

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS FILE COPY
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711

8/2/2022

LANGHORST, KATHERINE ELIZABETH
WR-93,703-01

Tr. Ct. No. CR15-0010-01

Pursuant to Texas Rules of Appellate Procedure, Rule 79.2 (d), applicant's Motion for Reconsideration/Rehearing has been dismissed.

Deana Williamson, Clerk

KATHERINE ELIZABETH LANGHORST
HOBBY UNIT - TDC # 2206265
742 FM 712
MARLIN, TX 76661

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6/29/2022

LANGHORST, KATHERINE ELIZABETH

WR-93,703-01



Tr. Ct. No. CR15-0010-01

This is to advise that the Court has denied without written order the application for writ of habeas corpus on the findings of the trial court without a hearing and on the Court's independent review of the record.

Deana Williamson, Clerk

KATHERINE ELIZABETH LANGHORST
HOBBY UNIT - TDC # 2206265
742 FM 712
MARLIN, TX 76661

CASE NO. CR15-0010-01

Filed: 04/04/2022 10:52 a.m.
Sharena Gilliland
District Clerk
Parker County, Texas

EX PARTE

KATHERINE ELIZABETH
LANGHORST

§ IN THE 43RD JUDICIAL
§ DISTRICT COURT OF
§ PARKER COUNTY, TEXAS

Memorandum

On January 8, 2015, the applicant, Katherine Elizabeth Langhorst, was indicted for the first-degree felony offense of possession of a controlled substance with intent to deliver.

Counsel, Brandy Oliphint, had previously been appointed to represent Applicant on October 6, 2014.

On June 8, 2015, Applicant pleaded guilty. Applicant was sentenced, in accordance with a plea bargain agreement, to 16 years' imprisonment.

On March 1, 2022, Applicant filed an application for writ of habeas corpus. The State received a copy of the application on March 2, 2022.

The Court has considered the record of this case; the affidavit of Applicant's counsel, Brandy Oliphint, attached to the State's response; and the Court's personal recollection. The Court recommends that relief be denied.

Designation of Issues for Resolution

Applicant alleges that (1) her guilty plea was invalid; (2) her counsel rendered ineffective assistance by not taking an interlocutory appeal from the suppression ruling and by not preserving her right to appeal the denial of her motion to suppress; (3) her counsel rendered ineffective assistance by “not explaining the pros & cons of plea bargaining and going to trial” and by not preserving the right to appeal; (4) the Court abused its discretion by denying her motion to suppress; (5) the prosecutor committed misconduct by withholding evidence of a GPS tracking device warrant; (6) her rights were violated by an illegal traffic stop and “illegal searches & seizures of illegally obtained evidence”; and (7) her counsel rendered ineffective assistance by “not requesting the dispatch & transmittal reports that occurred during the time of Langhorst’s traffic stop.” Applicant, however, presents no affidavit or statement from counsel explaining counsel’s trial strategy or responding to the claims of ineffective assistance.

Based on these allegations, the Court designates the following issues for resolution:

1. Whether counsel improperly failed to preserve Applicant’s right to

appeal the pretrial suppression ruling; and

2. Whether counsel explained to Applicant the advantages and disadvantages of entering into a plea bargain versus going to trial.

To resolve these issues, the Court will consider the record in this case; the affidavit of Brandy Oliphint, which was submitted as an exhibit to the State's response; and the Court's personal recollection.

Findings of Fact

1. Counsel Brandy Oliphint's affidavit is credible.
2. The allegations and averments of fact in Applicant's application are not credible.
3. Counsel was appointed to represent Applicant on October 6, 2014.
4. Applicant was indicted on January 8, 2015, for possession of a controlled substance with intent to deliver.
5. On May 1, 2015, Applicant's counsel filed a motion to suppress.
6. On May 21, 2015, the Court held a suppression hearing.
7. Based on the evidence introduced at the hearing, including a copy of the video of the traffic stop, the Court denied the motion to suppress.
8. On June 8, 2015, Applicant pleaded guilty.
9. Applicant pleaded guilty pursuant to a plea bargain, wherein Applicant agreed to plead guilty and waive her right to appeal, including her right to appeal from the suppression hearing, and the State agreed to recommend a sentence of 16 years.

