

APPENDICES

A-E

APPENDIX A

OPINION OF THE U.S. COURT OF
APPEALS FOR THE 11TH CIRCUIT

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 21-13281-C

DANIEL BOOS,

Petitioner-Appellant,

versus

WARDEN,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Georgia

ORDER:

Daniel Boos, a Georgia prisoner currently serving a life sentence for child molestation offenses, seeks a certificate of appealability ("COA") and leave to proceed *in forma pauperis* ("IFP"), to appeal the denial of his 28 U.S.C. § 2254 petition. In this petition, Boos asserted that appellate counsel failed to argue that: (1) trial counsel was ineffective in failing to have an expert witness examine or interview the victim; (2) trial counsel was ineffective in failing to interview and subpoena personnel at the victim's school; (3) trial counsel was ineffective in advising him regarding his decision not to testify; (4) the trial court erred in denying his motion for a mistrial after a state witness testified regarding the victim's credibility; (5) trial counsel was ineffective in informing the jury of Boos' prior child molestation conviction during opening arguments; and (6) the cumulative effect of trial counsel's errors, including trial counsel's failure to call his wife to testify, deprived him of a fair trial.

To obtain a COA, a movant must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). The movant satisfies this requirement by demonstrating that “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong,” or that the issues “deserve encouragement to proceed further.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (quotation marks omitted).

To establish ineffective assistance of counsel, a defendant must show that (1) counsel’s performance was deficient, and (2) the deficient performance prejudiced his defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). Counsel’s performance is presumed to be reasonable, and thus the defendant must demonstrate that no competent counsel would have taken the action that counsel took. *Chandler v. United States*, 218 F.3d 1305, 1315 (11th Cir. 2000) (*en banc*). Prejudice occurs when there is a “reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” *Id.* at 694. “Claims of ineffective assistance of appellate counsel are governed by the same standards applied to trial counsel under *Strickland*.” *Philmore v. McNeil*, 575 F.3d 1251, 1264 (11th Cir. 2009).

Here, reasonable jurists would not debate the state court’s rejection of Claim 1, as the victim could not be compelled to submit to an interview or an independent psychological evaluation. *Dover v. State*, 296 S.E.2d 710, 712 (Ga. 1982); *Collar v. State*, 426 S.E.2d 43, 44 (Ga. Ct. App. 1992). Moreover, appellate counsel acted within her discretion in deciding which defense theories to pursue and which legal arguments to present on direct appeal. See *Eagle v. Linahan*, 279 F.3d 926, 940 (11th Cir. 2001).

Reasonable jurists also would not debate the state court’s rejection of Claim 2, as Boos has not shown that no competent attorney would have foregone subpoenaing the school personnel. *Adams v. Wainwright*, 709 F.2d 1443, 1445 (11th Cir. 1983); *Waters v. Thomas*, 46 F.3d 1506,

1512 (11th Cir. 1995). Additionally, there is no reasonable probability that additional testimony about the victim's behavioral problems would have led to a different outcome at trial, given that the jury heard testimony about the victim's behavioral problems and reputation for truthfulness.

Reasonable jurists would not debate the state court's rejection of Claim 3, as the state court reasonably found that trial counsel could not have anticipated the jury's questions about Boos' rehabilitative efforts, and it was not unreasonable for trial counsel to advise Boos not to testify under the circumstances known at the time. *See Strickland*, 466 U.S. at 689. Reasonable jurists also would not debate the denial of Claim 4 because the validity of this claim turned on state law, and the district court was bound by the state court's conclusion that the state witness's testimony was admissible. *See Pinkney v. Sec'y, Dep't of Corr.*, 876 F.3d 1290, 1295 (11th Cir. 2017).

Reasonable jurists would not debate the state court's rejection of Claim 5, as Boos failed to show that trial counsel's decision to address his prior conviction during *voir dire* was unreasonable, especially when the trial court previously had stated that this evidence would be admissible. *See Adams*, 709 F.2d at 1445. ~~Finally, reasonable jurists would not debate the state court's rejection of Claim 6, as Boos has not shown that trial counsel's decision not to call his wife as a witness was unreasonable. *See id.* *Waters*, 46 F.3d at 1512. Moreover, because Boos did not identify any errors by trial counsel, he cannot show that Davis was ineffective in failing to argue that the cumulative effect of trial counsel's errors deprived him of a fair trial. *See Insignares v. Sec'y, Fla. Dep't of Corr.*, 755 F.3d 1273, 1284 (11th Cir. 2014). Accordingly, Boos' motion for a COA is DENIED, and, consequently, his IFP motion is DENIED AS MOOT.~~

/s/ Adalberto Jordan
UNITED STATES CIRCUIT JUDGE

APPENDIX B

OPINION OF THE U.S. DIST. COURT

AO 450 (GAS Rev 09/20) Judgment in a Civil Case

United States District Court
Southern District of Georgia

*DE NOVO
REVIEW*

DANIEL BOOS,

Petitioner,

JUDGMENT IN A CIVIL CASE

v.

CASE NUMBER: CV 120-082

JERMAINE WHITE, Warden,

Respondent.



Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.



Decision by Court. This action came before the Court. The issues have been considered and a decision has been rendered.

IT IS ORDERED AND ADJUDGED

that, pursuant to the Order dated September 7, 2021, the Magistrate Judge's Report and Recommendation is adopted as the Court's opinion and all objections are overruled; therefore, Petitioner's Petition brought pursuant to 28 U.S.C. § 2254 is dismissed and Judgment is hereby entered in favor of Respondent. Additionally, Petitioner is denied a certificate of appealability in which Petitioner is not entitled to appeal in forma pauperis. This case stands closed.

09/07/2021

Date



John E. Triplett, Clerk of Court

Clerk

Jamie Sabalza

(By) Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

DANIEL BOOS,	)	
	)	
Petitioner,	)	
	)	
v.	)	CV 120-082
	)	
JERMAINE WHITE, Warden,	)	
	)	
Respondent.	)	

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge's Report and Recommendation, (doc. no. 13), to which objections have been filed, (doc. no. 17). Petitioner does not offer any new evidence or argument that warrants deviating from the recommendation to reject all of Petitioner's ineffective assistance of counsel claims and deny the petition in its entirety. Rather Petitioner re-hashes the arguments raised in his petition and briefing, without acknowledging the double deference owed by the federal court to the state court's decision on the ineffective assistance claims. (See doc. no. 13, pp. 15-16 (citing Harrington v. Richter, 562 U.S. 86, 105 (2011) and Yarborough v. Gentry, 540 U.S. 1, 4 (2003)).)

