NONPRECEDENTIAL DISPOSITION
To be cited only in accordance with Fed. R. App. P. 32.1

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Argued April 23, 2024
Decided April 29, 2024

Before

FRANK H. EASTERBROOK, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

THOMAS L. KIRSCH II, *Circuit Judge*

No. 23-2300

JASON TIBBS,
Petitioner-Appellant,

v.

JOHN GALIPEAU, Warden,
Respondent-Appellee.

Appeal from the United States District Court for the Southern District of Indiana, Indianapolis Division.

No. 1:20-cv-01564-JMS-MJD

Jane Magnus-Stinson,
Judge.

O R D E R

Jason Tibbs contends in this proceeding under 28 U.S.C. §2254 that his counsel furnished ineffective assistance during his trial for murder. The district court denied the petition in a thorough opinion, concluding that, even if the attorneys' performance was deficient, Tibbs has not established a reasonable probability of prejudice. 2023 U.S. Dist. LEXIS 95295 (S.D. Ind. June 1, 2023).

Tibbs accuses his lawyers of making two errors: not getting into evidence a fiber analysis performed by the FBI in 1998, and not introducing the transcript of a statement that witness Eric Freeman made during 2013. We doubt that these matters, individually or in combination, could show deficient performance. Under *Strickland v. Washington*, 466 U.S. 668, 691–96 (1984), a court must consider the totality of a lawyer's efforts rather than focus on isolated errors. See also, e.g., *Myers v. Neal*, 975 F.3d 611 (7th Cir. 2020), and *Williams v. Lemmon*, 557 F.3d 534 (7th Cir. 2009). Tibbs has not attempted to analyze the totality of his lawyers' work before and during the trial, so he lacks a prima facie showing of ineffectiveness. As far as we can see, counsel put up a vigorous defense.

Even the isolated claims of error are weak. By the time of Tibbs's trial, the FBI was refusing to stand behind its fiber analysis, believing it unscientific. A tenacious effort by counsel would not have succeeded in getting it into evidence. And the transcript of Freeman's statement, which is inconsistent with Freeman's testimony at trial, also was not going to come into evidence. It might have been used for impeachment, but there was no way to introduce it if, as he did, Freeman conceded the inconsistency.

The district judge bypassed these matters, observing that the fiber analysis, if in evidence, would have shown only that Rayna Rison, the murdered woman, had been in a car that everyone agrees she was in frequently. As for the prior statement: Since Freeman had made many inconsistent statements, and admitted lying to the police, the 2013 transcript could not have mattered much to the jury.

The district judge elaborated on these and other matters. It is unnecessary to add more to its analysis.

AFFIRMED