

IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI

SHERAL LEE SMITH

APPELLANT

VS.

NO. 2014-CA-01285

STATE OF MISSISSIPPI

APPELLEE

BRIEF FOR THE APPELLEE

APPELLEE DOES NOT REQUEST ORAL ARGUMENT

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Statement of the Issue

- I. The circuit court did not err when it dismissed Smith's PCR Petition, and an evidentiary hearing was not warranted.

Statement of the Case

After pleading guilty to four counts of statutory rape, Sheral Smith claimed that her attorney, John Colette, provided ineffective assistance of counsel. She claimed that he forced her to plead guilty (even though she did not want to). She also claimed that her guilty plea was rendered involuntary, because Colette wrongly advised her and her family (before she entered her plea) that she would be released early from incarceration based on earned-time allowances. (CP 8-36). After considering Sheral's PCR petition; the State's response to that petition; the transcripts from her guilty plea proceedings, her sentencing hearing, and her competency hearing; as well as Sheral's criminal file, the circuit court found that it plainly appeared that she was not entitled to relief, and denied her PCR petition. (CP 330). She now appeals and asks this Court to vacate her guilty plea.

Statement of the Facts

Competency Hearing

Sheral's competency hearing was held on June 7, 2010. (CP 237). At the hearing, Dr. Reb McMichael was accepted as an expert in forensic psychology. (CP 242). Dr. McMichael had the chance to observe Sheral when she was admitted at Whitfield on October 29, 2009, and stayed for observation for a period of seven months. (CP 243-244). In his initial report (dated January 14, 2010), Dr. McMichael opined that Sheral was probably competent to proceed; however, he requested to keep her for further evaluation based on her "sustained lack of cooperation with [their] attempts to evaluate her and her malingering or faking symptoms of cognitive impairment, mostly memory impairment." (CP 245). In his second summary report (dated May 27, 2010), Dr. McMichael found

that Sheral was competent, and she was not suffering from any major mental disorder at the time of the alleged offenses. (CP 250).

Dr. McMichael testified that, in his opinion, Sheral knew right from wrong and the nature and quality of her acts at the time of the alleged offenses because she is not mentally ill. (CP 259). He testified that she had no major mental disorder, or cognitive impairment that would have kept her, a college graduate and school teacher, from understanding the nature and quality or the wrongfulness of her alleged offenses at those times. (CP 259). In Dr. McMichael's opinion, Sheral had the ability to understand her legal situation and to confer rationally with her defense counsel. (CP 253). He also testified that, in his opinion, Sheral was attempting to fake symptoms of cognitive and memory impairment. (CP 245). Specifically, he said that it appeared that Smith had an absence of memory for any events after May 2008: any time staff members would ask her the date, she would always say that it was May 2008. (CP 252). However, he explained that Smith was able to remember things that were relevant to her at the present time, such as when she was scheduled to have personal time, and which times staff members could not ask her to participate in therapeutic activities. (CP 252). Based on these details, in addition to her test results from malingering tests, it appeared to Dr. McMichael that Sheral was not feigning mental problems, but that she was faking memory loss. (CP 248).

Dr. McMichael explained that, on one of the memory tests, she would have gotten more of the questions right if she had simply guessed, and the number she got wrong indicated that she was attempting to fake memory problems. (CP 249). In order to make the score that she actually obtained, Sheral would have had to know enough of the right answers to be able to purposefully pick the wrong one. (CP 249). And, although Sheral claimed that she had been diagnosed with Bipolar I disorder (and told numerous health professionals that she had been so diagnosed), Dr. McMichael did not believe that she actually had the disorder. (CP 261-262 and 265).

Although Dr. McMichael was the only expert to testify at her competency hearing, Sheral's attorney, John Colette, cross-examined Dr. McMichael about differing opinions reached by other doctors. Dr. Billy Fox informed Sheral's attorney on July 3, 2009, that he tested her at River Oaks and found that Sheral "was not able to undergo a comprehensive evaluation at [that] juncture and that she was not competent to even assist her attorney." (CP 260). Dr. McMichael said that he absolutely disagreed with that conclusion. (CP 260). Dr. McMichael also disagreed with Dr. Saleem Ali's conclusion that Sheral "didn't appear to have the capacity to appear in court and proceed." (CP 261).

