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TERESA FRENCH'S KILLER LOSES BID TO OVERTURN CONVICTION

Muncie Indiana – On March 8, 2022, the Indiana Court of Appeals rejected the most recent attempt of convicted killer Jess David Woods (DOB 12/12/1951) to overturn his convictions. A copy of the Court of Appeals Opinion is attached.

On, May 13, 1993, Jess David Woods shot and killed Teresa French, mother of three young children. He was hired to do so by Teresa's husband Anthony "Tony" French. Woods shot and killed Teresa as she begged and pleaded for her life screaming out for her "babies." On March 13, 2008, the State of Indiana charged Woods with Count 1: Murder, a felony and Count 2: Conspiracy to Commit Murder, a Class A Felony. In 2009, after a three week trial, a Delaware County jury convicted Woods as charged. At the sentencing hearing, then Deputy Prosecutor Eric Hoffman said that the facts of the case are "heinous and disturbing…. He killed another human being, a victim that he never met, he got paid for it, and enjoyed it." Hoffman rhetorically asked "What kind of animal is capable of…executing a woman as she begged for her life, the mother of three children, whose only sin was to try to break free from her abusive and controlling husband, and try to live in peace." In asking for the maximum sentence, Hoffman argued to the Court that the "sentence insure that Jess David Woods will never darken the door step of any innocent victim ever again, to insure that he will never again have the opportunity to play God and decide who lives and who dies. He has demonstrated that he does not deserve to be out in society with the rest of us. In fact he has forfeited that right. And he needs to be thrown in a cage with all other dangerous animals just like him, in order to protect society and punish him for his crime." The Honorable Judge Linda Ralu Wolf sentenced Woods to 100 years in prison.

Jess David Woods

In a separate trial, Anthony “Tony” French was convicted of murder, Murder, a felony and Conspiracy to Commit Murder, a Class A Felony. The Honorable Judge Robert L. Barnet sentenced French to 80 years in prison.

In 2017 Woods filed a Petition for Post-Conviction Relief alleging that multiple errors were committed at trial. On November 5, 2020, the Court held a hearing on the Petition. Subsequently, the Honorable Linda Ralu Wolf entered an order denying the Petition. Woods appealed that order which has now been rejected by the Indiana Court of Appeals.

After the Appellate Opinion was handed down, Delaware County Prosecuting Attorney said “Jess David Woods referred to his female victim and all other women as “scum.” However, his misogynistic, violent, and brutal actions show who the “scum” really is. Woods is exactly where he belongs – behind bars. Society is much safer given the fact that Woods will spend the rest of his natural life in prison. It is comforting to know that the only way Jess David Woods will ever get out of prison is in a pine box.”

# # #

MEMORANDUM DECISION

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IN THE
COURT OF APPEALS OF INDIANA

Jess David Woods,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

March 8, 2022

Court of Appeals Case No. 21A-PC-1447

Appeal from the Delaware Circuit Court

The Honorable Linda Ralu Wolf, Judge

Trial Court Cause No. 18C03-1708-PC-12

Najam, Judge.

Statement of the Case

[1] Jess David Woods appeals the post-conviction court's denial of his petition for post-conviction relief. He presents two issues for our review, which we consolidate and restate as whether he was denied the effective assistance of trial counsel. We affirm.

Facts and Procedural History

[2] In Woods' direct appeal, this Court stated the facts and procedural history as follows:

> Teresa ("Teresa") and Anthony French ("French") were married in 1979 when Teresa was fifteen and pregnant. During their marriage, they had numerous marital difficulties and separated several times. In 1992, Teresa filed for dissolution, but she and French reconciled. In 1993, they lived on Cromer Street in Muncie, Indiana with their three children, ages thirteen, five, and two. At that time, they also owned a rental property on Milton Street in Muncie, a van, a truck, and a boat.
>
> On January 9, 1993, French went to the home of Teresa's sister, Jennifer Nye ("Nye"), pushed his way inside looking for Teresa, demanded to know where she was, and told Nye, "next time you see her she'll be in the hospital." Tr. at 329. The next time Nye saw Teresa was the following day, and Teresa was in the hospital. Teresa's face and nose were swollen, she had a black eye, and she was very upset. She made a police report, and French eventually pleaded guilty to battery. After this incident, Teresa lived with Nye for a few months. While Teresa lived at Nye's home, French called there and told Nye "that he either was going to talk to Teresa or he'd kill everybody in the house." *Id.* at 334. Before Nye hung up, French said, "we're going to kill the f***kin' bitch." *Id.* Teresa reinstated the dissolution proceedings, the court ordered French to move out of the Cromer

Street residence, granted temporary custody of the children to Teresa, and gave Teresa possession of the van and the Cromer Street address. . . .

