

ADNAN SYED,
Appellant,
v.
STATE OF MARYLAND,
Appellee.

IN THE
COURT OF SPECIAL APPEALS
OF MARYLAND
No. 2519,
SEPTEMBER TERM, 2013

* * * * *

STATE OF MARYLAND,
Appellant/Cross-Appellee,
v.
ADNAN SYED,
Appellee/Cross-Appellant.

IN THE
COURT OF SPECIAL APPEALS
OF MARYLAND
No. 1396,
SEPTEMBER TERM, 2016

* * * * *

ORDER

Upon consideration of the State's application for leave to appeal in No. 1396, September Term, 2016, Adnan Syed's conditional application for leave to cross appeal, and the State's conditional application for limited remand, it is this 18th day of January 2017, by the Court of Special Appeals,

ORDERED that the above-captioned cases be and hereby are consolidated and the stay entered in No. 2519, September Term, 2013 be and hereby is lifted;¹ and it is further

ORDERED that the State's application for leave to appeal in No. 1396, September Term, 2016 be and hereby is GRANTED as to the following issues:

(1) Whether the post-conviction court abused its discretion in re-opening the post-conviction proceeding to consider Syed's claim that his trial counsel's failure to challenge the reliability of the cell phone location data evidence, based on the cell phone provider's "disclaimer" about the unreliability of incoming calls for location purposes, violated Syed's Sixth Amendment right to the effective assistance of counsel.

(2) Whether the post-conviction court erred in finding that Syed had not waived his claim regarding trial counsel's failure to challenge the reliability of the cell phone location data for incoming calls by failing to raise it earlier.

(3) Whether the post-conviction court erred in finding that Syed's trial counsel's failure to challenge the State's cell phone location data evidence, based on the cell phone provider's "disclaimer," violated Syed's Sixth Amendment right to the effective assistance of counsel.

It is further ORDERED that Syed's conditional application for cross-appeal in No. 1396, September Term, 2016 be and hereby is GRANTED as to the following issues:

(1) Whether the post-conviction court erred in finding that Syed's trial counsel's failure to investigate a potential alibi witness (Asia McClain) did not violate Syed's Sixth Amendment right to the effective assistance of counsel.

(2) Whether the post-conviction court incorrectly limited its prejudice analysis on the alibi witness issue to the effect of trial counsel's failure to investigate that witness, rather than consider prejudice based on the

¹ The parties need not re-brief the issue of whether Syed's trial counsel was constitutionally ineffective for allegedly failing to pursue a plea agreement with the State, as that issue was briefed in *Adnan Syed v. State of Maryland*, No. 2519, Sept. Term, 2013.

cumulative effect of that error in combination with all the attorney errors alleged in this consolidated appeal.

It is further ORDERED that the State's conditional application for limited remand shall be referred to the panel of judges assigned to hear the appeal for disposition; and it is further

ORDERED that the State shall forthwith order the transcripts from the post-conviction proceedings held in the Circuit Court for Baltimore City on February 3 – 9, 2016, and upon receipt of said transcripts, the clerk of the circuit court shall transmit them to this Court for inclusion in the record; and it is further

ORDERED that argument in the above-captioned appeals shall be scheduled in the June 2017 session of this Court; and it is further

ORDERED that the State's brief in No. 1396, September Term, 2016 shall be filed on or before February 27, 2017; and it is further

ORDERED that appellee/cross-appellant's brief shall be filed on or before March 29, 2017; and it is further

ORDERED that the State's cross-appellee brief shall be filed on or before April 28, 2017.

CHIEF JUDGE'S SIGNATURE
APPEARS ON ORIGINAL ORDER

Peter B. Krauser, Chief Judge