

## **APPENDIX**

STATE OF MAINE  
CUMBERLAND, ss.

UNIFIED CRIMINAL DOCKET  
No. CR-18-2928

ABDIRAHMAN HAJI-HASSAN,

Petitioner,

v.

ORDER

STATE OF MAINE,

Respondent.

Before the court is Abdirahman Haji-Hassan's petition for post-conviction review.

Haji-Hassan was charged with having murdered Richard Lobor on November 21, 2014. He was convicted after a six-day jury trial on December 12, 2016. *State v. Haji-Hassan*, Docket No. CR-14-7716 (Unified Criminal Docket Cumberland). His conviction was upheld on appeal by the Law Court on March 22, 2018. *State v. Haji-Hassan*, 2018 ME 42, 182 A.3d 145. Thereafter he filed the instant petition for post-conviction review. Although proceedings on the post-conviction proceeding were delayed by the pandemic, an in-person hearing on Haji-Hassan's petition was held on July 1, 2021, and the parties thereafter obtained a transcript of the hearing and filed post-hearing briefs.

Haji-Hassan alleges that he is entitled to a new trial because he was deprived of the effective assistance of counsel at his 2016 trial.

#### Standard of Review

On a claim that trial counsel was ineffective, the petitioner has the burden of proving both that his trial counsel was ineffective and that he was prejudiced as a result. Specifically, on the issue of ineffectiveness, the petitioner must demonstrate that trial counsel's performance fell

below an objective standard of reasonableness. *Theriault v. State*, 2015 ME 137 14, 125 A.3d 1163, citing *Strickland v. Washington*, 466 U.S. 668, 688, 693 (1984). On the issue of prejudice, the petitioner must prove that counsel's deficient performance had an adverse effect on the defendant and in the context of errors at trial, that the ineffectiveness rose to the level of compromising the reliability of the conviction and of undermining confidence in the result of the trial. *Theriault v. State*, 2015 ME 137 19, citing *Strickland*, 466 U.S. at 687, 694.

The post-conviction review process is not an invitation to second-guess trial tactics or strategy that, in retrospect, proved to be unsuccessful. Because of the "distorting effects of hindsight," the strategic and tactical decisions made by trial counsel are generally entitled to deference. *Strickland*, 466 U.S. at 689; *Pineo v. State*, 2006 ME 119 13, 908 A.2d 632.

Haji-Hassan was represented at trial by Attorneys Clifford Strike and Molly Butler-Bailey. His claims of ineffective assistance relate to two aspects of their performance: first, their advice regarding the plea offer made by the State and second, their trial strategy and their performance at trial. Although Haji-Hassan's post-hearing brief focuses almost entirely on trial strategy and performance, the court will first address the claims with respect to the plea offer because if those claims were to be upheld, there would never have been a trial.

#### Plea Offer

To prevail on his claim that trial counsel's performance was deficient with respect to plea negotiations, Haji-Hassan must demonstrate that his trial counsel's advice regarding the plea offer fell below an objective standard of reasonableness and that there is a reasonable possibility that, but for the deficient performance of trial counsel, he would have accepted the plea offer, the proposed plea agreement would have been presented to and accepted by the court, and the

agreement would have resulted in a conviction on less serious charges or a more favorable sentence. *Lafler v. Cooper*, 566 U.S. 156, 164 (2012); *Philbrook v. State*, 2017 ME 162 11, 167 A.3d 1266.

Prior to the beginning of trial, the final plea offer made by the State was set forth on the record - that Haji-Hassan could plead to manslaughter for a sentence of 25 years all but 12.5 suspended - and Haji-Hassan confirmed that the offer had been communicated to him and that he did not want to accept it. Trial Tr. 14-16. In the course of that colloquy, the prosecutor also stated that the sentence on a murder conviction could be no less than 25 years and that if the evidence came in as the State expected, the State would be seeking a sentence in the ballpark of 40 to 50 years. Trial Tr. 14.<sup>1</sup>

At the post-conviction hearing, Haji-Hassan testified that he did not understand the plea offer. His testimony on that issue was not credible. The court accepts the testimony of Attorney Butler-Bailey that she and Attorney Strike spoke to Haji-Hassan about the offer, and further that both tried to convince him to take the State's offer. PCR Hearing Tr. 192. Haji-Hassan nevertheless rejected the offer.