During the course of the dissolution proceedings, French moved in with Oren Johnson ("O.J."), a co-worker French met through his brother. When French lived with O.J., he was very angry about the dissolution and about losing his children and his property. He often referred to Teresa as "a bitch, a whore, and a slut." *Id.* at 468.

While French was staying at O.J.'s house, O.J. introduced French to his friend Woods. Woods would visit O.J., and French would speak to Woods about his pending dissolution. O.J. often overheard these conversations and heard French refer to Teresa as his "problem." *Id.* at 471. French told Woods that he wanted "his problem" to be "taken care of," which meant he "wanted her eliminated from the face of this earth." *Id.* Woods told French that he could "probably accommodate his needs." *Id.* Woods was also having "women problems" at this time, and both men showed a negative attitude toward women. *Id.* at 477. French told Woods that he did not want to lose any of his property and did not want "the divorce proceedings to go through before he took care of his problem." *Id.* at 479. French had previously asked another friend if he knew of anyone who would kill his wife, and this friend stated he did not. Woods agreed to kill Teresa and to help French out with "his situation" by making sure "she was taken off the face of the earth." *Id.* at 471, 478-79. French told Woods that was what he wanted done, and "he was ready to go." *Id.* at 479.

In their original plan, Woods was going to have a man named "Chad" commit the murder, and he set up a meeting between "Chad" and French at Woods's house. *Id.* at 1055-56. The price for the murder was agreed to be $5,000. Woods had French provide a description of Teresa, and French also supplied a picture of Teresa. The two discussed how to gain access to the Cromer residence; the plan was to pose as a real estate inspector

who needed to inspect the garage for the pending sale of the home. French told Woods the murder should occur in the garage because he did not want blood splattered in the house. He also told Woods when the children would not be at home. Woods brought a .22 caliber semi-automatic handgun with a homemade silencer over to O.J.'s house and showed it to French. Woods had made the silencer himself with automotive parts and had also attached a green canvas bag to the weapon that would catch the casings when they were ejected. Woods and French fired the gun several times on O.J.'s property.

Woods and French discussed the murder of Teresa about half a dozen times in the weeks prior to the murder. French expressed a sense of urgency throughout this time and wanted it done before the dissolution was final and before the sale of the house on Cromer Street. The man named "Chad" was not doing the job according to the original plan, so Woods decided to commit the murder himself. O.J. loaned $2,500 to French, and French gave the money to Woods as half payment for the murder.

On May 13, 1993, Woods told French to be at work and to be seen by as many people as possible, which French did. On that date, Woods took the .22 caliber handgun and silencer from a toolbox at work, told his boss he was going to test drive a car, left, changed into a suit, went to Teresa's home on Cromer Street, and knocked. At approximately 10:25 a.m. on October 13, 1993, Teresa was talking on the telephone to her friend Ginger Engle ("Ginger"). She told Ginger that there was a man in a suit at the door and that she would call Ginger back later. Through the phone, Ginger could hear the man say "inspector," followed by a few more words. *Id.* at 860-61. Woods shot Teresa at close range multiple times inside the garage, killing her. Teresa was shot twice in the head and three times in the chest, as well as in the right leg and right hand with .22 caliber bullets. No shell casings were found at the scene. After Woods killed Teresa, he changed his clothes, returned to work, and called O.J. to tell him "it was done." *Id.* at 1057. Woods called O.J. within a week of the murder to make sure that French knew Woods

wanted the rest of his money. Woods repeatedly called O.J. after the murder regarding his money until O.J. told Woods to stop talking to him about the murder.