Sheral's husband testified that, in June of 2009, Sheral suffered a medical event which caused her to fall, quit breathing, and hit her head. (CP 282-283). As a result of this incident, Sheral was hospitalized for three weeks. (CP 283). Also, Mr. Smith testified that he visited Sheral at Whitfield, and he testified that he did not think that Sheral understood everything that was going on. (CP 283).

Sheral also testified at her competency hearing. She stated that she lived at the Reservoir, and that she spent the night at the jail, prior to her hearing. (CP 285). When Colette asked Smith if she knew that she was under indictment for four counts of sexual battery and "for violating Mississippi Code Section 97-3-65," she said that she was not. (CP 286). She did, however, testify that she understood that she had been accused of "[doing] certain illegal acts in Rankin County." (CP 287). When her attorney asked her whether she understood what a trial was, she said that he was confusing her. (CP 287). She also asked him to repeat certain questions slowly. (CP 287). When Colette asked her what the date was, she responded that it was May 2008. (CP 288). During her testimony, she indicated that she did not remember teaching at New Summit School, and although she thought that the victim might have played soccer with her son, she did not remember that he rode home with her every day after school when she worked at the school. (CP 288-291).

Ultimately, the trial court found that Dr. McMichael's testimony went uncontradicted, and it appeared that, based on the State's cross-examination of Sheral, that she had a "selective memory." (CP 300). The judge found that "she remembers what she wants to and doesn't remember anything that she doesn't want to remember." (CP 300). Accordingly, the trial court found that she was competent to stand trial. (CP 300). The trial court informed her, and the attorneys, that trial would start the following day. (CP 300). The judge also suggested that they conduct *voir dire* after the competency hearing, so that testimony could be presented the following day. (CP 300). Colette indicated that he was prepared to begin. (CP 300-301). Colette also made arrangements to allow Sheral's family to bring her clothes to wear to the trial. (CP 302).

Plea Proceeding and Sentencing

On the same day that the trial court found her competent, Sheral entered her Petition to Enter a Guilty Plea. (CP 173). In the petition, Sheral stated that she was pleading guilty to the charges against her, and that she knew that the State was recommending that she be sentenced to 20 years in the MDOC, with 13 years suspended, and 7 years to serve, and that she be given credit for time served and receive 5 years of post release supervision. (CP 173 and 176). Her attorney also signed a certificate whereby he swore that he had informed Sheral of the allegations contained in the indictment, he had explained the minimum and maximum penalties for each charge, he considered her to be competent to understand the charges against her and the effect of her guilty plea, in his opinion, her guilty plea petition was voluntarily and knowingly made, and that he was satisfied that she is mentally competent and physically sound; there is no mental or physical condition (of which he was aware) which would affect her ability to understand the proceedings. (CP 179).

When the plea proceedings began, the trial judge informed Sheral that if she did not understand any of the questions, or if she did not understand something, she should let him know

and he would ask it a different way, and he would explain it to her. (CP 201). The judge also informed her that, if she needed to, she could talk to her attorney outside of the courtroom. (CP 201). She clarified that it would be alright to tell him if she did not understand, and she indicated that she understood. (CP 201). Sheral testified that she understood the nature and consequences of pleading guilty. (CP 201). She also testified that she read her petition and/or Colette went over it with her and explained it. (CP 202). She testified that each statement in the petition was true, that she was satisfied with her attorney's services, and that she had no complaints about her attorney. (CP 202).

The trial judge informed her that she had the right to go to trial and to cross-examine the witnesses against her (either by herself or with Colette's assistance). (CP 203). She was informed that she had the right to call witnesses, to have the court compel the production of favorable evidence, and the right to testify (or not to testify). (CP 204-205). She said that she understood her rights, and that she did not have any questions. (CP 205). She stated that she wanted to waive those rights and plead guilty. (CP 205-206).

