) which does deceive, and (4) by which one person obtains or attempts to obtain value from another. State v. McBride, 187 N.C. App. 496, 500, 653 S.E.2d 218, 221 (2007). There must be allegations sufficient to state a causal connection between the alleged false representation and the obtaining of property or money. State v. Childers, 80 N.C. App. 236, 241, 341 S.E.2d 760, 783 (1986). “[A]n allegation that the money or property was obtained ‘by means of a false pretense’ is,” however, “sufficient to allege the causal connection where the facts alleged are adequate to make clear that the delivery of the property was the result of the false representation.” Id.

In State v. Cronin, 299 N.C. 229, 262 S.E.2d 277 (1980), this Court held that indictment allegations charging obtaining property by false pretenses were "sufficient to raise a reasonable inference that the bank made the loan because it was deceived by defendant's false representations." Id. at 238 The North Carolina Court of Appeals further held in State v. Seeling that any holdings that "precluded reliance on inferences when reviewing indictments" were overruled by the Cronin decision. 738 S.E.2d 427,432 (2013).

The defendant states that the indictments do not allege that the defendant made any false representations to obtain funds nor do the indictments allege that JobLink provided the funds because it was deceived by the false representations. (Def. Petition, 5) This is absolutely not true. In his petition, the defendant seems to only focus on a small part of the indictment that mentions how the property was obtained (See Def. Petition, 2). However, the indictment must be viewed in its entirety. The indictments at issue here clearly state that the "defendant...designedly with the intent to cheat and defraud obtain U.S. Currency from Mid-East Commission, JobLink Career Center, *by means of a false pretense which was calculated to deceive and did deceive.*" Emphasis added. (R pp. 6,7) This clearly states that the defendant used a false pretense to obtain money from JobLink and JobLink was deceived by the false pretense. Each indictment held the same language.

The Court of Appeals in Childers has already held that an allegation of obtaining property by "means of a false pretense" is enough to allege the causal connection when the facts make clear that the delivery of the property was a result of the false representation.

The indictment then goes on to describe the facts, which were that the money was obtained by the defendant's return of items that were supposed to be purchased for the defendant's classes. Therefore, when looking at the entire indictment, it is reasonable to infer that the defendant's false representation was that he would use the money solely for the purchase and use of items needed for his classes. Again, this Court has held in Cronin that such reasonable inferences are perfectly acceptable and do not invalidate an indictment.

When examining the facts of this case, it is apparent that there was sufficient evidence to support the indictments. One day after receiving the funds to buy a calculator for class and purchasing the calculator, the defendant returned the calculator to Office Depot for a full refund. (T pp. 79-80) On the same day that he received the JobLink funds for the calculator, the defendant put in another request for funds to buy tools for his electrical engineering class. (T p. 26)

The day after receiving JobLink funds for those tools and purchasing them from Lowe's, the defendant returned to the store in order to get a full refund. The only

reason that the defendant was unsuccessful in his attempt on that day was due to Lowe's fifteen day return policy. So, the defendant returned to Lowe's on day fifteen and received the full refund for those tools (T pp. 44-46) During this same time, the defendant also unsuccessfully attempted to return books that he just purchased from the community college bookstore using Joblink funds. Finally, the defendant admitted to the police that he returned the tools so that he could get the money to pay his light bill. (T pp. 85, 87) All of these facts clearly support the reasonable inference that the defendant obtained the Joblink funds under the false pretense that he would use the money to purchase tools and books for his classes and would use those tools and books for his classes. The defendant actually obtained the funds solely to keep the money for his personal use.

Therefore, viewing this evidence in the light most favorable to the state and drawing all reasonable inferences in the state's favor, the state presented sufficient evidence of the defendant's false pretense and JobLink's reliance on those false pretenses.

In summary, the decision of the Court of Appeals in this case does not improperly expand on this Court's decision in State v. Cronin and follows legal principles that are well-settled.

WHEREFORE, the State moves that defendant's petition for discretionary review be denied.

Electronically submitted this 12thth day of September, 2013.

ROY COOPER
ATTORNEY GENERAL

Electronically submitted
/s/Larissa S. Williamson
Assistant Attorney General
NC Dept. of Justice
Post Office Box 629
Raleigh, North Carolina 27602
State Bar No. 31504
(919) 716-6680
lwilliamson@ncdoj.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing RESPONSE TO DEFENDANT'S PETITION FOR DISCRETIONARY REVIEW upon the DEFENDANT by placing a copy of same in the United States Mail, first class postage prepaid, addressed to his ATTORNEY OF RECORD as follows:

W. Michael Spivey
Attorney for Appellant
Post Office Box 1159
Rocky Mount, NC 27802

This the 12th day of September, 2013.

Electronically submitted
/s/Larissa S. Williamson
Assistant Attorney General
NC Dept. of Justice
Post Office Box 629
Raleigh, North Carolina 27602
State Bar No. 31504
(919) 716-6680
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NORTH CAROLINA STATE BAR

Attorney Client Assistance Program

208 Fayetteville St. 27601
Post Office Box 25908
Raleigh, North Carolina 27611

July 19, 2012

Mr. James G. Armistead
#0010094
P.O. Box 8
Brunswick, NC 28424

Dear Mr. Armistead:

We are in receipt of your letter to the N.C. State Bar with regard to attorney S. Matthew Lilly. Mr. Lilly was licensed to practice law in the state of North Carolina on August 15, 1989. He is a member of the State Bar and is in good standing. We do not keep records concerning what type of law is practiced; therefore, we cannot provide the answer to your question regarding the class of felons Mr. Lilly is authorized to handle.

Sincerely,

Attorney Client Assistance Program



Attorney/Client Assistance Program

217 E. Edenton St. 27601
Post Office Box 25908
Raleigh, North Carolina 27611
Telephone: (919) 828-4620
Fax: (919) 828-3796
Web: www.ncbar.gov

Luella C. Crane
Director
DRC Certified Superior Court Mediator

Krista Bathurst
Mediator

Sandra L. Saxton
Melanie Kincaid
Judy Treadwell
Public Liaisons

Diane Melching
Administrative Assistant

July 15, 2014

Mr. James G. Armistead #0010094
Franklin Correctional Center
P O Box 155
Bunn, NC 27508

Dear Mr. Armistead:

We are in receipt of your recent correspondence regarding your attorney. Please be advised that the Attorney/Client Assistance Program is unable to be of assistance involving the following allegations:

1. complaints that an attorney provided ineffective assistance of counsel in a criminal case, unless a court has granted a motion for appropriate relief based upon the attorney's conduct;
2. complaints that a plea entered in a criminal case was not made voluntarily and knowingly, unless a court has granted a motion for appropriate relief based upon the attorney's conduct;
3. complaints that an attorney's advice or strategy in a civil or criminal matter was inadequate or ineffective.

If a court grants relief based on the conduct of your attorney, at that time you may contact this office for the appropriate action to be taken. The State Bar can be of no further assistance at this time.

Very truly yours,

A handwritten signature in black ink that reads "Luella C. Crane".

Luella C. Crane

P.S. File complaint against state appointed lawyer in 2010, two years before trial in 2012, However i was still force to go to trial with attorney Mr. Matthew Lilley.

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