Teresa's murder case remained unsolved until 2008. O.J. was arrested in November 2007 for crimes unrelated to the murder, and at that time, he came forward with information about Teresa's death. O.J. gave a statement to the police and entered into a use immunity agreement with the prosecutor's office. The agreement required O.J.'s cooperation and honesty and stated that anything he said could not be used against him in prosecution for conspiracy to commit murder; however, it made no promises regarding his pending charges and did not promise immunity for any evidence of his commission of violent acts. Pursuant to the agreement, O.J. participated in interviews with the police and agreed to wear a recording device during two meetings with French. These meetings occurred on March 11 and 12, 2008.

In the time since the murder, Woods had moved to California and was apprehended by police there. Woods denied killing Teresa and knowing French. The State charged both Woods and French with murder and conspiracy to commit murder, and the two were tried separately.

At Woods's jury trial, his ex-wife Vicki Armstrong ("Vicki"), to whom he was married at the time of the murder, testified that Woods owned guns and made his own silencers. *Id.* at 956-57. She testified that she saw Woods and French together before the murder and overheard French complain to Woods about losing his property and children to Teresa. *Id.* at 957, 961, 968. She also stated that French told Woods that he would see Teresa dead first. *Id.* at 1001. Woods told Vicki about Teresa's murder at some point after it occurred and told her that someone had used an excuse to enter the house, took Teresa to the garage, that Teresa had begged for her life, and that the person made sure she was dead by shooting her in the head. *Id.* at 973, 1003-04. Vicki

also testified that Woods had a dispute with French about French owing him money. *Id.* at 973-74.

Another of Woods's ex-wives, Mary Dabbs ("Mary"), to whom he was married from 1996 to 1997, testified at the trial. She testified that he owned a lot of guns and several silencers, which he made himself. *Id.* at 1044-45. In the summer of 1997, Mary went to O.J.'s house with Woods. She overheard a conversation between O.J. and Woods, where Woods asked O.J. what he had told the police about Teresa's murder. *Id.* at 1052. O.J. also asked Woods about "Chad." *Id.* at 1053. As a result of this conversation, Woods became very upset and anxious, and Mary asked him what the conversation was about, but Woods told her to "shut up and leave him alone." *Id.* On the way home, she insisted on knowing what Woods and O.J. had been talking about, and finally, Woods told her that it was about how "he had to kill Teresa French." *Id.* at 1054-55. Woods told Mary everything, including that: French went to O.J. to get Teresa murdered because they were going through a divorce and Teresa was about to get everything; O.J. introduced Woods to French; the original plan was to have a man named "Chad" kill Teresa; the murder would cost $5,000; Woods told French to go to work and be seen by several people the day of the murder; Woods used a gun with a silencer; Woods left work, changed into a suit, and went to Teresa's house; French wanted the murder to take place in the garage because he "didn't want a mess"; Teresa was on the telephone when he knocked on the door; Teresa told the caller that someone from the real estate company was there; and Woods shot her at close range. *Id.* at 1055, 1056, 1057, 1058, 1066-67. Woods also told Mary that French thought that "Chad" had shot Teresa and that she was the only one who actually knew that Woods was the killer. *Id.* at 1057-58. He threatened her and told her he would kill her if she told anyone. *Id.* at 1058.

During the trial, Woods objected to the admission of statements made by French, including statements made to Nye, Ginger, and other friends regarding threats about Teresa. He also objected to the admission of statements made by French to O.J. when O.J.

> met with French while wearing a recording device on March 11 and 12, 2008. In all of the instances, the trial court admitted the evidence over Woods's objections. Additionally, Woods objected when the State asked Vicki on redirect examination about why she was unhappy in her marriage to Woods and if it was because he hurt her. *Id.* at 997. This testimony was allowed to be admitted over his objection. The State also admitted evidence that Woods owned and used guns and made his own silencers, to which Woods objected. At the conclusion of the jury trial, Woods was found guilty of murder and conspiracy to commit murder. He was sentenced to fifty-five years for murder and forty-five years for conspiracy to commit murder with the sentences to run consecutively for an aggregate sentence of one hundred years.