Haji-Hassan testified at the post-conviction hearing that trial counsel had advised him that he had a 70% chance of prevailing at trial. This is inconsistent with trial counsel's attempt to convince him to take the plea offer, and the court does not credit Haji-Hassan's testimony that a firm estimate of that nature was given.

This is not to say that the defense did not have some grounds for optimism. Prior to trial and all the way through the trial there remained a real question whether the jury would find the testimony of the State's key witness, Michael Deblois, to be reliable. Deblois had episodes of

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<sup>1</sup> Haji-Hassan ultimately received a 39-year sentence.

schizophrenia - extensively explored during his cross-examination. *E.g.*, Trial Tr. 235-41, 244-50. He testified that he was not on his antipsychotic medications at the time of the shooting of Richard Lobor and that he had been using crack cocaine. His report to the police had had also included statements about how he thought what had happened the night Lobor was killed related to some kind of prediction or prophecy Deblois said he had received in 1992 and to prior events that he had reported to the CIA and FBI. Trial Tr. 244-49. Some of the videotaped statements Deblois made on the night that Richard Lobor was killed were borderline delusional.<sup>2</sup>

The State's case nevertheless depended on Deblois. Accordingly, even if trial counsel did not give Haji-Hassan a firm estimate that he had a 70% chance of acquittal, the court finds it is likely that they advised him he stood a fair chance at trial. That advice was reasonable. As the U.S. Supreme Court noted in *Lafler v. Cooper*, "an erroneous strategic prediction about the outcome of a trial is not necessarily deficient performance." 566 U.S. at 174.

Given the uncertainty of what the jury might do and because of the favorable plea offer tendered by the State, Attorneys Strike and Butler-Bailey attempted to convince Haji-Hassan to accept the plea offer. PCR Hearing Tr. 192. Their performance in the plea negotiations was not deficient.

Moreover, Haji-Hassan's claims relating to the plea offer fail for another reason. He did not prove that, but for the advice of trial counsel, he would have accepted the 25 all but 12.5 year manslaughter plea offer. This is an essential element of a claim of ineffectiveness with respect to plea negotiations. *See Philbrook v. State*, 2017 ME 162112. Indeed, although Haji-Hassan had several opportunities during the post-conviction hearing to state that, but for trial counsel's

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<sup>2</sup> Prior to trial Attorneys Butler-Bailey and Strike had good reason to believe that they would elicit such testimony from Deblois because they had already done so at a competency hearing six months prior to trial. Their investigator had also persuaded Deblois to release his medical records to the defense.

deficiencies, he would have accepted the offer, he repeatedly declined to do so. *See* PCR Hearing Tr. 87, 96, 100.

#### Alternate Suspect

The argument Haji-Hassan pressed most strongly at the post-conviction hearing and in his post-hearing brief is that trial counsel did not adequately advance evidence to support the theory that Gang Majok was an alternative suspect.

The shooting of Richard Lobor happened on an occasion when individuals later identified as Haji-Hassan, Lobor, Gang Majok, and Mohammed Ashkir had been in the apartment of Michael Deblois. Deblois left the living room while his visitors were engaging in drug activity. At some point there was an argument, and Deblois came out to see what was happening. At that point he identified Haji-Hassan (whom he knew as "Jordan") as pointing a gun at Ashkir. When Lobor stepped between Haji-Hassan and Ashkir, Deblois saw Haji-Hassan point the gun down and shoot in a downward direction.<sup>3</sup> Deblois testified that he then saw Haji-Hassan shoot Lobor in the leg. Deblois scrambled out of the room but heard Lobor say, "You don't know who you are f ing messing with." Deblois testified he then heard a third shot and emerged to find that everyone else had left the apartment except Lobor, who was lying on the floor having been shot in the head.

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<sup>3</sup> Deblois thought Haji-Hassan had fired into the floor, but there was evidence that the bullet actually went into and exited Haji-Hassan's right leg, leaving lead fragments that could be seen on x-ray.

assault, refusal to submit to an-est, and criminal trespass - and that other misdemeanor charges against him had been dismissed.

To bolster his argument, Haji-Hassan points out that Majok was also charged with elevated aggravated assault in March of 2017 - charges brought for the first time four months after Haji-Hassan's trial. Finally, in an apparent effort to color the record, he submitted various newspaper articles about the charges against Majok in CR-15-4032, although half of those newspaper articles postdated Haji-Hassan's trial.