As the Magistrate Judge thoroughly explained:

... "[C]ounsel is strongly presumed to have rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment [F]ederal courts are to afford both the state court and the defense attorney the benefit of the doubt." Woods v. Etherton, 578 U.S., 136

S. Ct. 1149, 1151 (U.S. 2016) (*per curiam*) (internal quotations and citations omitted).

To summarize, for Petitioner to obtain federal habeas relief, “[t]he state court decision must be so lacking in justification that there was an error well understood and comprehended in existing law beyond any possibility for fairminded disagreement.” *Id.* That is, if fairminded jurists could reach differing conclusions, this Court owes deference to the state court decision, and federal relief is not available. Shinn v. Kayer, 592 U.S., 141 S. Ct. 517, 525 (2020) (*per curiam*) (“Perhaps some jurists would share those views [of a federal appeals court weighing evidence to reverse state court rejection of a Strickland claim], but that is not the relevant standard. The question is whether a fairminded jurist could take a different view. And the answer is yes.”). Put another way, “the question becomes whether there is any reasonable argument that counsel satisfied Strickland’s deferential standard. Raulerson v. Warden, 928 F.3d 987, 997 (11th Cir. 2019) (citation omitted), *cert. denied*, 140 S. Ct. 2568 (U.S. Mar. 30, 2020).

(*Id.* at 16.)

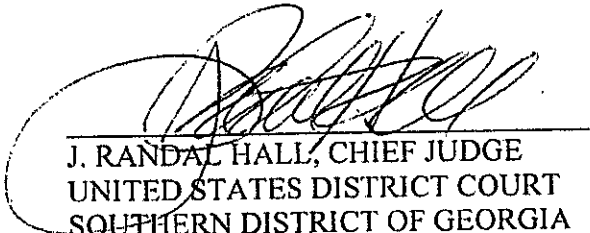
Petitioner strenuously argues his interpretation of the record and the alleged errors made by counsel is correct, and the state court decision considered by the Magistrate Judge in his analysis is incorrect. However, Petitioner’s arguments made in hindsight, and without any consideration of whether fairminded jurists could reach differing conclusions, are insufficient to overcome the high burden in place for individuals seeking federal habeas corpus relief under the two-pronged test of Strickland v. Washington, 466 U.S. 668 (1984). The Magistrate Judge thoroughly addressed Petitioner’s claims, citing the applicable record evidence and explaining the relevant case law supporting the legal analysis that Petitioner is not entitled to the relief he seeks. Accordingly, the Court **OVERRULES** all objections, **ADOPTS** the Report and Recommendation of the Magistrate Judge, and **DENIES** the instant petition, brought pursuant to 28 U.S.C. § 2254.

Further, a prisoner seeking relief under § 2254 must obtain a certificate of appealability (“COA”) before appealing the denial of his application for a writ of habeas

corpus. This Court “must issue or deny a certificate of appealability when it enters a final order adverse to the applicant.” Rule 11(a) to the Rules Governing Section 2254 Proceedings. This Court should grant a COA only if the prisoner makes a “substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). For the reasons set forth in the Report and Recommendation, and in consideration of the standards enunciated in Slack v. McDaniel, 529 U.S. 473, 482-84 (2000), Petitioner has failed to make the requisite showing. Accordingly, the Court **DENIES** a COA in this case.¹ Moreover, because there are no non-frivolous issues to raise on appeal, an appeal would not be taken in good faith, and Petitioner is not entitled to appeal *in forma pauperis*. See 28 U.S.C. § 1915(a)(3).

Upon the foregoing, the Court **CLOSES** this civil action and **DIRECTS** the Clerk to enter final judgment in favor of Respondent.

SO ORDERED this 7th day of September, 2021, at Augusta, Georgia.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

¹“If the court denies a certificate, the parties may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.” Rule 11(a) to the Rules Governing Section 2254 Proceedings.

APPENDIX C

ORDER ON MOTION FOR RECONSID-
ERATION FROM THE 11TH CIRCUIT

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 21-13281-J

DANIEL BOOS,

Petitioner-Appellant,

versus

WARDEN,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Georgia

Before: JORDAN and BRASHER, Circuit Judges.

BY THE COURT:

Daniel Boos has filed a motion for reconsideration, pursuant to 11th Cir. R. 22-1(c) and 27-2, of this Court's order dated January 31, 2022, denying his motion for a certificate of appealability and denying as moot his motion for leave to proceed *in forma pauperis* on appeal, following the district court's denial of his *pro se* 28 U.S.C. § 2254 federal habeas corpus petition. Because Boos has offered no new evidence or arguments of merit to warrant relief, his motion for reconsideration is DENIED.

APPENDIX D

PETITIONER'S CERTIFICATE OF AP-
PEALABILITY TO THE 11TH CIRCUIT

IN THE UNITED STATES COURT OF APPEAL
FOR THE ELEVENTH CIRCUIT
STATE OF GEORGIA

DANIEL BOOS, *
PETITIONER, * CASE NO. _____
VS. *
JERMAINE WHITE, * CIVIL ACTION NO. _____
WARDEN, * CV-120-082
RESPONDENT, *

NOTICE OF APPEAL
AS TO DENIAL OF PETITION FOR WRIT OF
HABEAS CORPUS

COMES NOW DANIEL BOOS,
THE PETITIONER IN THE ABOVE-STYLED
CASE AND FILES HIS NOTICE OF APPEAL AS
TO THE ADVERSE DECISION RENDERED
BY THE DISTRICT COURT ON 7 SEPTEMBER
2021. THE PETITIONER FILES HIS NOTICE
OF APPEAL IN ORDER TO SUBMIT HIS
CERTIFICATE OF APPEALABILITY PUR-
SUANT TO 28 U.S.C. SEC. 2253(a)(1).
THIS 17TH DAY OF SEPT. 2021

/s/

DANIEL BOOS

PETITIONER PROSE

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
STATE OF GEORGIA

DANIEL BOOS,
PETITIONER,
VS.

TERMAINE WHITE,
WARDEN,

RESPONDENT.

X

X CASE NO.

X

X

X DIST. COURT NO.

X CV 120-082

X

PETITIONER'S REQUEST
FOR A CERTIFICATE OF APPEALABILITY

COMES NOW DANIEL BOOS, THE
PETITIONER IN THE ABOVE-STYLED
CASE AND FILES HIS REQUEST FOR A
CERTIFICATE OF APPEALABILITY PURSU-
ANT TO 28 U.S.C. SEC. 2253 (2)(C). AS
GOOD CAUSE TO GRANT SAID PETITION
AND/OR CERTIFICATE THE PETITIONER
WOULD SHOW THE FOLLOWING STANDARD
FOR ISSUING A CERTIFICATE AND TWO
(2) GROUNDS FOR CONSIDERATION.