Woods v. State, No. 18A05-0909-CR-545, 2010 WL 4472176, at *1-4 (Ind. Ct. App. Oct. 9, 2010), *trans. denied*. On direct appeal, Woods alleged that the trial court had abused its discretion when it admitted certain evidence. We disagreed and affirmed his convictions. *Id.* at *8-9.

[1] On January 23, 2012, Woods filed a petition for post-conviction relief, and he filed four amended petitions thereafter. Following a fact-finding hearing on November 5, 2020, the post-conviction court entered findings and conclusions in which it denied Woods' petition for post-conviction relief. This appeal ensued.

Discussion and Decision

[2] Woods appeals the post-conviction court's denial of his petition for post-conviction relief. Our standard of review in such appeals is clear:

> "The petitioner in a post-conviction proceeding bears the burden of establishing grounds for relief by a preponderance of the evidence." *Campbell v. State*, 19 N.E.3d 271, 273-74 (Ind. 2014). "When appealing the denial of post-conviction relief, the petitioner stands in the position of one appealing from a negative judgment." *Id*. at 274. In order to prevail on an appeal from the denial of post-conviction relief, a petitioner must show that the evidence leads unerringly and unmistakably to a conclusion opposite that reached by the post-conviction court. *Weatherford v. State*, 619 N.E.2d 915, 917 (Ind. 1993). Further, the post-conviction court in this case entered findings of fact and conclusions of law in accordance with Indiana Post-Conviction Rule 1(6). Although we do not defer to the post-conviction court's legal conclusions, "[a] post-conviction court's findings and judgment will be reversed only upon a showing of clear error—that which leaves us with a definite and firm conviction that a mistake has been made." *Ben-Yisrayl v. State*, 729 N.E.2d 102, 106 (Ind. 2000) (internal quotation omitted).
>
> When evaluating an ineffective assistance of counsel claim, we apply the two-part test articulated in *Strickland v. Washington*, 466 U.S. 668 (1984). *See Helton v. State*, 907 N.E.2d 1020, 1023 (Ind. 2009). To satisfy the first prong, "the defendant must show deficient performance: representation that fell below an objective standard of reasonableness, committing errors so serious that the defendant did not have the 'counsel' guaranteed by the Sixth Amendment." *McCary v. State*, 761 N.E.2d 389, 392 (Ind. 2002) (citing *Strickland*, 466 U.S. at 687-88). To satisfy the second prong, "the defendant must show prejudice: a reasonable probability (i.e.[,] a probability sufficient to undermine confidence in the outcome) that, but for counsel's errors, the result of the proceeding would have been different." *Id*. (citing *Strickland*, 466 U.S. at 694).

Humphrey v. State, 73 N.E.3d 677, 681-82 (Ind. 2017). Failure to satisfy either of the two prongs will cause the claim to fail. *French v. State*, 778 N.E.2d 816,

824 (Ind. 2002). Indeed, most ineffective assistance of counsel claims can be resolved by a prejudice inquiry alone. *Id*.

[3] "[C]ounsel's performance is presumed effective, and a defendant must offer strong and convincing evidence to overcome this presumption." *Williams v. State*, 771 N.E.2d 70, 73 (Ind. 2002). Counsel has wide latitude in selecting trial strategy and tactics, which we afford great deference. *Ward v. State*, 969 N.E.2d 46, 51 (Ind. 2012). We "will not speculate as to what may have been counsel's most advantageous strategy, and isolated poor strategy, bad tactics, or inexperience does not necessarily amount to ineffective assistance." *Sarwacinski v. State*, 564 N.E.2d 950, 951 (Ind. Ct. App. 1991) (citation omitted). "[T]he decision whether to utilize exculpatory evidence . . . is a matter of trial strategy." *Fisher v. State*, 878 N.E.2d 457, 464 (Ind. Ct. App. 2007) (quoting *Reynolds v. State*, 536 N.E.2d 541, 545 (Ind. Ct. App. 1989), *trans. denied*), *trans. denied*.

