

**IN THE COURT OF APPEALS
STATE OF GEORGIA**

VICTOR GRAHAM,	:	
Appellant,	:	
v.	:	CASE NUMBER
		A22A1698
STATE OF GEORGIA,	:	
Appellee.	:	

REPLY BRIEF OF APPELLANT

COMES NOW VICTOR GRAHAM, Appellant in the above-styled matter, and hereby files this reply brief to Appellee’s brief that was filed on August 10, 2022. This reply brief is filed within twenty days of the date of filing of Appellee’s brief pursuant to Rule 23.

I.

ARGUMENT AND CITATION OF AUTHORITY

I. Plea offer and negotiations

Appellee claims that Ms. Bradley communicated to Appellant Victor Graham that accepting the State’s plea offer prior to trial would have been in his best interest, given the evidence against him. However, Appellant disputes that Ms. Bradley attempted to persuade him that accepting the State’s plea offer would have been in his best interest. Given the testimony at the hearing on Appellant’s Motion for New

Trial, Ms. Bradley's credibility is an issue, as she could not remember what the plea offer was and did not have a copy of it. Motion transcript, 12:3-6. As such, Appellant is handicapped by his requirement of showing prejudice, since his trial attorney is unable to recall the terms of Appellant's purported plea offer. It is not a foregone conclusion that an offer was even made, or that it was communicated to Appellant, if no one can say what the offer was. This is exacerbated by Ms. Bradley's decision to destroy Appellant's file when she knew that a Motion for New Trial was pending. Motion transcript, 13:17-19; 13:7-10.

II. Appellant's request for a continuance

Appellee argues that Ms. Bradley was not ineffective in her refusal to join Appellant's request for a continuance due to Appellant's concerns about Ms. Bradley's trial preparation. Instead of joining in her client's request for a continuance, Ms. Bradley went against him, and indicated that she was prepared for trial, despite Appellant's protestations and his specific reasoning as to why a continuance was necessary. Trial transcript, 11:20-24. This, in addition to Ms. Bradley's failure to review the jury list with Appellant until the morning of trial (Motion transcript, 18:23-25; 19:1), demonstrates ineffectiveness by Ms. Bradley and prejudice to Appellant, as Appellant was forced to proceed to trial without testimony from witnesses who were present in the home at virtually all times, and

would have given the jury a reason to doubt the Appellant's guilt. Trial transcript, 14:12-19.

III. Change of law

Appellee points out that Appellant does not provide or suggest a concrete minimum amount of time that an attorney for a criminal defendant should spend meeting with his/her client in trial preparation. However, Appellant merely asks that the law be changed for the reasons outlined in Appellant's briefs; it is for this Court to determine whether and to what extent the law be changed. Nonetheless, Appellant contends that a minimum amount of time should certainly be more than thirty to sixty minutes on the Thursday before trial, as was the case with Appellant and his trial counsel. Motion transcript, 45:5-13.

CONCLUSION

Appellant has established that (1) his trial counsel's performance was deficient, and (2) that he was prejudiced by said deficiency, such that a reasonable probability exists that the outcome would have been different but for Ms. Bradley's deficiency. Appellant has shown that Ms. Bradley's in-person meetings with Appellant – only at his preliminary hearing and on the Thursday before trial – handicapped her ability to present a viable defense, to obtain a more favorable result for the Appellant at trial, or to obtain a more favorable result for Appellant through the plea-bargaining process.

For the foregoing reasons, the trial court's denial of Appellant's Motion for New Trial was improper under existing law. Therefore, Appellant respectfully requests that the Superior Court of Lowndes County's Order on Defendant/Appellant Victor Graham's Motion for New Trial be vacated and reversed. Appellant also requests that this Court extend and/or modify existing law and hold that a certain amount of time and/or communication that trial counsel has had with a criminal defendant may constitute deficient performance as a matter of law in the ineffective assistance of counsel analysis.

This the 30th day of August, 2022.

This submission does not exceed the word count limit imposed by Rule 24.

/s/ Jody D. Peterman
JODY D. PETERMAN
Attorney for Appellant
Georgia Bar No.: 573552

Address of Counsel:
P. O. Box 6010
Valdosta, GA 31603-6010
(229) 247-0386
petermanlawoffice@yahoo.com

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I have this day served a true and accurate copy of the within and foregoing **REPLY BRIEF OF APPELLANT** upon the following persons by hand-delivery:

Michelle Harrison
Assistant District Attorney
327 N. Ashley Street
Valdosta, GA 31601

on the 30th day of August, 2022.

/s/ Jody D. Peterman
JODY D. PETERMAN
Attorney for Appellant
Georgia Bar No.: 573552

Address of Counsel:
P. O. Box 6010
Valdosta, GA 31603-6010
(229) 247-0386
petermanlawoffice@yahoo.com