10. Applicant waived her right to appeal in writing, in the written plea admonishments.
11. Applicant signed the written plea admonishments.
12. Applicant fails to allege specific facts that, if true, would entitle her to relief in grounds one, five, and seven of her application.
13. Applicant merely makes conclusory assertions in grounds one, five, and seven of her application.
14. Applicant admitted, on video, that she operated her vehicle without a front license plate.
15. The law enforcement officer performed a valid, objectively reasonable traffic stop of Applicant's vehicle based on her failure to have a front license plate.
16. Whether a tracking device was on Applicant's vehicle and whether Applicant's counsel knew about any alleged tracking device is irrelevant to any issue in this case.
17. Whether a tracking device was on Applicant's vehicle and whether Applicant's counsel knew about any alleged tracking device would not have changed the outcome of the suppression hearing.
18. Whether a tracking device was on Applicant's vehicle and whether Applicant's counsel knew about any alleged tracking device would not have materially or meaningfully impacted Applicant's knowledge of the circumstances surrounding her plea.
19. Applicant was aware of the relevant factual circumstances surrounding her plea when she entered into the plea.
20. Applicant's plea was made freely, knowingly, and voluntarily.
21. Applicant did not have a right to file an interlocutory appeal from the denial of her motion to suppress.

22. Applicant's counsel explained to Applicant that Applicant would be waiving her right to appeal by accepting the plea bargain and pleading guilty.
23. Applicant understood that she was waiving her right to appeal when she accepted the plea bargain and pleaded guilty.
24. Applicant validly waived her right to appeal, including her right to appeal from the suppression hearing.
25. Applicant waived her right to appeal, in writing, after the Court issued its ruling denying her motion to suppress.
26. Applicant's counsel did not fail to preserve Applicant's right to appeal.
27. Applicant's counsel explained the advantages and disadvantages, or the pros and cons, of pleading guilty and of going to trial to Applicant.
28. In her application, Applicant did not allege or plead that, but for counsel's alleged misconduct, she would not have accepted the plea bargain and would have insisted on going to trial.
29. Applicant forfeited any claims she may have had related to the search and seizure in this case when she waived her right to appeal.
30. Any evidence related to a GPS tracker being placed on Applicant's vehicle would not have been favorable to Applicant.
31. Any evidence related to a GPS tracker being placed on Applicant's vehicle would not have been material.
32. Applicant failed to establish a *Brady* violation or prosecutorial misconduct.
33. Applicant understood the consequences of her plea.
34. Applicant waited nearly seven years from the date of her conviction to file this application.

35. By choosing not to file an application for writ of habeas corpus for approximately seven years, Applicant has slept on her rights.

36. The State was prejudiced by Applicant's delay because Applicant's counsel's memory of the plea hearing has diminished, thereby hindering the State's ability to respond to her application.

37. Applicant faced life imprisonment if she went to trial.

38. Applicant received the benefit of a 16 year sentence.

Conclusions of Law

1. Applicant validly waived any right to appeal she may have had in exchange for a plea bargain agreement with the State.
2. Applicant was aware of the relevant factual circumstances surrounding her plea when the plea was entered.
3. Applicant was aware of the consequences of her plea.
4. Applicant freely, voluntarily, and knowingly pleaded guilty.
5. The law enforcement officer made a valid, objectively reasonable stop of Applicant's vehicle.
6. Applicant forfeited any claims she may have had related to the search and seizure in this case by waiving her right to appeal.
7. Applicant failed to establish that her counsel rendered deficient performance.
8. Applicant failed to prove that, absent counsel's allegedly deficient performance, she would not have pleaded guilty and would have insisted on going to trial.
9. Applicant failed to show a reasonable probability that the result of the proceeding would have been different but for counsel's alleged errors.

10. Applicant fails to show any prosecutorial misconduct or to prove that any *Brady* violation occurred in this case.
11. Applicant's counsel rendered effective assistance to Applicant.
12. Applicant failed to establish that she is being illegally restrained.

Order

Based on the foregoing, the Court recommends that Applicant's application be DENIED. The Court further directs the Clerk of the Court to file these findings and conclusions and transmit them to the Clerk of the Court of Criminal Appeals as required by law and to furnish a copy of the Court's findings and conclusions to Applicant, Katherine Elizabeth Langhorst, TDCJ-ID #02006265, Hobby Unit, 742 FM 712, Marlin, Texas 76661, and to the Parker County District Attorney's office.

Signed on this the 4th day of April, 2022.



JUDGE PRESIDING

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