

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

UNITED STATES OF AMERICA	:	CRIMINAL No. 10-770-2
	:	
v.	:	CIVIL NO. 15-5413
	:	
ZACHARY CHAMBERS	:	

MEMORANDUM OPINION RE: POST CONVICTION PETITION

Baylson, District Judge

March 14, 2016

The defendant has filed a motion for relief under 28 U.S.C. § 2255 relating to his conviction on serious drug charges by a jury, and his within-guidelines sentence of 330 months imprisonment plus fine, assessment and supervised release term of five years. An appeal to the Third Circuit resulted in the conviction being affirmed. The government has responded to the motion and defendant has filed a reply brief (ECF 710).

The government's memorandum contains an accurate summary of the evidence introduced at the trial, which reflected Chambers's heavy involvement in the drug trafficking conspiracy.

Defendant raises four claims in his habeas petition. Two of the claims are for ineffective assistance of trial counsel in arguments. First, defendant asserts defense counsel's failure to investigate to present potential exculpatory evidence, specifically relating to a pole camera video captured on December 2, 2010, and a cell site location with information from defendant's telephone on May 21, 2010, and second, a failure to investigate defendant's criminal history and advise him that his prior juvenile adjudications would increase his sentence.

Defendant also asserts that the government violated *Brady* and *Giglio* by withholding the pole camera evidence above, and that the decision in *McFadden v. United States*, 135 S. Ct. 229 (2015), issued after his convictions were affirmed on appeal, changed the law and require a new trial.

The evidence at the trial of defendant was overwhelming and applying the second prong of *Strickland v. Washington*, 466 U.S. 668, the allegations of ineffective assistance of counsel, even if true (which the court doubts), would not have changed the result in this case. There was substantial evidence about the defendant's involvement in drug trafficking, and his claims as to the pole camera video as of December 2, 2010, and the cell site location from the defendant's telephone on May 21, 2010, even if borne out would not have possibly changed the result in this case. The government documents in its memorandum overwhelming evidence and the reasons why there was no prejudice. The claim of ineffective assistance is without merit. The pole camera video which Chambers contends would have presented exculpatory evidence by refuting the trial testimony of a government witness, Darnell Lewis, did not capture what was happening out the back door of Smith's residence. Lewis testified that Chambers exited the back door. There was no video covering the back door.

Furthermore, there is no evidence to support Chambers's allegation that he was at a dentist appointment on May 21, 2010 at the time of the telephone call with Smith. The information from the cell site tower, which was provided to defense counsel in discovery, shows that defendant's phone was being used in southwest Philadelphia, not anywhere close to the dentist office in north Philadelphia.

The government has documented this by attaching trial exhibits introduced at the trial. The government also establishes that even if defendant had introduced evidence on these points, there was still abundant additional evidence to convict him.

The same is true as to trial counsel's alleged failure to investigate defendant's criminal history. The government has introduced evidence of Exhibit B – Contact Sheet and Exhibit C – Discussion of Sentencing Guidelines, which gave defendant an awareness of what his sentence might be if he was convicted. However, the government also notes that defendant failed to disclose the extent of his prior convictions to defense counsel. The government shows from the exhibits that she discovered that defendant's criminal history was far more extensive than he himself had disclosed to her.

There is no substance to the defendant's claim that he was denied exculpatory evidence under *Brady* or *Giglio*. These claims relate to the pole camera evidence which is discussed above.

The government is also correct that the Supreme Court's decision in the *McFadden* case would not have any impact on the verdict in this case. The *McFadden* decision concerned a statute different from the statute under which defendant was convicted. Also, the government is not required to prove the specific quantity of drugs attributable to Chambers as part of the evidence before the jury. The Court charged the jury correctly on *mens rea*. There was no ineffective assistance of counsel on appeal because defendant's argument is not substantively correct.

The Petition for Writ of Habeas Corpus will be dismissed, and there is no basis for issuance of a certificate of appealability. An appropriate Order follows.

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

UNITED STATES OF AMERICA :

:

CRIMINAL NO. 10-770-02

ZACHARY CHAMBERS :

CIVIL NO. 15-5413

ORDER

AND NOW, this 14th day of March, 2016, upon consideration of Defendant's Habeas Corpus Motion Pursuant to 28 U.S.C. § 2255, and the Government's Response thereto, it is ORDERED that defendant's motion is DENIED. Because the defendant has failed to make a substantial showing of a denial of any constitutional right, it is further ORDERED that a certificate of appealability is DENIED.

BY THE COURT:



HONORABLE MICHAEL M. BAYLSON
Judge, United States District Court