

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

UNITED STATES OF AMERICA : CRIMINAL NO. 03-733-1
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CLIFFORD TALIAFERRO : CIVIL NO. 06-4589

MEMORANDUM AND ORDER

Fullam, Sr. J.

January 3, 2007

The defendant Clifford Taliaferro has filed a motion pursuant to 28 U.S.C. § 2255. The defendant was found guilty by a jury of drug-trafficking and weapons charges, and the Court of Appeals affirmed the conviction and sentence.

I have reviewed all of the claims raised by the defendant and determined that they are without merit. Most of the claims also are either procedurally barred - the defendant could have raised them earlier - or have been considered and rejected. The letter from co-defendant Anthony Durham, which the defendant claims is new evidence, only speaks to the co-defendant's motives for cooperating and testifying against the defendant, a topic that was explored in cross-examination.

The only new claim that requires further discussion is the allegation that a conflict of interest resulted from two attorneys from the same firm representing co-defendants at trial, and that the defendant's counsel rendered ineffective assistance.

The defendant expressly waived any conflict before trial, as the following colloquy makes clear:

THE COURT: Because of changes that have taken place in the last few days of representation by counsel, I need to get certain information from the defendants. Mr. Taliaferro and Mr. Jackson. All right, you may be seated. I just want you both to understand that if - that if you are - that if one of you is represented by Mr. Fitzpatrick, then the other is represented by Ms. Caravasos. Am I pro -

MS. CARAVASOS: Caravasos, yes, Your Honor.

THE COURT: Caravasos. That's the same thing as if you were both represented by the same lawyer, you understand that?

MR. TALIAFERRO: Yes.

MR. JACKSON: Yes.

THE COURT: And there are certain potential disadvantages to that arrangement. I want to make sure that each of you understands that. I also want to make it clear that each of you has the free choice to choose your own lawyer and I'm not trying to interfere with that. If you really want these lawyers to represent you as they are, that's fine with me.

But I want you to understand, so that we don't have any repercussions later, that there may be good reasons why it's a mistake to have the same lawyer representing both of you, do you understand that? It prevents either of you from gaining any advantage by taking a position differing from that of the other defendant.

In other words, if Mr. Jackson wants to take a position during the trial that is different from that of Mr. Taliaferro and might be contrary to Taliaferro's interests, that would be something you could do if you didn't have the same lawyer. But with the same law firm representing both of you, you can't do that, do you understand that?

MR. TALIAFERRO: Yes.

MR. JACKSON: Yes.

THE COURT: Okay. And if either of you are to take the stand and say something which was adverse to the position of the other, your lawyer would have trouble - the other lawyer would have trouble cross-examining you and not be able to do that, do you understand that?

MR. TALIAFERRO: Yes.

MR. JACKSON: Yes.

THE COURT: So that basically, if you decide to use the same law firm to represent the two of you, that means you have both permanently and forever decided that it's okay with you. Okay? You understand that?

MR. TALIAFERRO: Yes.

MR. JACKSON: Yes.

THE COURT: We don't want to hear any complaints later. Okay, that will be permitted. We will now proceed to draw the jury.

N.T. 5/10/2004 at 3-5. The defendant expressly waived the conflict, and nothing in the record supports the defendant's claim that his attorney was ineffective or hampered by the dual representation.

An Order follows.