STANDARD OF REVIEW FOR ISSUANCE OF A CERTIFICATE OF APPEALABILITY

PURSUANT TO 28 U.S.C. SEC. 2253(c)(2), A DISTRICT OR CIRCUIT JUDGE MAY ISSUE A CERTIFICATE OF APPEALABILITY ONLY IF THE PETITIONER HAS MADE A "SUBSTANTIAL SHOWING OF THE DENIAL OF A CONSTITUTIONAL RIGHT. SEE MARTINEZ V. DRETKE, 404 F.3RD 873 (5TH CIR. 2005) AND FLEMING V. EVANS, 481 F.3RD 1249 (10TH CIR. 2007). ALSO SEE LOTT V. ATT'Y GEN. OF FLA., 594 F.3RD 1296 (11TH CIR. 2010). IN SLACK V. MCDANIEL, 529 U.S. 473 (2000) THE U.S. SUPREME COURT DETERMINED THAT FOR A COA TO ISSUE, THE PETITIONER MUST SHOW THAT REASONABLE JURISTS COULD DEBATE WHETHER THE PETITION SHOULD HAVE BEEN RESOLVED IN A DIFFERENT MANNER OR THAT THE ISSUES PRESENTED WERE ADEQUATE TO DESERVE ENCOURAGEMENT TO PROCEED FURTHER; THE SUBSTANTIAL SHOWING STANDARD.

G-ROUNDS

GROUND NO. ONE: AFFILIATE COUNSEL DEFENDED INEFFECTIVE ASSISTANCE FOR HER FAILURE TO RAISE ON DIRECT APPEAL TRIAL COUNSEL'S FAILURE TO INTERVIEW AND SUBPOENA FOR TRIAL TEACHERS AND SCHOOL STAFF PERSONNEL WHO ENCOUNTERED AND/OR DEALT WITH THE SEVERE BEHAVIORAL PROBLEMS DISPLAYED BY THE ALLEGED VICTIM, SOLOMAN WADE WHICH RESULTED IN HIS EXPULSION FROM SCHOOL WHERE IN THE ALTERNATIVE TRIAL COUNSEL HAD HIS DEFENSE EXPERT WITNESS, A DR. FREY, EXAMINE THE VARIOUS SCHOOL RECORDS AND PSYCHIATRIC EVALUATIONS AS CONCERNS WADE AND WATCH A FORENSIC INTERVIEW WITH WADE, HOWEVER, THE RECORD WILL SHOW THAT THE TRIAL COURT GRANTED THE STATE'S MOTION IN LIMINE WHICH PRECLUDED DR. FREY FROM TESTIFYING AS TO WADE'S PROPENSITY TO LIE OR FOR UNTRUTHFULNESS WHERE ALL OTHER AREAS DR. FREY COULD TESTIFY TO, YET, DEFENSE COUNSEL PULLED DR. FREY FROM TESTIFYING CLAIMING THE

TRIAL COURT HAD SO SEVERELY RESTRICTED DEFENDANT'S ABILITY TO TESTIFY THAT IT WAS POINTLESS TO HAVE HIM DO SO WHICH THE RECORD COMPLETELY BELIES AND RESULTED IN AN EXTRAORDINARY LOSS OF VALUABLE EXCULPATORY TESTIMONIAL EVIDENCE FOR THE DEFENSE WHERE SUBSECTIONS 1 & 2 OF 28 U.S.C. SEC. 2244 (d) APPLIED, THUS DENYING THE PETITIONER HIS SIXTH AND FOURTEENTH AMENDMENT RIGHTS UNDER THE U.S. CONSTITUTION.

GROUND TWO: APPELLATE COUNSEL RENDERED INEFFECTIVE ASSISTANCE FOR HER FAILURE TO RAISE ON DIRECT APPEAL TRIAL COUNSEL'S MULTIPLE ERRORS AND THE CUMULATIVE EFFECT SAME HAD ON THE OUTCOME OF THE PROCEEDINGS, I.E., COUNSEL'S FAILURE TO SUBPENA THE PETITIONER'S WIFE TO TESTIFY WHO WOULD HAVE INFORMED THE JURY AS TO THE THERAPY AND EDUCATIONAL ASSISTANCE (CLASSES) THE PETITIONER RECEIVED AFTER HIS FIRST CONVICTION FOR THE SAME TYPE OF OFFENSES WHERE THE JURY DURING DELIBE-

RATIONS SENT A QUESTION OUT ASKING IF THE PETITIONER RECEIVED ANY HELP AFTER THE FIRST CONVICTION, TRIAL COUNSEL'S ERRONEOUS ADVICE THAT THE PETITIONER SHOULD NOT TESTIFY, FAILURE TO HAVE HIS OWN EXPERT WITNESS, DR. FREY TESTIFY, FAILURE TO INTERVIEW AND SUBPOENA FOR TRIAL SCHOOL PERSONNEL THAT HAD DEALT WITH SOLD-MAN WADE AND GENERATED THE VARIOUS REPORTS AND SCHOOL RECORDS ON WADE THAT COUNSEL HAD SUBPOENAED FOR DR. FREY TO REVIEW AND THEN TESTIFY TO, FAILURE OF COUNSEL TO WAIT FOR THE TRIAL COURT TO RULE ON AND OR GIVE LIMITING INSTRUCTIONS ON A SIMILAR TRANSACTION WHERE THE JURY WAS INFORMED IN OPENING ARGUMENT BY COUNSEL OF THE SIMILAR AND THEN ATTEMPTED TO OBJECT WHEN STATE'S COUNSEL BEGAN QUESTIONING WITNESSES ABOUT THE SIMILAR TRANSACTION PRIOR TO THE ACTUAL WITNESS WHO WOULD TESTIFY ABOUT THE SIMILAR, HOWEVER, THE TRIAL COURT OVERRULED THE OBJECTION IN THAT DEFENSE COUNSEL HAD ALREADY OPENED THE DOOR TO SAME IN THE OPENING

ARGUMENTS, WHERE SUBSECTIONS 1+2
OF 28 U.S.C. 2244 (d) APPLIED TO THE
ISSUE AT BAR THUS DENYING THE PE-
TITIONER HIS SIXTH AND FOURTEENTH
AMENDMENT RIGHTS UNDER THE U.S.
CONSTITUTION.