At the outset, trial counsel cannot be found to have been ineffective in failing to offer evidence as to events that occurred after Haji-Hassan's December 2016 trial - Majok's March 2017 conviction and the new elevated aggravated assault charge filed in March 2017. Nor can trial counsel be faulted for not attempting to offer rank hearsay in the form of newspaper articles. Majok's several misdemeanor convictions and the other misdemeanor charges against him that had been dismissed would also have had no probative value.

Haji-Hassan's argument, therefore, essentially comes down to whether trial counsel was ineffective in not offering the evidence that at the time of Haji-Hassan's trial Majok had been indicted for a murder with the use of a firearm in CR-15-4032. On its face, the mere fact that those charges had been brought - in the absence of any evidence as to what had transpired and any possible relationship or similarity to the murder of Richard Lobor-would not be admissible. At the time of Haji-Hassan's trial Majok had merely been accused, not convicted. *See State v. Adams*, 2015 ME 30115, 113 A.3d 583 (indictment is not proof that crime has been committed). Even a conviction would have been the kind of "propensity" evidence that is inadmissible under M.R.Evid 404(b).

Haji-Hassan contends, however, that based on the U.S. Supreme Court's decision in *Holmes v. South Carolina*, 547 U.S. 319 (2006), and the Law Court's decision in *State v. Mitchell*, 2010 ME 73, 4 A.3d 478, it was ineffective for trial counsel not to have offered or at least to have attempted to offer evidence of the charge against Majok. The court does not agree.

*Holmes v. South Carolina* and *State v. Mitchell* refer to a defendant's right to have a meaningful opportunity to present a complete defense, which may under certain circumstances overcome certain rules of evidence. *Holmes*, 547 U.S. at 324-26, 331; *Mitchell*, 2010 ME 73, 31-32. Thus, as noted in *Mitchell*, 2010 ME 73, 37 n.3, the U.S. Supreme Court in *Chambers v. Mississippi*, 410 U.S. 284, 300-03 (1973), held that a third party's confession that would normally be excluded by the Mississippi hearsay rule was nonetheless admissible to guarantee the defendant a fair trial.<sup>6</sup>

It bears emphasis that, in *Holmes* and in all of the U.S. Supreme Court cases discussed in the *Holmes* decision, the specific evidentiary rules that were disregarded were state rules of evidence that the Supreme Court found did not serve a rational and legitimate purpose. See 547 U.S. at 325-26. In *Washington v. Texas*, 388 U.S. 14 (1967), a Texas statute prevented a participant in a crime from testifying in defense of another person charged unless the witness had been acquitted. In *Chambers v. Mississippi*, the Mississippi rules of evidence prevented a party from impeaching his own witness and Mississippi's hearsay rule did not have an exception for statements made against the declarant's penal interest. *Crane v. Kentucky*, 476 U.S. 683 (1986), involved the exclusion of evidence offered by a defendant to show that his confession was unreliable because of the way it had been obtained.

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<sup>6</sup> In *Chambers* the U.S. Supreme Court took pains to emphasize the circumstances evidencing the reliability of the third party confession that was sought to be admitted. See 410 U.S. at 300-01.



In *Holmes* itself, the South Carolina Supreme Court had adopted a rule that if the prosecution offered forensic evidence against a defendant, the defense was precluded from offering even probative and seemingly reliable alternate suspect evidence. The U.S. Supreme Court found that this rule was illogical and arbitrary and did not serve any legitimate purpose. 547 U.S. at 330-31. Moreover, the evidence that the defense sought to offer in *Holmes* was extremely probative - that four witnesses would testify that another man had either acknowledged that Holmes was innocent or had actually admitted to committing the crime himself. 547 U.S. at 323.

In this case, in contrast, the evidentiary rule in question - M.R. Evid. 404(b) - is neither illogical nor arbitrary and serves the legitimate purpose of excluding "propensity" evidence. In addition, the evidence that Haji-Hassan claims trial counsel should have offered - that Majok had been indicted for murder with the use of a firearm - is far from the kind of probative evidence that the defense sought to offer in *Holmes*. Haji-Hassan does not cite to any alleged confession by Majok nor to any evidence that Majok had a motive to kill Richard Lobor. At the time of trial there was only an unproven allegation, not a conviction. Even a conviction would have been inadmissible under Rule 404(b). The meaningful opportunity to present a complete defense is not offended when a trial court reasonably excludes marginally relevant evidence that a defendant contends is exculpatory. *State v. Adams*, 2015 ME 30 18; *State v. Mitchell*, 2010 ME 73 33.