[4] Further, as our Supreme Court has stated:

> strategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation. In other words, counsel has a duty to make reasonable investigations or to make a reasonable decision that makes particular investigations unnecessary. In any ineffectiveness case, a particular decision not to investigate must be directly assessed for reasonableness in all the circumstances, applying a heavy measure of deference to counsel's judgments.

Strickland, 466 U.S. at 690-91.

[5] Woods alleges ineffective assistance from his trial counsel on four grounds, namely: (1) counsel did not present evidence that gunshot residue was found on French's hand after the murder; (2) counsel did not present evidence that an address book with a label reading "Hit Man" was found at the scene; (3) counsel did not pursue a DNA test on a strand of blonde hair found in the victim's hand; and (4) counsel did not accommodate Woods' hearing impairment during the trial. We address each argument in turn.

1. Gunshot Residue

[6] Woods asserts that his trial counsel rendered ineffective assistance when he did not present evidence that a forensic test revealed gunshot residue on French's left hand shortly after the murder. Woods alleged in his petition for post-conviction relief that "French was left-handed, and the victim's wounds were predominately on the right side of the body." Appellant's App. Vol. III at 3. On this issue, the post-conviction court found and concluded as follows:

> 40) Trial counsel testified that Muncie Police Detective Norm Ireland performed a gunshot residue test on Tony French shortly after Teresa's murder. The test was positive on Tony's left hand. Counsel did not present this evidence at trial.
>
> 41) First, as counsel noted during his testimony, even if he desired to enter the test results into evidence at trial, there was a huge evidentiary foundational problem which would have prevented its admission. The person who administered the test was a necessary witness to introduce the results of the test. However, long before the Petitioner was even charged, Norm Ireland had passed away. Consequently, there was no

evidentiary foundation for counsel to have admitted the test results.

42) More importantly, *counsel chose not to attempt to admit the test results as a matter of trial strategy*. As noted above, this Court will not second guess reasonable trial strategy. Counsel testified that he hired John Nixon who was an expert in firearms and ballistics. Counsel conceded that there is quite a bit of doubt in the scientific community regarding the reliability of gunshot residue tests. They often produce false positive results. These false positives can be caused with a person's recent contact with fireworks, brake dust, or a nail gun. False positives can also be caused by a police officer who recently handled a firearm and then touched the subject's hands to arrest him thereby transferring the residue to the subject's hands. Counsel testified that the residue is easily transferrable from one person to the other. Additionally, counsel testified that studies have shown that police cars, police stations, and police equipment are abundant sources of contamination which could be unintentionally transferred to a subject's hands thereby causing a false positive. Counsel testified that the proper way to examine gunshot residue samples is under an electron microscope, which was not done in this case. *Most importantly, counsel testified that implying that Tony French was the shooter was entirely inconsistent with the defense theory and strategy of the case*. The Court finds and concludes that counsel's trial strategy of not offering evidence of the gunshot residue test was more than reasonable and appropriate. Consequently, the Court finds and concludes that counsel was not ineffective.

43) More importantly, the Petitioner has failed to prove prejudice. The Petitioner has not proven that had counsel introduced evidence of the gunshot residue test, the result of the trial would have been any different.

Id. at 144-45 (emphases added).

[7] Given Woods' trial counsel's testimony at the post-conviction hearing, we agree with the post-conviction court's conclusion that the exclusion of the gun residue test was a matter of trial strategy. Not only was that evidence inconsistent with the defense strategy of showing that O.J., Tamara Kennedy, or Troy Bell had committed the murder, but trial counsel had ample reason to believe that the proffered evidence would be undermined by the foundational issues and the myriad reliability issues. "Few points of law are as clearly established as the principle that [t]actical or strategic decisions will not support a claim of ineffective assistance." *See McCary v. State*, 761 N.E.2d 389, 392 (Ind. 2002) (internal quotation and citation omitted). Finally, given the depth and breadth of evidence implicating Woods' guilt presented at trial, Woods has not shown that, had the gun residue test result been admitted at trial, he would have been acquitted of Teresa's murder.

