

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

BRANDYN JOSEPHE BENJAMIN,)
)
Petitioner,)
)
v.)
)
JEFFERSON S. DUNN,)
)
Respondent.)

CASE NO. 1:14-CV-1224-WKW-WC
(WO – Do Not Publish)

ORDER

Before the court is Petitioner Brandyn Josephe Benjamin’s (“Petitioner”) Motion to Expand the Record filed pursuant to Rule 7 of the Rules Governing Section 2254 Cases in the United States District Courts. (Doc. # 30.) Petitioner seeks to expand the habeas record to include the prosecutor’s voir dire notes and certain omitted transcript pages from Petitioner’s trial and sentencing hearing.

After reviewing Petitioner’s motion and the State’s response, the court finds that Petitioner’s motion (Doc. # 30) is due to be GRANTED IN PART and DENIED IN PART. In its response to Petitioner’s motion, the State indicates that the prosecutor’s voir dire notes were entered into the record as a sealed court exhibit during the Rule 32 proceeding but were inadvertently unsealed and included in the clerk’s record. (See Doc. # 31.) As a result, the sealed exhibit was included in the habeas record submitted to this court. (See Doc. # 31.) An

independent review of the habeas record submitted to the court confirms that this sealed exhibit is indeed part of the record. Thus, to the extent Petitioner seeks to expand the record to include the prosecutor's voir dire notes, that motion is DENIED AS MOOT.

The State has no objection to expanding the habeas record to include page 72 of the trial transcript and page 23 of the September 2, 2004 sentencing hearing transcript. Accordingly, Petitioner's motion to expand the record to include those pages is GRANTED, and the State shall supplement the record with the foregoing pages **on or before August 14, 2015**.

DONE this 6th day of August, 2015.

/s/ Wallace Capel
UNITED STATES MAGISTRATE JUDGE