Haji-Hassan argues that trial counsel was ineffective for not offering the Majok indictment as so-called "reverse 404(b) evidence," citing *United States v. Stephens*, 935 F.2d 1380, 1402 (3d Cir. 1991)- evidence of prior bad acts by persons other than the defendant not to show propensity but for another purpose, such as motive, opportunity, intent, preparation, plan

knowledge, identity, or absence of mistake under the Advisors' comment to Rule 404(b). In *Stephens*, the reverse 404(b) evidence was offered on the issue of identity - that a similar robbery had been committed three days later at almost the same location, that the victim in second robbery did not identify Stephens as the assailant, and that items taken in both robberies, which had occurred in New Jersey, had ended up at the same location in Maryland. Thus in *Stephens* reverse 404(b) evidence was being offered "for another purpose" - identity. The so-called reverse 404(b) evidence that Haji Hassan claims should have been offered in this case was for the purpose of suggesting propensity on Majok's part, exactly what Rule 404(b) is designed to prevent.

Haji-Hassan contends that the rule against propensity evidence should be relaxed when it is not offered against a defendant. Even assuming for the sake of argument that this might be true in some circumstances, it would only be true if the "prior bad act" evidence were sufficiently probative - if the prior bad act could be sufficiently proven, if it had some actual connection in time, location, or subject matter to the charge against the defendant, and if it was sufficiently similar to the conduct of which the defendant was accused. However, the prior bad act evidence in question in this case consisted of an unproven charge involving an event that had allegedly taken place six months after the shooting of Richard Lobor with no showing that there was any connection between the two alleged events or any similarity in the circumstances of the two events other than the alleged use of a firearm.

In the final analysis, trial counsel in this case were not ineffective in failing to offer the Majok indictment because, if offered, that evidence would have been excluded and there is no reasonable likelihood that the trial court's ruling would have been reversed on appeal. This is confirmed by a recent alternate suspect case, in which the Law Court reiterated that the first issue

in any alternate suspect evidence analysis is whether the evidence in question is admissible. It then stated that the court need not reach the next step of evaluating whether the evidence is probative if, for example, the evidence is inadmissible hearsay or is inadmissible evidence of "prior bad act offered to prove a person's character" for the purpose of showing that on a particular occasion the person acted in conformance therewith. *State v. Daly*, 2021 ME 37120, 254 A.3d 248 (emphasis added).

Before trial there was discussion about Majok as an alternate suspect, and the court indicated it would not admit the charges against Majok, referred to at that time as reputation evidence. Tr. of May 26, 2016 Competency Hearing at 45-46, 60. Trial counsel accepted that ruling.<sup>7</sup> Haji-Hassan now contends, with the benefit of hindsight, that this was ineffective because the defense's only realistic option was to pursue the theory of Gang Majok as alternate suspect. Petitioner's Post-Hearing Memorandum at 2. This ignores the relevant rules of evidence and the viable defense that was pursued by trial counsel - that Michael Deblois was unreliable, and that his testimony could not constitute proof beyond a reasonable doubt.

At a minimum, trial counsel's decision not to offer the Majok indictment did not fall below the "objective standard of reasonableness" necessary to constitute ineffectiveness under *Strickland*, 466 U.S. at 687-88.

Other Is\_S\_lles

Haji-Hassan's other contentions can be addressed summarily. On many of those, his testimony was contradicted by the testimony of his trial counsel, and Haji-Hassan's credibility was seriously undercut when he testified that he had not been visited by trial counsel for the

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<sup>7</sup> Trial counsel was permitted to inquire of Deblois whether he knew Majok by the nickname "Bang Bang," and Deblois answered in the negative. Trial Tr. 284.

entire first year he was in custody and had not been provided discovery until the time of trial - only to acknowledge on cross-examination that there had been a number of meetings at the jail from the beginning of the case and that he had written trial counsel 18 months before trial to acknowledge that he had his discovery and stating that he appreciated their efforts.

Haji-Hassan now contends that he had wanted a bench trial and initially testified that Ms. Butler-Bailey stated that she would not represent him if he waived a jury. On cross-examination, he acknowledged that she did not make that statement but that "her aura" made it seem she would not represent him at a bench trial. The court finds that Ms. Butler-Bailey adequately explained the risks and benefits of jury vs. bench trial to Haji-Hassan and that, as Ms. Butler-Bailey testified, if Haji-Hassan had actually stated he wanted a bench trial, she would have asked for one. PCR Hearing Tr. 39-40, 175.