Furthermore, the trial court informed her that she had the right to be represented by an attorney. (CP 206). The trial judge explained that that is why Colette was with her, even though she was pleading guilty. (CP 206). Sheral testified that she had not been unduly influenced, pressured, intimidated, threatened, forced, coerced, or promised any hope of reward to plead guilty. (CP 206-207). She testified that she was pleading guilty because she is guilty. (CP 207). She testified that she was freely and voluntarily making and entering her guilty plea, and that it was her decision. (CP 207). She testified that she understood the minimum and maximum sentences she could receive (up to 120 years for all counts, and up to a fine of \$40,000). (CP 209). The trial judge explained that she was pleading guilty to sex offenses; therefore, she would not receive parole, early release, earned time, or good time. (CP 209). She testified that she understood. (CP 209). She testified that she

committed the crime alleged in each count. (CP 2010). And she agreed that the State would be able to prove that she committed the crimes. (CP 211). As part of her plea deal, the State recommended that she be sentenced to serve 20 years, with 13 years suspended, 7 years to serve, and that, upon release, she be placed on supervised probation and be required to register as a sex offender. (CP 212). The State recommended that all of her sentences run concurrently. (CP 212). Sheral testified that she understood the recommendation, and that it was the recommendation Colette told her would be made. (CP 212). After giving Sheral an opportunity to withdraw her guilty plea and go to trial the following day (which she declined), the court accepted Sheral's guilty plea. (CP 213). The court found that her plea was freely, voluntarily, knowingly, intelligently made and entered, and that there was a factual basis to support it. (CP 213).

Prior to sentencing, Colette asked the court to accept the State's recommendation, and to give Sheral credit for time served (including time she served on house arrest). (CP 214 and 216). Sheral informed the court that she had never been in trouble before, and she had never had a ticket. (CP 214). Colette asked that the trial court consider that when making its sentencing determination. (CP 214). Before it handed down the sentence, the trial judge told Colette that if he could find any cases where a defendant received credit for time served for house arrest, then he would give Sheral credit for that time. (CP 216). The trial judge also specifically asked Colette if he thought that Sheral understood what she was doing. (CP 217). Colette stated that he did, and explained that the trial judge had gone slow enough, and that her family spoke with her, at length, after the competency hearing. (CP 217-218). All of her family members told Colette that Sheral wanted to plead guilty. (CP 218). Colette explained that, in June of 2009, Sheral had provided him with information about her case and about details about the crimes. (CP 218). With that in mind, and in addition to Dr. McMichael's testimony that there was no evidence of any reason for her apparent lack of recall,

Colette stated that he thought he was confident that what she was doing was fair and in her best interest. (CP 218). Based on all of that information, the trial court accepted the State's recommendation. (CP 218-219).

Smith's personal affidavit:

In her first handwritten affidavit, dated March 29, 2013, Smith alleged that her attorney was ineffective at her competency hearing because he did not find an independent defense expert to examine her and testify that she had a disorder that effected her memory and her speech. (CP 42). She said that she was diagnosed with this disorder after her competency hearing. (CP 42). She argued that her attorney was ineffective because he failed to object to Dr. Reb McMichael's testimony about tests that he did not administer and was not an expert on. (CP 43). She claimed that he also failed to investigate into whether staff members from Whitfield, who commented on her behavior, actually observed her "on the ward," and that he failed to investigate different interview tactics that were used against her while she was at Whitfield. (CP 43). She argued that, had her attorney done these things, she would have been found to be incompetent to enter her guilty plea. (CP 42-43). The allegations contained in Sheral's first affidavit did not go towards any of the claims in her PCR petition. And her claim that she was diagnosed with a cognitive disorder is not supported by anything other than her self-serving affidavit.

In her second handwritten affidavit, also dated March 29, 2013, Sheral claimed that her attorney misinformed her about the time she would have to serve, and threatened to quit if she did not plead guilty. (CP 50). She claimed that Colette told her that the most she would serve was three years, and that if she did not take the deal, she would be convicted and would receive the maximum sentence. She claimed that although the judge did correct the misinformation that her attorney had provided, it was too late at that point, because her family could not intervene and she did not

understand. (CP 50).

Smith's husband's affidavit:

Sheral's husband, James Steven Smith, submitted an affidavit which was attached to Sheral's PCR petition. He stated that, when he arrived for his wife's competency hearing, he was not aware that her trial would also begin that day. (CP 44). He claims that Sheral's attorney, John Colette, told him that Sheral would lose at trial and would be sentenced to the maximum sentence: 90 years. (CP 44). Colette also told them that the State had offered a plea deal: the State offered seven years, but her husband claimed that Colette told him that Sheral "would receive 15% MET and 30 for 30 time, and that in a year she would be eligible for parole and would almost certainly be paroled." (CP 44). He claimed that Colette told him that Sheral would probably be out in a year, and that, if he ever wanted to see her home again, he should convince her to plead guilty. (CP 44). He states that he and Sheral's sister met with Sheral to convince her to plead guilty. (CP 44). He also states that they informed Sheral that she would get out early. (CP 44). Although Sheral told her husband that she did not understand, and she did not want to plead guilty, he told her that she should trust him and do what he said. (CP 44). After he talked with Sheral, Mr. Smith told Colette that he thought that Sheral would take the plea because she had told him that she was going to do what he had asked. (CP 44).