GROUND ONE, APPELLATE COUNSEL RENDERED INEFFECTIVE ASSISTANCE FOR HER FAILURE TO RAISE ON DIRECT A TRIAL COUNSEL'S FAILURE TO INTERVIEW AND SUBPOENA FOR TRIAL TEACHERS AND SCHOOL STAFF PERSONNEL WHO ENCOUNTERED AND/OR DEALT WITH THE SEVERE BEHAVIORIAL PROBLEMS DISPLAYED BY THE ALLEGED BY THE ALLEGED VICTIM, SOLOMAN WADE WHICH RESULTED IN HIS EXCLUSION FROM SCHOOL WHERE IN THE ALTERNATIVE, TRIAL COUNSEL HAD HIS DEFENSE EXPERT WITNESS, A DR. FREY, EXAMINE THE VARIOUS SCHOOL RECORDS AND PSYCHIATRIC EVALUATIONS AS CONCERNS WADE AND ANALYZE A FORENSIC INTERVIEW WITH WADE WHICH WAS TAPED, HOWEVER, THE RECORD WILL SHOW THAT THE TRIAL COURT GRANTED THE STATE'S MOTION IN LIMINE WHICH PRECLUDED DR. FREY FROM TESTIFYING AS TO WADE'S PROPENSITY TO LIE OR FOR UNTRUTHFULNESS WHERE ALL OTHER AREAS REGARDING WADE DR. FREY COULD TESTIFY TO, YET DEFENSE COUNSEL PREVENTED DR. FREY FROM TESTIFYING CLAIMING THE TRIAL COURT WAS SO SEVERELY RESTRICTED DR. FREY'S ABILITY TO TESTIFY THAT IT WAS POINTLESS FOR HIM

TO DO SO WHICH THE RECORD COMPLETELY BELIES AND RESULTED IN AN EXTRAORDINARY LOSS OF VALUABLE EXCULPATORY TESTIMONIAL EVIDENCE AS TO THE BAD CHARACTER AND TWISTED PSYCHE OF SOLOMAN WAD

PURSUANT TO 28 U.S.C. SEC 2253(C)(2), A COA MAY ISSUE ONLY IF THE APPLICANT HAS MADE A SUBSTANTIAL SHOWING OF THE DENIAL OF A CONSTITUTIONAL RIGHT. AN APPLICANT SATISFIES THIS STANDARD BY DEMONSTRATING THAT REASONABLE JURISTS WOULD FIND THE DISTRICT COURT'S ASSESSMENT OF THE CONSTITUTIONAL CLAIMS DEBATABLE OR WRONG AND THAT ANY DISPOSITIVE RULING BY THE DISTRICT COURT IS DEBATABLE. MILLER-EL V. COCKRELL, 537 U.S. 322 (2003) AND SLACK V. MC-DANIEL, 529 U.S. 473 (2000).

HERE, AS TO THE ISSUE AT BAR, THE PETITIONER SUBMITTED 20 PAGES OF HANDWRITTEN OBJECTIONS TO THE DISTRICT JUDGE FOR DE NOVO REVIEW OF THE MAGISTRATE'S REPORT

AND RECOMMENDATION (R+P); A VAST MAJORITY OF THE OBJECTIONS WERE SPENT CORRECTING THE RECORD FROM STATE HABEAS TO FEDERAL HABEAS AND FROM THE "R+R" TO THE DE NOVO REVIEW - A LESSON IN FUTILITY. AT THIS JUNCTURE THE PETITIONER CAN ONLY REITERATE WHAT HAS ALREADY BEEN CLEARLY ESTABLISHED, WHAT ACTUALLY WAS STATED ON THE RECORD IN THIS CASE AND THE PIVOTAL MATERIAL THE STATE HABEAS COURT AND DISTRICT COURT HAVE MARKED THE POST-COLLATERAL RECORD WITHIN ARE AT OPPOSITE END OF THE SPECTRUM.

TRIAL COUNSEL WITHDRAWS HIS OWN EXPERT FROM TESTIFYING AT TRIAL - TELLS A DIFFERENT SCENARIO AT THE M.M.T. HEARING

THE FOLLOWING ARE A SERIES OF CITES FROM THE GA. COURT OF APPEALS WHICH ESSENTIALLY SUMMARIZES THE EXPERT WITNESS DR. FREY'S FLIGHT AND TRIAL COUN-

SEL'S SELLING OF THE FARM,

(GENERALLY DOC. 10-12 TO 10-14);
(BOOS V. STATE, NO. A17A1013 (GA. CT. OF
APP.) UNPUBLISHED).

... THE PSYCHOLOGIST
STATED THAT HE HAD NOT EXAMINED
THE NEPHEW, BUT HAD REVIEWED
CERTAIN OF THE NEPHEW'S SCHOOL
RECORDS, AS WELL A RELATED PSY-
CHOLOGICAL EVALUATION SHOWING
THAT THE NEPHEW HAD BEEN DIAG-
NOSED WITH A MAJOR DEPRESSIVE DIS-
ORDER AND INTERMITTENT EXPLOSIVE
DISORDER... THROUGHOUT THE PROCE-
DURE, THE TRIAL JUDGE REPEATED THAT
THE DEFENSE WOULD NOT BE AL-
LOWED TO ELICIT THE PSYCHOLOGIST'S
OPINION REGARDING THE NEPHEW'S
CREDIBILITY. AT ONE POINT, DEFENSE
COUNSEL ASKED WHETHER THE PSY-
CHOLOGIST COULD RENDER HIS OPINION
THAT THE NEPHEW SUFFERS FROM OR HAS
EXHIBITED SYMPTOMS ASSOCIATED WITH
CONDUCT DISORDER AND WHAT THAT
MEANS. THE TRIAL COURT REPLIED THAT
HE CAN SAY THAT BUT REITERATED,

"YOU'RE NOT GOING TO BE ABLE TO GET INTO THE TRUTHFULNESS OR LACK OF TRUTHFULNESS THAT INVADERS THE PROVINCE OF THE JURY."

(FN. 1):

"THE PSYCHOLOGIST CLARIFIED THAT HE COULD NOT TESTIFY THAT THE NEWBORN ACTUALLY HAD CONDUCT DISORDER BECAUSE HE HAD NOT EXAMINED THE CHILD."

(FN. 2):

"AFTER THE PROFFER, DEFENSE COUNSEL PLACED ON THE RECORD AN OBJECTION THAT THE PSYCHOLOGIST HAD BEEN PRECLUDED FROM TESTIFYING AS TO THE LIMITED MATTERS. 'LALLI SAID IS I WASN'T GOING TO PERMIT HIM TO TESTIFY AS TO TRUTHFULNESS AND YOU'RE THE ONE THAT PULLED HIM DOWN. I DIDN'T PULL HIM OFF THE STAND.' (EMPHASIS ADDED).

THE ABOVE-CITED AND FOR SAKE OF BREVITY, IS THE SHORT VERSION OF THE ODDNESS OF DR. FREY. THE ONLY RULING THE TRIAL COURT HANDED

DOWN WAS THAT DR. FREY COULD NOT TESTIFY AS TO WADE'S PROPENSITY TO LIE - UNTRUTHFULNESS, ALL OTHER SUBJECT MATTER WAS FAIR GAME. WHILE IT'S CLEAR THAT GOOLSBY DID NOT HAVE DR. FREY FULLY PREPARED TO TESTIFY NOR DID HE EVEN TRY TO HAVE DR. FREY INTERVIEW WADE, THE FACT REMAINS THAT OTHER AVENUES WERE AVAILABLE WHERE DR. FREY COULD OFFER EXCULPATORY TESTIMONY FOR THE DEFENSE. IN VIEW OF GOOLSBY'S COMPLETE MISHANDLING OF THE DR. FREY AFFAIR, THE FAILURE TO INTERVIEW AND SUBPOENA FOR TRIAL THE TEACHERS AND SCHOOL PERSONNEL WHO DEALT WITH WADE ON A DAILY BASIS AND GENERATED THE VARIOUS REPORTS AND RECORDS THAT DR. FREY USED IN PREPARATION TO TESTIFY, BECAME A PARTICULARLY EGREGIOUS MISTAKE IN THAT GOOLSBY NOT FOUND HIM -

IT'S INTERESTING TO NOTE THAT THE MAGISTRATE IN HIS R+R AT 3-4, CITED ESSENTIALLY THE SAME SECS. AS PETITIONER, HOWEVER, HE OMITTED FN. 2, COUNSEL PULLING THE DR. FROM TESTIFYING.