Haji-Hassan contended that he had told his attorneys he wanted to testify but that his attorneys had advised him not to. Once again, the court finds from the evidence offered at the post-conviction hearing that Mr. Haji-Hassan was adequately advised with respect to the risks and benefits of testifying, that he was told that it was his decision, that he decided not to testify, and that if he had instead told trial counsel that he wanted to testify, trial counsel would have called him as a witness. PCR Hearing Tr. 173-74. At the trial the court explained to Haji-Hassan his option to testify and his option to remain silent and emphasized that the choice was ultimately his to make. Trial Tr. 864-67. The court asked him if he had any questions, and he responded in the negative. The court recalls, as in all its colloquies with Haji-Hassan, that Haji-Hassan's answers were clear, that they were provided with no hesitation, and that he gave no indication of

any uncertainty. The court confirmed on the final day of the trial that he had decided not to testify. Trial Tr. 928.<sup>8</sup>

The same is true with respect to the defense decision not to request a lesser included manslaughter instruction. On that issue, trial counsel stated that the defense was not requesting a lesser included manslaughter instruction. The court then had a specific colloquy with Haji-Hassan on that issue. Haji-Hassan confirmed he was not asking for that instruction, that he had discussed the issue with his lawyers, and that he had strategic or other reasons for his decision. Trial Tr. 929-31. He did not suggest that he had any uncertainty on that issue.<sup>9</sup>

In his testimony at the post-conviction hearing, Haji-Hassan raised three issues concerning jurors. He first contended that the prosecution had wrongly been allowed to use a peremptory challenge to strike a person of color from the jury. However, the only person of color in the jury pool was not the subject of any peremptory challenge but was instead not among the jurors whose numbers were called by the clerk when jurors were randomly selected from the group of prospective jurors in the courtroom. PCR Hearing Tr. 175-76. As a result, there was neither a constitutional violation under *Batson v. Kentucky*, 476 U.S. 79 (1986), nor could trial counsel have been ineffective for failing to raise a *Batson* challenge.<sup>10</sup>

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<sup>8</sup> At the post-conviction hearing Haji-Hassan declined to state what testimony he would have offered if he had been called to the stand other than to state that he was not at the apartment when Lobar was killed. PCR Hearing Tr. 71-72.

<sup>9</sup> Since Richard Lobar was first shot in the leg and then shot in the head, the court does not find that it was likely the shooter's actions could have been found to have been reckless or criminally negligent as opposed to intentional or knowing. Accordingly, it does not appear that Haji-Hassan was prejudiced by the absence of a manslaughter instruction.

<sup>10</sup> Haji-Hassan also contended that a recently naturalized immigrant from Russia was stricken from the jury. While *Batson* and its progeny apply to race, ethnicity, and gender, Haji-Hassan has cited no authority - and the court is aware of none - that *Batson* would apply to a recently naturalized citizen who came from Russia. If such a prospective juror was stricken, therefore, this would not have constituted a constitutional violation, and trial counsel would not have been ineffective in not raising a *Batson* issue. In

The other two juror issues raised by Haji-Hassan involve (1) an incident when he believed he was seen by a juror while on the bus transporting prisoners to and from the jail and (2) the discovery during the trial that one of Ms. Butler-Bailey's children went to the same aftercare program as the child of the jury foreperson. The children were of different ages and did not play together, and there had been no contact between the juror and Attorney Butler-Bailey.

In both cases defense counsel brought the issues to the attention of the court, and in both instances an inquiry was made of the juror by the court. Trial Tr. 762-63, 919-925. In the first case the juror reported that she had not seen the defendant. In the second case the court satisfied itself that the juror could remain fair and impartial. In neither case is there any basis on which to find that trial counsel's performance was ineffective.

At his post-conviction hearing counsel for Haji-Hassan also faulted trial counsel for not objecting to evidence that there had previously been an overdose involving a Black prostitute at Deblois's apartment. He contends that the State impermissibly used that evidence to portray Deblois, who had called 911 to assist the woman, in a favorable light. However, allowing this evidence was consistent with the defense theory of portraying Deblois's apartment as a drug den where multiple individuals came and went, and where multiple illegal activities had occurred. Although Haji-Hassan contends, in hindsight, that the defense should have attempted to exclude the overdose evidence, the defense approach did not fall below an objective standard of reasonableness.