Smith's sister's affidavit:

Sheral's sister, Denise Sinclair, also submitted an affidavit. Sinclair stated that Colette told her that he thought he could get the State to agree to recommend that Sheral serve five years, if she pleaded guilty. (CP 46). She claims that Colette told her that Sheral would be home in less than three years, based on MET time and 30 for 30 trustee time. (CP 46). Colette asked her family members to convince Sheral to plead guilty. (CP 46). When Sinclair went to meet with Sheral, Sheral "appeared unkempt and not completely lucid. Her speech was somewhat impaired, and she was

withdrawn” and was weeping uncontrollably. (CP 46). Sinclair stated that, when she and Mr. Smith tried to convince her to plead guilty, she refused. (CP 46). Then, after the competency hearing, she, Colette, and Sheral’s other sister went into a room with Sheral and Colette got angry with her. (CP 46). Sinclair claims that Colette told Sheral that if she did not plead guilty, he would walk out, she would go to trial immediately, and she would have no lawyer. (CP 46-47). Sinclair claimed that Sheral agreed to plead guilty after this threat. (CP 47). Sinclair stated that Colette told Sheral where to sign, but that he did not explain the document with her, and he told her to answer “yes” to all of the judge’s questions. (CP 47). She stated that Colette then told them all again that the recommendation from the State would be 5 years to serve, and that she would be home in less than three years due to MET and 30 for 30 time. (CP 47). However, at the plea proceeding, the State recommended 20 years, with 7 to serve, and the judge informed everyone that she would be ineligible for early release because she pleaded guilty to a sex crime. (CP 47).

Smith’s sister’s affidavit:

Sheral’s other sister, Sherry Bryan, also filed an affidavit. She claimed that Colette, and possibly his associate, informed her that he thought he could get the State to agree to recommend that Sheral be sentenced to serve five years, if she pleaded guilty. (CP 48). Then, Colette told her that Sheral would not have to serve all of that time, because she would be given credit for house arrest time, and would have time reduced through MDOC programs. (CP 48). Sheral stated that she did not want to take the plea deal; however, Colette told her family members that they had to convince her to plead guilty. (CP 48). He indicated to them that, if she did not agree, he would not represent her, and also indicated that pleading guilty was the only option she had. (CP 48). According to Bryan, Colette did not discuss the option of going to trial, except to state that he would not do that. (CP 48). Sheral agreed to plead guilty, and Colette told her what to say to the judge, and informed

her that he would tell her what to say if she was confused or did not know. (CP 48). Contrary to what Colette had told them, the State recommended that Sheral be sentenced to 20 years, with seven to serve, and the judge informed them that she was not eligible for early release. (CP 49). Bryan also stated that, under the law, no credit could be given for time under house arrest. (CP 49). Bryan stated that she believes that her sister would not have pleaded guilty without Colette and his associate's statements that she would receive credit for house arrest time, and would be able to earn additional time. Furthermore, she stated that Colette's threats to leave her without counsel induced Sheral to plead guilty. (CP 49).

Argument

I. The trial court did not err when it denied Smith's PCR Petition, and she was not entitled to an evidentiary hearing.¹

Standard of Review

Trial courts may summarily dismiss motions for post-conviction relief, without holding an evidentiary hearing, when it is clear that the movant is not entitled to relief. Miss. Code Ann. §99-39-11(2). When this Court reviews the denial of a PCR petition, it will only disturb the circuit court's factual findings when they are clearly erroneous, and it will review the circuit court's legal conclusions *de novo*. ***Bell v. State***, 117 So. 3d 661, 663 (Miss. Ct. App. 2013)(citations omitted).

In order to be successful under her claim of ineffective assistance of counsel, Sheral had the burden to show 1) that her counsel's performance was deficient, and 2) that the deficiency prejudiced her defense. ***Strickland v. Washington***, 466 U.S. 668, 687, 104 S.Ct. 2052, 80 L.Ed. 674 (1984).