2. Address Book

[8] Woods next contends that his trial counsel was ineffective when he did not introduce at trial evidence that an address book owned by Jeff Hinds and labeled "Hit Man" was found at the scene of the murder. Appellant's App. Vol. III at 146. Woods maintains that "[t]he address book would have supported an inference that Hinds, not Woods, was the hired killer." Appellant's Br. at 28. However, the post-conviction court found that Woods did not support this contention with any evidence.

[9] In any event, Woods' counsel testified at the post-conviction hearing that, prior to trial, he spoke with Hinds, who had explained that he was a boxer and that

he had adopted the "ring name" "Hitman" because he admired a boxer from Detroit with that nickname. Tr. at 12. Given that the "Hitman" label on the address book had no apparent relevance to the murder, and given that Woods does not direct us to any evidence that Hinds may have been involved in Teresa's murder, we agree with the post-conviction court that Woods has not shown that his counsel was ineffective when he did not introduce this evidence at trial.

3. Hair

[10] Woods asserts that his trial counsel was ineffective when he did not pursue a DNA test of a single strand of blonde hair found in Teresa's hand. Woods states, "[w]ithout the DNA testing, the defense was able to argue that the hair belonged to someone other than Woods, but [counsel] could not say who it belonged to. If [counsel] had requested mitochondrial DNA testing, [counsel] could have presented compelling evidence regarding the actual identity of the perpetrator." Appellant's Br. at 30.

[11] As the post-conviction court found, Woods' trial counsel testified at the post-conviction hearing that it was a strategic decision not to get the hair tested because of "the possibility that the DNA could match [Woods] or somehow tie [Woods] to the hair thereby linking him to the scene of the crime which could then be used to convict" him. Appellant's App. Vol. III at 153. Moreover, the post-conviction court stated that, in preparation for the post-conviction hearing, Woods had an opportunity to have the hair tested, but he "changed his mind and decided not to have the hair tested." *Id.* at 155. Given trial counsel's

strategic reasons for not testing the hair, and given that Woods abandoned his opportunity to prove that the hair was exculpatory evidence, we hold that Woods has not shown that his trial counsel was ineffective when he did not test the hair.

4. Hearing impairment

[12] Finally, Woods contends that his trial counsel was ineffective when his counsel did not accommodate his "significant hearing loss[.]" Appellant's Br. at 33. He claims that his trial counsel knew about his hearing loss and that, during his trial, Woods' sister Sally Willis gave his trial counsel a pair of hearing aids, but that counsel did not give the hearing aids to Woods. However, at the post-conviction hearing, Woods' trial counsel testified that, "in all of the meetings with [Woods], [Woods] never stated that he had hearing deficits, that he could not hear, or that he needed hearing aids." Appellant's App. Vol. III at 141. And trial counsel testified that Willis did not give him a pair of hearing aids to give to Woods. Further, trial counsel testified that it was apparent during trial that Woods could hear the testimony because he commented on the testimony to his counsel. Woods' contentions on appeal amount to a request that we reweigh the evidence, which we cannot do. Indeed, Woods never advised the trial court that he had trouble hearing. Woods has not shown either that his alleged hearing impairment impacted his participation in his trial or that his trial counsel was ineffective when he did not accommodate Woods' hearing impairment.

Conclusion

[13] We agree with the post-conviction court that Woods has not shown that his trial counsel was ineffective for any of the four alleged grounds. Moreover, even assuming his counsel were ineffective, Woods has not shown prejudice. The evidence of Woods' guilt in the murder is overwhelming, and he has not shown that the outcome of his trial would have been different if his trial counsel had presented the evidence of the gunshot residue on French's hand or the "Hit Man" address book, or if he had tested the blonde hair found in Teresa's hand. *See, e.g.*, *Coleman v. State*, 741 N.E.2d 697, 703 (Ind. 2000) (holding trial counsel's failure to present evidence of two hairs belonging to someone other than the defendant found on rape victim was not prejudicial "because of the magnitude of other evidence pointing to [the defendant's] guilt"), *cert. denied*, 534 U.S. 1057 (2001). Neither has Woods shown that the outcome of his trial would have been different had his trial counsel mitigated his alleged hearing impairment.

[14] Affirmed.

Vaidik, J., and Weissmann, J., concur.