SELF IN A SITUATION WHERE ALL OF THE PERTINENT AND/OR EXCULPATORY TESTIMONY AND INFORMATION WHICH DERIVED FROM WADDE'S SCHOOL AND HIS LESSTIMAI STELLAR PERFORMANCE THERE, WAS NOW LOST DUE TO HIS OWN INCOMPETENCE DURING THE STATE MOTION FOR NEW TRIAL HEARING, GOOLSBY WAS QUESTIONED AS CONCERNING DR. FREY AND THE SCHOOL PERSONNEL ON DIRECT BY APPELLATE COUNSEL IN THE FOLLOWING:

(DOC. 10-12)

Q, "AND WHAT KINDS OF DOCUMENTS DID YOUR EXPERT REVIEW OR WHAT KIND OF PREPARATION DID YOUR EXPERT DO IN ORDER TO BE ABLE TO TESTIFY AT TRIAL?"

A, "AS I RECALL, THE COURT ALLOWED HIM TO REVIEW SCHOOL RECORDS OF THE COMPLAINANT, ALONG WITH A VIDEO TAPE INTERVIEW OF THE COMPLAINANT."

Q, "AND DID YOUR EXPERT EVER EXAMINE OR CONDUCT AN -- EXAMINE THE COMPLAINING WITNESS IN THIS CASE?"

A, "WELL, I DON'T

KNOW THAT IT EVER BECAME AN ISSUE I MEAN, HE SAW THE VIDEO TAPED IN INTERVIEW OF THE COMPLAINANT."

Q "DID YOU THINK ABOUT SUBPENA'ING THE TEACHERS THAT WERE MENTIONED IN THE SCHOOL RECORDS?"

A "NO, BECAUSE I DON'T THINK THAT IT WOULD HAVE BEEN NECESSARY OR HELPFUL, ESPECIALLY AFTER THE JUDGE RULED, AS I RECALL, PRIOR TO TRIAL THAT THE TROUBLE THE KID HAD GOTTEN INTO WAS NOT SOMETHING THAT WAS GOING TO BE RELEVANT OR ADMISSIBLE AT TRIAL."

IN THE FIRST INSTANCE, AS THE PETITIONER HAS ILLUSTRATED, "AD NAUSEAM", SINCE THE STATE HAS BEEN PROCEEDINGS WHERE HE FIRED HIS FIRST SALVO AS TO THE ISSUE AT BAR, THE ONLY RULING THE TRIAL COURT MADE AS TO THE STATE'S MOTION IN LIMINE, WAS THAT THE DEFENSE'S "EXPERT" WITNESSES COULD NOT TESTIFY AND/OR OPINE AS TO SOLOMAN WADE'S INABILITY TO TELL THE TRUTH OR AS WAS PREVIOUSLY CITED AS TO THE TRIAL JUDGE, "[A]H I SAID I WAS NOT GOING TO

PERMIT HIM TO TESTIFY TO TRUTHFUL-
NESS AND ~~YOU~~ THE ONE THAT PULLED
HIM DOWN, I DIDN'T PULL HIM OFF
THE STAND..." NOWHERE IN THE RE-
CORD DID THE TRIAL JUDGE RULE OUT
THE TROUBLE WADE HAD GOTTEN ^{IN} TO
~~AT~~ SCHOOL, HIS EXPULSION, PSYCHIATRIC
PROBLEMS, THE TEACHERS OR SCHOOL
STAFF TESTIFYING OR OTHERWISE;
ONLY TRUTHFULNESS, TRUTHFULNESS,
AND TRUTHFULNESS, HOWEVER, GOOLS-
BY JUST DIDN'T SEEM TO GET IT. THE
POINT OF THE EXERCISE WAS TO IM-
PEACH SOLOMAN WADE'S CHARACTER
BY WHATEVER ACCEPTABLE OR LEGAL
MEANS NECESSARY, SAVE FOR HIS PRO-
PENSITY TO LIE. AFTER ALL, THE SIMI-
LAR TRANSACTION WAS ENTERED INTO
TRIAL AGAINST THE PETITIONER FOR
THE SAME REASONS, TO IMPEACH HIS
CHARACTER. IN THE SECOND INSTANCE
THE TEACHERS WERE NECESSARY AND
WOULD HAVE BEEN HELPFUL, AS THEY
ARE THE INDIVIDUALS THAT COMPILED
THE REPORTS THAT GOOLSBY'S EXPERT
STUDIED OR REVIEWED BEFORE HE WAS
YANKED FROM THE STAND BY COUNSEL,
LEAVING A CAVITY IN THE DEFENSE

THAT GOOLSBY WAS UNABLE TO FILL
DUE TO HIS OWN INEPTNESS AND
SHORT-SIGHTEDNESS, AS A CAVEAT
TO THIS, AS SHOWN, GOOLSBY STATED
THAT DR. FREY NOT INTERVIEWING OR
EXAMINING SOLOMAN WADE NEVER BE
CAME AN ISSUE, THIS TO IS BELIED BY
THE RECORD AS GOOLSBY DIDNT EVEN
ATTEMPT TO HAVE DR. FREY INTERVIEW
WADE, I.E., AS NOTED ATT DOC. 10-14, IN
THE GA. COURT OF APPEALS, IT STATED
IN FN. 2 THAT, "THE PSYCHOLOGIST CLAR
IFIED THAT HE COULD NOT TESTIFY
THAT THE NEPNEW ACTUALLY HAD CON-
DUCT DISORDER BECAUSE HE HAD NOT
EXAMINED THE CHILD," CONTRARY TO
GOOLSBY'S OWN DELUSIONS OF GRAND
EUR, THE FACT THAT DR. FREY DID NOT
INTERVIEW WADE NECESSARILY BE-
CAME AN ISSUE IN PART. THESE WERE
NOT THE ACTIONS OF COMPETENT COUN
SEL AS FOR LACK OF A BETTER TERM, GOOL
SBY WASTED THE DEFENSE'S ABILITY TO
REBUT THE STATE'S CASE BY SHELFG
HIS OWN EXPERT WITNESS AND THROUG
EITHER INATTENTION OR INCOMPE-
TENCE OR BOTH, FAILED TO INTERVIEW
AND SUBPOENA KEY WITNESSES WHO