¹Although the Appellant has presented her issues in three parts, the State's response to each issue is factually intensive. Therefore, to prevent being highly repetitive in making its argument, the State has addressed all of the Appellant's issues in one argument section in its Appellee Brief.

Because she pleaded guilty, Sheral had to show that were it not for her counsel's errors, she would not have pleaded guilty, and would have insisted on going to trial. **Carson v. State**, 161 So. 3d 153, 156 (Miss. Ct. App. 2014)(citations omitted).

The circuit court reviewed the claims that were asserted in Smith's PCR petition and the affidavits attached to the petition. The court also reviewed the transcripts from Smith's competency hearing, plea hearing, and sentencing hearing, along with her court file. The circuit court concluded that Smith's guilty plea was not involuntary, and that Colette did not provide ineffective assistance. The circuit court's findings are supported by the record and are not clearly erroneous.

In **Sylvester v. State**, this Court held that "if a defendant alleges that he was given erroneous advice by his attorney as to his eligibility for trusty earned time *and that erroneous advice goes uncorrected*, and he provides evidence other than his own statement (such as a sworn affidavit from a third party), he is entitled to an evidentiary hearing." **Sylvester v. State** 113 So. 3d 618, 623 (Miss. Ct. App. 2013)(emphasis added). However, the Supreme Court has held that "where an affidavit is overwhelmingly belied by unimpeachable documentary evidence in the record such as, for example, a transcript or written statements of the affiant to the contrary to the extent that the court can conclude that the affidavit is a sham no hearing is required." **Gable v. State**, 748 So. 2d 703, 706 (Miss. 1999)(citations omitted).

Smith was not entitled to an evidentiary hearing because the erroneous advice that she allegedly received from her attorney did not go uncorrected. (*See* CP 209). Furthermore, the claims set forth in her PCR petition, and all of the affidavits that were attached thereto are in direct conflict with the record. Based on the evidence, testimony, and Sheral's statements that were presented at her competency hearing, in her plea petition, at her plea proceeding, and at her sentencing hearing, a PCR evidentiary hearing was not required, and she was not entitled to relief.

As explained in the facts section of this brief, Sheral knew what the State's offer would be when she entered her plea petition. (CP 176). And she knew that she would be required to serve her sentence without the possibility for early release, because the trial judge specifically told her about that requirement. (CP 209). The record also reflects that Sheral was competent to enter her guilty plea, and she received effective assistance of counsel.

Dr. Reb McMichael, an expert in forensic psychiatry testified that, in his opinion, Sheral was competent, and had the ability to understand her legal situation, and confer rationally with her defense counsel. (CP 253). Sheral's attorney attempted to impeach his opinion by asking him about the opinions of two other doctors who had opined that it did not appear that Sheral was competent; however, Dr. McMichael strongly disagreed with those opinions. (CP 260-261). The trial judge found that, based on the expert's testimony and Sheral's own testimony, she was competent. (CP 300). Later, Sheral's attorney signed an affidavit stating that he believed that she was competent and that she had no physical or mental condition that would prevent her from being able to understand the nature of the proceedings. (CP 179). And at Sheral's sentencing hearing, her attorney stated that he believed that she knew what she was doing, and that it was in her best interest to plead guilty. (CP 217-218).

Sheral asserts that her attorney's threats to quit if she decided to go to trial, and the misinformation that he allegedly told her about her sentence rendered his representation ineffective, and her guilty plea involuntary. (Appellant's Brief p. 18-19 and 21-22). Sheral claims that she lied to the judge at her plea hearing, because her attorney told her to. (Appellant's Brief p. 22).

First of all, a guilty plea is not rendered involuntary just because an attorney used forceful language to persuade his client to plead guilty. *See Hoyt v. State*, 952 so. 2d 1016, 1020-1021 (Miss. Ct. App. 2007). Also, a lawyer who advises his client that he believes it is in their best interest to

plead guilty has not provided deficient representation. This Court has held that “counsel has a duty to fairly, even if that means pessimistically, inform the client of the likely outcome of a trial based upon the facts of the case.” *Middlebrook v. State*, 964 So. 2d 638, 640 (Miss. Ct. App. 2007)(citation omitted). Therefore, even if Colette told Sheral and her family that she should plead guilty if she ever wants to go home, that advice was not deficient, it was accurate—Sheral faced a maximum conviction of 30 years for each count in her indictment upon conviction, she could have been sentenced to up to 120 years. Furthermore, Colette believed that it was in Sheral’s best interest to plead guilty; therefore, it was not deficient to advise her that it would be in her best interest to plead guilty. In fact, Colette had a duty to advise her to plead guilty, if he thought that was in her best interest. *Middlebrook*, 964 so. 2d at 640.

