

In the Supreme Court of Georgia

Decided: February 27, 2012

S12A0087. TATE v. HOWERTON.

THOMPSON, Justice.

Appellant Adriaan Tate entered a non-negotiated plea to three counts of aggravated assault, two counts of arson, two counts of aggravated stalking and one count each of burglary, criminal damage to property, disorderly conduct, criminal trespass, obstruction of an officer, and theft by taking. She was sentenced to 25 years imprisonment, to serve five. She filed a petition for habeas corpus in November 2009, which was denied by the habeas court after an evidentiary hearing. We granted Tate's application for certificate of probable cause to appeal, and for the following reasons, we vacate the judgment and remand to the habeas court for proceedings consistent with this opinion.

The record shows and the State concedes that Tate raised claims of ineffective assistance of counsel based on counsel's withdrawal of Tate's notice of appeal and counsel's failure to argue the appropriate legal standard for setting restitution. The habeas court, however, failed to address these claims in its order

denying relief. Accordingly, the order of the habeas court is hereby vacated and the case remanded for the habeas court to consider these claims. The habeas court may conduct another hearing and shall issue an order including findings of fact and conclusions of law upon which its decision is based. See OCGA § 9-14-49. The habeas court is also directed to include the requirements for appealing its order. See Capote v. Ray, 276 Ga. 1, 2 (577 SE2d 755) (2002).

Judgment vacated and case remanded with direction. Hunstein, C. J., Carley, P. J., Benham, Hines, and Melton, JJ., and Chief Judge Carlisle Overstreet concur. Nahmias, J., disqualified.