AUTHORED THE SCHOOL RECORDS AND REPORTS THAT WERE SUBPOENAED, BUT NEVER USED, THE TEACHERS AND SCHOOL PERSONNEL WHO INTERACTED WITH WADE ON A DAILY BASIS IN AN INSTITUTIONAL SETTING. SEE STRICKLAND V. WASHINGTON, 466 U.S. 668 (1984); GERFNO V. STATE, 343 GA. APP. 623 (2017). HERE, ON THIS FRONT, THE PETITIONER CLEARLY RECEIVED IN-EFFECTIVE ASSISTANCE ~~OF TRIAL COUNSEL~~ ^{OF TRIAL COUNSEL} IN VIOLATION OF ^{HIS} SIXTH AMENDMENT RIGHT UNDER THE U.S. CONSTITUTION, A SUBSTANTIAL DENIAL OF A CONSTITUTIONAL RIGHT. SEE GIBSON V. KLINGER, 232 F.3D 799 (10TH CIR. 2000); REID V. ANGELONE, 369 F.3D 363 (4TH CIR. 2004) AND FLEMING V. EVANS, 481 F.3D 1249 (10TH CIR. 2007)

EQUALLY OBTRUSIVE WAS APPELLATE COUNSEL'S PERFORMANCE ON DIRECT APPEAL WHERE SHE RENDERED INEFFECTIVE ASSISTANCE IN VIOLATION OF THE PETITIONER'S SIXTH AND FOURTEENTH AMENDMENT RIGHTS FOR HER FAILURE TO RAISE THE GROUND AT BAR ON DIRECT APPEAL, A MERITORIOUS ISSUE. THREE

(A) SHORT QUESTIONS AT THE STATE IN REAS EVIDENTIARY HEARING WHERE THE PETITIONER HAD AFFLUATE COUNSEL ON DIRECT CAPSULIZES THE ISSUE AT BAR;

(DOC. 10-7, 10-11);

Q, "WOULD YOU AGREE THAT DR. FREY SHOULD HAVE PERSONALLY EVALUATED SOLOMAN WADE?"

A, "WELL, KIND OF."

Q, "AS CONCERNS ALL THE RECORDS THAT WERE SUBPOENAED FROM WADE'S SCHOOL, DID GOOLSBY INTERVIEW OR SUBPOENA AN OF THE SCHOOL PERSONNEL THAT AUTHORIZED THESE RECORDS ON WADE, SUCH AS HIS TEACHERS?"

A, "I DON'T BELIEVE SO."

Q, "AND WOULD YOU AGREE THAT ALL THE INFORMATION WE'RE TALKING ABOUT AND WITNESSES THAT WERE INVOLVED ARE A NECESSARY PART OF THE DEFENSE TO REBUT THE STATE'S CASE?"

A, "I DON'T KNOW."

I THINK THAT SOME OF IT MAY HAVE BEEN HELPFUL."

Q, "AND HERE IN THIS CASE, IT APPEARS THAT MR. GOOLBY MADE A STRING OF TACTICAL ERRORS THAT HAD A PROFOUND AFFECT ON THE OUTCOME OF THE TRIAL, IS THAT A FAIR STATEMENT?"

MR. MILLER, OBJECTION JUDGE, IT GOES TO THE QUESTION OF THE EFFECTIVENESS,

THE COURT, "WELL, I'LL OVERRULE IT. YOU CAN ANSWER IT IF YOU CAN."

A, "I WOULD JUST NOTE THAT HE -- THERE WAS A DISAGREEMENT AS TO SOME OF THE DECISIONS HE MADE" (EMPHASIS ADDED BY PETITIONER).

IT IS CLEARLY, FROM THE ABOVE STATED, IT'S SELF-EVIDENT THAT THE ISSUE AT BAR 3 SHOULD HAVE BEEN RAISED ON DIRECT APPEAL, IN PARTICULAR GIVEN THE TWO WEAK GROUNDS APPELLATE COUNSEL DID RAISE, HER OWN RESPONSES ARE ILLUSTRATIVE OF REASONABLE JURISTS DEBATING THE

PERFORMANCE OF COUNSEL, HE "THERE WAS A DISAGREEMENT AS TO SOME OF THE DECISIONS HE MADE", "I THINK SOME OF IT MAY HAVE BEEN HELPFUL" "WELL, KIND OF". IT'S AXIOMATIC THAT AN INDIVIDUAL IS ENTITLED TO EFFECTIVE ASSISTANCE OF COUNSEL ON HIS FIRST APPEAL FROM A CRIMINAL CONVICTION AS OF RIGHT PURSUANT TO THE SIXTH AMENDMENT AND BINDING ON THE STATES THROUGH THE FOURTEENTH AMENDMENT, EVITT V. LUCEY, 469 U.S. 387 (1985) AND STRICKLAND, SUPRA HERE, THE PETITIONER'S RIGHT TO EFFECTIVE ASSISTANCE ON HIS FIRST APPEAL WAS DENIED AND REASONABLE JURISTS IN LIGHT OF THE ACTUAL RECORD COULD DEBATE THE DISTRICT COURT'S CORRETNESS IN DENYING THE GROUND. SEE DELLY V. UNITED STATES, 710 F.3D 1267 (11TH CIR. 2013) AND OVERSTREET V. WARREN, 811 F.3D 1283 (11TH CIR. 2016).

GROUND TWO: APPELLATE COUNSEL RENDERED INEFFECTIVE ASSISTANCE ON DIRECT APPEAL IN VIOLATION OF THE PETITIONER'S SIXTH AND FOURTEENTH AMENDMENT RIGHTS UNDER THE U.S. CONSTITUTION FOR FAILING TO RAISE TRIAL COUNSEL'S MULTIPLE ERRORS AND THE CUMULATIVE EFFECT SAME HAD ON THE OUTCOME OF ^{THE} TRIAL WHICH WAS VIOLATIVE OF THE PETITIONER'S SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL AND ARE AS FOLLOWS:

i.) COUNSEL'S FAILURE TO SUBPOENA THE PETITIONER'S WIFE TO TESTIFY WHO WOULD HAVE TESTIFIED BY INFORMING THE JURY AS TO THE THERAPY AND EDUCATIONAL ASSISTANCE (CLASSES) THE PETITIONER RECEIVED AFTER HIS FIRST CONVICTION FOR THE SAME TYPE OF OFFENSE WHEN THE JURY DURING DELIBERATIONS SENT A QUESTION OUT TO THE COURT ASKING IF THE PETITIONER RECEIVED ANY HELP AFTER HIS FIRST CONVICTION;