Sheral’s claim that she was coerced into pleading guilty by her attorney is belied by the record. The record reflects that Sheral’s family members convinced her to plead guilty (after Colette asked them to). (CP 44-48 and 218). And, in her petition to plead guilty, Sheral stated that she was satisfied with the advice and help of her attorney and that she was entering her plea freely and voluntarily. (CP 174). Then, at her plea proceedings, she told the court that no one had mistreated, pressured, or threatened her to induce her guilty plea, and that she was satisfied with what her attorney had done for her. (CP 202 and 206-207). She assured the trial court that it was her decision to plead guilty, that she committed the crimes, and that she wanted to plead guilty. (CP 206-207, 210, and 213).

Sheral’s claim that she lied at her plea hearing shows that she is not credible. When presented with differing claims of what is true— one version presented in open court while under oath, and one version presented for the purposes of appeal— this Court should find that the one who stands to benefit from changing her story was telling the truth at her plea hearing, rather than on appeal.

In *Boyd v. State*, 797 So. 2d 356, 363, the appellant claimed that, although he assured the court (during his plea hearing) that he was entering his plea knowingly, intelligently, and voluntarily, his plea was actually not voluntarily given. He claimed that he was actually forced to plead guilty because his attorney left him with no other choice by telling [him] that he did not have time to adequately prepare for trial, and claimed that the trial court also forced him to plead guilty because it had ordered that the trial date be set without allowing his attorney enough time to prepare. *Id.* In addressing whether Boyd was entitled to post-conviction relief, this Court noted that the record revealed that it was very clear that Boyd was aware of the rights he was waiving by pleading guilty, and that he understood the charges against him and the penalty he faced. *Id.* at 362-363. The Court found that his claims on appeal indicated that Boyd had either lied to the trial court or he was lying to the Court on appeal. *Id.* at 363. This Court found that, “the fact that he [had] been glaringly untruthful to at least one court of law render[ed] him , in [the Court’s] opinion, completely without credibility.” *Id.* The Court relied on its previous ruling and noted that

If a movant could, at a later date, successfully contradict his own assertions made under oath at his plea acceptance hearing, then there would be no purpose in conducting the hearing at all. “Truth” would become an illusory concept meaning nothing more than what the declarant asserted it to be at any particular point in time.

Id. (quoting *Wilson v. State*, 760 So. 2d 862 (Miss. Ct. App. 2000)). This Court found that Boyd had provided no plausible evidence upon which the Court could rely to overturn the trial court’s decision to accept his plea. *Id.* The Court found that the record in Boyd’s case, including his petition to plead guilty and the transcript of the plea hearing, undoubtedly showed that Boyd decided, on his own, to plead guilty, and that he was not coerced and was not supplied misinformation about his case. *Id.* Accordingly, this Court found that Boyd had not met his very high burden of proof to show that he did not understand what he was signing or that he was pressured or intimidated into entering his

guilty pleas. *Id.*

Sheral's allegations that support her claim for ineffective assistance of counsel are belied by the record; accordingly, her ineffective assistance claim is without merit. The record also shows that the trial court did not err when it found that she knowingly, intelligently, and voluntarily entered her guilty pleas. And even though members of her family asserted that she was misinformed and pressured into pleading guilty, the record shows that both Sheral's attorney and the trial court took great measures to establish that Sheral was competent, and that she understood all that was involved with her decision to plead guilty. She did not meet her high burden to show that she was entitled to post-conviction relief; accordingly, the circuit court's decision to deny her petition was not clearly erroneous.

Conclusion

Sheral Smith did not show that she was entitled to post-conviction relief. Accordingly, the circuit court's decision to deny her PCR petition was not clearly erroneous. The State of Mississippi respectfully requests that this Honorable Court affirm the denial of her petition.

Respectfully submitted,

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Certificate of Service

I hereby certify that on this day I electronically filed (and mailed) the foregoing pleading or other paper with the Clerk of the Court using the MEC system which sent notification of such filing to the following:

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