

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

JOHNATHAN ANDREW COLEMAN,

Petitioner,

Case # 6:20-CV-01460-WWB-EJK

-versus-

SECRETARY, FLORIDA DEPARTMENT
OF CORRECTIONS,

Respondent.

**REPLY IN SUPPORT OF PETITION FOR A WRIT OF HABEAS CORPUS BY
A PERSON IN STATE CUSTODY PURSUANT TO 28 U.S.C. § 2254**

COMES NOW the Petitioner, JOHNATHAN ANDREW COLEMAN, by and through undersigned counsel, and hereby submits this Reply in support of his petition pursuant to 28 U.S.C. § 2254, and respectfully states as follows:

1. Respondent posits that it is unclear whether Petitioner's first two claims are exhausted because they are based on "vague and conclusory allegations." (Docket # 12, Page 6 of 18). Respondent argues that because Petitioner failed to use certain nomenclature to identify a psychological defense, this Court "would be left to either guess or assume what psychological defense and psychological effects Petitioner refers to." (Docket # 12, Page 12 of 18). Concerning the second claim, Respondent argues that "Petitioner does not explain or summarize what an expert would have testified to." *Id.* As a result, Respondent argues that this Court should find the claims unexhausted and deny relief on that basis.

2. This argument fails for several reasons. The testimony of Dr. Jeffrey Danziger, M.D. was presented to the state court at the post-conviction evidentiary hearing, and summarized in the body of the Petition itself. Petitioner filed the state court record, including the Rule 3.850 motion for post-conviction relief, setting forth his claims for relief of ineffective assistance; the transcripts of the evidentiary hearing; the state court's decision on the motion addressing those claims; and the appellate record concerning post-conviction proceedings.

3. Thus, it is abundantly clear what Petitioner argues – ineffective assistance of counsel based upon trial counsel's failure to consult with a psychological expert, such as Dr. Jeffrey Danziger, M.D., and present a defense based upon his testimony. Dr. Danziger's testimony clearly established that Petitioner suffered from Post-Traumatic Stress Disorder based upon his extensive combat experience in Iraq, and clearly testified how that mental condition affected his ability to perceive the events in the instant case, which almost mirrored his experiences in Iraq.

4. As clearly set forth in Paragraphs # 85-91, this evidence, had it been presented at Petitioner's trial, would have supported both a self-defense claim and a defense that Petitioner did not have the criminal intent to assault the complainant in this case.

5. The second prong of Claim I in the petition is ineffective assistance of counsel based upon trial counsel's failure to request a self-defense instruction at trial. This claim is based on the facts of the case, which establish that Petitioner had two available defenses to him: (1) self-defense under Florida law when the complainant drove her car in an attempt to run over Coleman after she had struck her boyfriend, and (2) that Coleman, a private security guard, was effecting a citizen's arrest and was justified in using force to prevent the complainant from escaping after Coleman had witnessed her commit a felony battery in striking her boyfriend with her car.

6. Respondent fails to address the merits of either of the first two claims, which are clearly spelled out. Thus, this claim is not only fully exhausted, the merits of the same are unchallenged in this Court.

7. Additionally, it is very clear that the same claims were presented to the state courts, and the state courts clearly decided the case on the same claims presented herein. If the State of Florida clearly understood the arguments Petitioner made in the state court proceedings, and responded to them on their merits, it cannot claim it does not understand those same arguments when made now in this Court.

8. Petitioner relies upon the arguments set forth in his original Petition and urges this Court to grant him the relief requested therein.

WHEREFORE, Petitioner prays that this Court:

(A) Issue a Writ of Habeas Corpus ordering that the Petitioner be released from his confinement upon a personal recognizance bond; or in the alternative,

(B) Issue a Writ of Habeas Corpus ordering that the Petitioner be released from his confinement unless the judgment of conviction and sentence are vacated, and he be restored to pre-trial status if he is not retried within sixty days; or in the alternative,

(C) Grant such other and further relief as this Court may deem just, proper and equitable.

Dated: January 19, 2021

Respectfully Submitted,

/s/ Patrick Michael Megaro

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon counsel of record via CM/ECF on January 19, 2021:

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