ii.) TRIAL COUNSEL'S ERRONEOUS ADVICE THAT THE PETITIO

NER SHOULD NOT TESTIFY IN HIS OWN DEFENSE;

iii) FAILURE TO HAVE HIS OWN EXPERT WITNESS, DR. FREY TESTIFY;

iv) FAILURE TO INTERVIEW AND SUBPOENA FOR TRIAL SCHOOL PERSONNEL THAT HAD INTERACTED WITH SOLOMAN WADE ON A DAILY BASIS AND GENERATED THE VARIOUS REPORTS AND RECORDS ON WADE THAT COUNSEL HAD SUBPOENAED FOR DR. FREY TO REVIEW AND THEN TESTIFY TO;

v) FAILURE OF COUNSEL TO WAIT FOR THE TRIAL COURT TO RULE ON OR GIVE LIMITING INSTRUCTIONS ON A SIMILAR TRANSACTION WHERE THE JURY WAS INFORMED IN OPENING ARGUMENTS BY COUNSEL OF THE SIMILAR TRANSACTION AND THEN ATTEMPTED TO OBJECT WHEN STATE'S COUNSEL BEGAN QUESTIONING WITNESSES ABOUT THE SIMILAR PRIOR TO THE ACTUAL WITNESS WHO WOULD ACTUALLY TESTIFY ABOUT THE PRIOR CONVICTION, HOWEVER, THE TRIAL COURT OVERRULED THE OB-

JECTION IN THAT DEFENSE COUNSEL
HAD ALREADY OPENED THE DOOR TO
THE SIMILAR IN THE OPENING ARGU-
MENTS.

THE PETITIONER RAISED
THIS GROUND UNDER STRICKLAND V.
WASHINGTON, 466 U.S. 668 (1984). ALSO
SEE GOODMAN V. BERTRAND, 467 F.3d
1022 (TINCL. 2006), AS TO TRIAL COUN-
SEL AND STRICKLAND, SUPRA, EVITT
V. LUCEY, 469 U.S. 387 (1985), MASON
V. HANKS, 97 F.3d 887 (TINCL. 1996)
AS TO APPELLATE COUNSEL.

CONCLUSION

WHEREFORE, THE PETITIONER PRAYS THAT THIS HONORABLE COURT GRANT SAID CERTIFICATE

RESPECTIVELY SUBMITTED,
THIS 27TH DAY OF SEPT. 2021

/s/ DANIEL BOOS

PETITIONER PROSE

APPENDIX E

PETITIONER'S MOTION FOR RECON-
SIDERATION TO THE 11TH CIRCUIT.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT
STATE OF GEORGIA

DANIEL BOOS, ~~PLAINTIFF~~ CASE NO.
PETITIONER / APPELLANT 21-13281-C
VS. ~~DEFENDANT~~

WARDEN, ~~PLAINTIFF~~ HABEAS CORPUS
RESPONDENT / APPELEE 28 U.S.C. 2254

PETITIONER'S MOTION
TO VACATE THIS COURT'S PREVIOUS
ORDER ON THE COA IN LIEU OF AN
INADVERTENT FAILURE TO CONSIDER
THE BRIEF IN SUPPORT OF THE NO-
TICE OF APPEAL

COMES NOW DANIEL BOOS,
THE PETITIONER IN THE ABOVE-STATED
CASE AND FILES THE ABOVE-STATED
MOTION PURSUANT TO 11TH CIR. R 27-2,
AS GOOD CAUSE TO GRANT SAID MO-
TION THE PETITIONER WOULD SHOW
THE FOLLOWING:

1.

THE RECORD SHOWS IN THE
CASE AT BARTINAT ON 7 SEPT. 2021
THE U.S. DISTRICT COURT ON DE NOVO

REVIEW ADOPTED THE MAGISTRATE:
R+R TO DENY THE PETITION.

2.

SUBSEQUENTLY, ON 17 SEP-
TEMBER, 2021 THE PETITIONER SUB-
MITTED TIMELY NOTICES OF APPEAL
TO BOTH THE DISTRICT COURT AND THIS
COURT. (SEE ATTACHED COPIES MARKED
"1" AND "2"). ACCORDINGLY, ON 27 SEP-
TEMBER, 2021 THE PETITIONER SUB-
MITTED A TIMELY, "REQUEST FOR A
CERTIFICATE OF APPEALABILITY", WHICH
WAS AND IS THE BRIEF IN SUPPORT OF
THE REQUEST, I.E. TWO (2) ISSUES
CONSISTING OF 24 PAGES. (SEE AT-
TACHED COPY MARKED AS "3".

3.

THE PETITIONER THEN RE-
CEIVED AN ORDER FROM THIS COURT
DATED AND FILED 31 JAN. 2022. UP-
ON A GENERAL PERUSAL OF THE OR-
DER, IT'S CLEAR THAT THE COURT DID
NOT CONSIDER THE BRIEF SUBMITTED
ON 27 SEPTEMBER, 2021 AS THE OR-
DER IS NOT EVEN CLOSE AS TO THE
TWO (2) ISSUES THE PETITIONER

PETITIONER PRESENTED IN HIS COA
AND ACCOMPANYING BRIEF.

4.

GIVEN WHAT IS PLAIN ON
THE RECORD, THE PETITIONER CAN
ONLY SURMISE THAT THE AUTHOR
OF THIS COURT'S ORDER TREATED THE
NOTICE OF APPEAL AS A REQUEST
FOR A COA, REVIEWED THE INABEAS
PETITION, AND ISSUED THE ORDER
WITHOUT ACTUALLY SEEING THE RE-
QUEST FOR A CERTIFICATE OF APPEAL
ABILITY, THE ORDER AND THE RE-
QUEST ARE AT OPPOSITE ENDS OF THE
SPECTRUM, BOTH IN CONTENT AND IS-
SUES ADDRESSED. (SEE ATTACHED
COPY OF ORDER MARKED "4").

5.

THE PETITIONER WAS ALSO
ATTACHED HERETO A QUASI-MO-
TION FOR RECONSIDERATION AS IT
DIDN'T OCCUR TO HIM THAT THE COURT
COULD NOT HAVE VIEWED THE RE-
QUEST FOR COA UNTIL HE WAS PAR-
TIALLY COMPLETED, I.E. THE VAST
DIFFERENCES.

CONCLUSION

WHEREFORE, THE PETITIONER PRAYS THAT THIS HONORABLE COURT GRANTS SAID MOTION.

RESPECTIVELY SUBMITTED
THIS 14TH DAY OF FEB, 2022

/s/

DANIEL ROOS
PETITIONER PRO SE

IN THE UNITED STATES COURT OF APPEAL
FOR THE ELEVENTH CIRCUIT
STATE OF GEORGIA

DANIEL BOOS,

PETITIONER-APPELLANT

VS.

WARDEN,

RESPONDENT-APPELEE

*

* CASE NO.

