



Smith v. Respondent-Appellee

663 F.2d 1073 (1981) | Cited 0 times | Sixth Circuit | July 28, 1981

BEFORE: EDWARDS, Chief Judge; LIVELY, Circuit Judge; and WISEMAN,^{*fn*} District Judge.

Order

This is an appeal from denial of habeas corpus by petitioner who pled guilty in the state court to charges of burglary, armed robbery and assault with a deadly weapon. After exhausting his state court remedies petitioner filed this action in the district court. He contends here, as he did in the district court, that his guilty plea was constitutionally infirm. The district court pointed out that petitioner was not able to identify with any particularity an omission on inadequacy in the colloquy which accompanied the plea. The district court also rejected as totally conclusory the petitioner's claim that his plea was induced by his counsel's promise of leniency. In this court petitioner also contends that he was entitled to an evidentiary hearing in the district court on his claims of ineffective assistance of counsel and that the plea was involuntarily entered.

Upon consideration of the briefs and oral arguments of counsel together with the record on appeal, the court concludes that the district court did not err in rejecting petitioner's claims. An evidentiary hearing was not required, because the transcript of proceedings in the state court was sufficient. The transcript revealed that petitioner indicated satisfaction with his counsel at the time he entered his plea, and his delay of four years in claiming that his counsel misled him and otherwise failed to render effective assistance suggests that this claim was an afterthought.

The judgment of the district court is affirmed.

* The Honorable Thomas A. Wiseman, Jr., Judge, U.S. District Court for the Middle District of Tennessee, sitting by designation.