Post-conviction counsel for Haji-Hassan faults trial counsel's closing argument for acknowledging the possibility that Haji-Hassan had been present in Deblois apartment on the evening of December 13, 2014. Aside from the testimony of Deblois, the State's forensic

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a case involving a Black defendant from Somalia, no prejudice could be presumed from striking a recently naturalized citizen from Russia.

evidence strongly supported Haji-Hassan's presence based on his fingerprints and DNA on a Coca-Cola can (purchased at Jake's Quik Stop earlier in the evening) and on a rum bottle found at the scene. Attorney Butler-Bailey therefore addressed the issue while noting that if Haji-Hassan had been in the apartment at some point on December 13, the evidence did not show when during that evening he had been there. She went on to argue that for numerous other reasons her client could not have been the shooter.

If she had not addressed the forensic evidence, the prosecutor could have argued in rebuttal that the defense was simply ignoring all of the evidence that Haji-Hassan had been present. Just because in retrospect post-conviction counsel would have made a different closing argument or would have worded it differently does not mean that trial counsel was ineffective within the meaning of *Strickland*.

Post-conviction counsel's remaining argument is that trial counsel was ineffective in not objecting to an alleged misstatement made by the prosecutor in closing argument and that Haji-Hassan's appellate counsel was ineffective in not raising that issue on appeal. The alleged misstatement was that Deblois had told the jury that the defendant was the only person with a gun in the apartment that night. Trial Tr. 977-78. However, Deblois had testified that he had not seen more than one gun in the apartment that night and that the only person he had seen holding a gun was the person he knew as Jordan. Trial Tr. 190-91. It was therefore appropriate for the prosecutor to argue that the only evidence of a firearm in the apartment, based on the testimony of Deblois, was the firearm wielded by Haji-Hassan (known by Deblois as "Jordan") that was used to shoot Richard Lobar in the leg, and that the ballistic evidence also showed that the bullet recovered from Lobar's head came from the same gun. Trial counsel's failure to object was not ineffective, and appellate counsel was not deficient in failing to raise the issue as obvious error.

The real reason Haji-Hassan is raising this issue goes back to his contention that trial counsel should have offered the Majok indictment, in this case to support speculation that there might have been more than one gun because Majok might have had a firearm. This argument fails for multiple reasons - because the indictment would have been inadmissible, because any inference that could have been drawn from the indictment would have been highly speculative, and because, even indulging the speculation that someone else in the apartment might have had a gun, the evidence showed that the same gun that was used to shoot Richard Lobor in the leg - the gun wielded by Haji-Hassan - was the source of the bullet that killed Lobor.

In sum, the court has considered Haji-Hassan's various claims of ineffectiveness and their alleged cumulative effect. For the reasons stated above, Haji-Hassan's petition for post-conviction relief is denied.

Dated: November 22, 2021

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Thomas D. Wan-en  
Justice, Superior Court



STATE OF MAINE

SUPREME JUDICIAL COURT  
Sitting as the Law Court  
Docket No. Cum-21-396

ABDIRAHMAN HAJI-HASSAN

v.

**ORDER DENYING CERTIFICATE  
OF PROBABLE CAUSE**

STATE OF MAINE

Panel: STANFILL, C.J., and MEAD, JABAR, HORTON, CONNORS, and  
LAWRENCE, JJ.

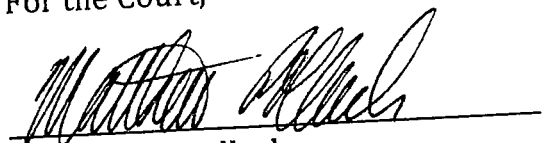
Pursuant to 15 M.R.S. § 2131 and M.R. App. P. 19(a)(2)(F), Abdirahman Haji-Hassan has filed a memorandum seeking a certificate of probable cause permitting an appeal to the Law Court of the trial court's (Cumberland County, Warren, J.) order denying his petition for post-conviction relief.

Haji-Hassan contends that he was deprived of his right to the effective assistance of counsel before and during his trial and in his direct appeal. After review of the record, the Court has determined that no further hearing or other action is necessary to a fair disposition.

It is therefore ORDERED that the request for a certificate of probable cause to proceed with an appeal is hereby DENIED.

Dated: September 27, 2022

For the Court,



Matthew E. Pollack  
Clerk of the Law Court  
Pursuant to M.R. App. P. 12A(b)(4)