21-13281-C

*

* HABEAS CORPUS

28 U.S.C. 2254

PETITIONER'S MOTION
TO RECONSIDER THE DENIAL OF HIS
REQUEST FOR A CERTIFICATE OF
APPEALABILITY

COMES NOW DANIEL BOOS,
THE PETITIONER-APPELLANT IN THE
ABOVE-STYLED CASE AND FILES HIS
MOTION FOR RECONSIDERATION AS TO
THE DENIAL OF HIS REQUEST FOR A
CERTIFICATE OF APPEALABILITY PURSU-
ANT TO 11TH CIRCUIT RULE 27-2. AS
GOOD CAUSE TO GRANT SAID MOTION
THE PETITIONER-APPELLANT WOULD
SHOW THE FOLLOWING:

THE RECORD SHOWS THAT
THE DENIAL OF THE INSTANT COA

WAS ISSUED AND FILED ON 31 JAN-
UARY 2022. 11TH CIR. 27-2 PROVIDES
FOR 21 DAYS IN WHICH TO SUBMIT A
MOTION FOR RECONSIDERATION, THUS
THE INSTANT MOTION IS TIMELY FILED

2.

IN THE INSTANT DENIAL,
THIS COURT USED THE PHRASE, "REA-
SONABLE JURISTS WOULD NOT DEBATE."
SEVEN (7) TIMES IN A TWO AND A HALF
PAGE QUASI-OPINION OR EIGHT (8)
TOTAL PARAGRAPHS, AS A RESULT OF
WHAT IS SELF-EVIDENT, THE PETITIO-
NER WILL ADDRESS THE REASONABLE
JURIST SYMPOSIUM AT 13AK AS THE
"SUBSTANTIAL SHOWING OF THE DENIAL
OF A CONSTITUTIONAL RIGHT", PURSUAN-
TO 28 U.S.C. SEC. 2253 (C)(2), WHICH
WAS THOROUGHLY PUT FORTH BY THE
PETITIONER IN HIS COA WAS NOT CON-
SIDERED BY THE COURT.

3.

HERE, IN THE CASE AT BAR
THIS COURT HAS CONCLUDED THAT NO
REASONABLE JURISTS WOULD DEBATE
ANY OF THE RULINGS OR DECISIONS

MADE BY THE STATE IN REAS COURT
OR OTHERWISE; A THOROUGH REVIEW
OR READING OF THE PETITIONER'S CER-
TIFICATE OF AFFIDAVIT COULD NOT
HAVE OCCURRED HERE GIVEN THE CON-
TENT OF THE FINAL ORDER, I.E., A SYS-
TEMATIC OR ASSEMBLY LINE BRAND
OF JUDICIAL DENIAL. THE PETITIONER
WOULD FIRST NOTE THAT "REASON-
ABLE JURIST" IS DEFINED AS FOLLOWS
AS TO EACH WORD;

① REASONABLE - BEING WITHIN THE
BOUND OF REASON, NOT EXTREME.
(THE MERIAM-WEBSTER DICTIONARY)

JURIST - AN INDIVIDUAL HAVING
A THOROUGH KNOWLEDGE OF LAW.
(MERIAM-WEBSTER'S DICTIONARY OF
LAW).

② REASONABLE - BEING IN ACCORDANCE
WITH REASON, FAIRNESS, DUTY OR
PRUDENCE; SUPPORTED OR JUSTIFIED
BY FACT OR CIRCUMSTANCE. (MERIAM
WEBSTER'S DICTIONARY OF LAW).

WITH THE ABOVE STATED

ONE COULD SURMISE THEN, THAT A "REASONABLE JURIST(S)" COULD BE DEFINED AS A COMMITTEED ATTORNEY OR JUDGE WHO ACTS IN ACCORDANCE WITH REASON, FAIRNESS OR PRUDENCE WHEN SUCH ACTIONS OR DECISIONS ARE BASED ON FACT AND NOT ON SUPPOSITION, CONJECTURE OR OTHERWISE.

4.

IN ADDRESSING THE COURT'S ORDER, THE PETITIONER FURTHER NOTES THAT THE INCORRECT STANDARD OF STICKLAND WAS CITED FOR FEDERAL HABEAS REVIEW, I.E., THIS COURT USED THE ANALYSIS BY ASKING IF COUNSEL'S PERFORMANCE FELL BELOW THE STICKLAND STANDARD WHEN IN REALITY, PURSUANT TO THE U.S. SUPREME ^{COURT} THE CORRECT APPLICATION OR PIVOTAL QUESTION IS WHETHER THE STATE COURT'S APPLICATION OF THE STICKLAND STANDARD WAS UNREASONABLE. SEE WARRINGTON V. RICHTER, 562 U.S. 86 (2011). AS TO A SECOND ISSUE, THE PETITIONER BRINGS TO THIS COURT'S ATTENTION AT P. 3 OF THE ORDER, PAR. 3, THAT

THE COURT IS INCORRECT WHERE IT STATES THAT NO ERRORS WERE RAISED AS TO INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL UNDER THE CUMULATIVE ERROR GROUND, FIVE (5) INSTANCES) WERE ADDRESSED IN THE PETITIONER'S REQUEST FOR A CERTIFICATE OF APPEALABILITY, GROUND TWO, P. 21-23. IN FACT, THE PETITIONER SHOWS THAT IN HIS COA HE PROCEEDED WITH ONLY TWO (2) ISSUES AT P. 3-6, AS OPPOSED TO THE SIX (6) STATED IN THE ORDER. IT'S SELF-EVIDENT THAT THE PETITIONER'S NOTICE OF APPEAL FROM THE DISTRICT COURT'S DENIAL OF THE PETITION WHICH HE SUBMITTED TO THIS COURT ON 17 SEPTEMBER, 2021, WAS THE ONLY CRITERIA USED FOR A COA PURSUANT TO THIS COURT'S ORDER, THE PETITIONER'S REQUEST FOR A CERTIFICATE OF APPEALABILITY WHICH WAS ALSO TIMELY FILED WITHIN THE 30-DAY WINDOW ON 27 SEPTEMBER, 2021, IS A 24 PAGE BRIEF WITH TWO (2) ISSUES THAT CLEARLY WAS NOT CONSIDERED. AS A RESULT, THE PETITIONER WAS ATTACHED A

COPY OF HIS NOTICE OF APPEAL AND
HIS SUBSEQUENT REQUEST FOR A
CERTIFICATE OF APPEALABILITY
I.E. BRIEF.

CONCLUSION

WHEREFORE, THE PETITIONER PRAYS THAT THIS HONORABLE COURT RECONSIDERS THE COA IN LIEU OF WHAT THE RECORDS SHOW

RESPECTFULLY SUBMITTED,
THIS 14TH DAY OF FEB 2022

/s/

DANIEL BOOS
PETITIONER PRO SE