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Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0395**

Stacy Lee Row, petitioner,
Appellant,

vs.

State of Minnesota,
Respondent.

**Filed March 24, 2025
Affirmed
Cochran, Judge**

Stearns County District Court
File No. 73-CR-19-4066

John E. Mack, New London Law, P.A., New London, Minnesota (for appellant)

Keith Ellison, Attorney General, St. Paul, Minnesota; and

Janelle P. Kendall, Stearns County Attorney, Michael J. Lieberg, Chief Deputy County Attorney, St. Cloud, Minnesota (for respondent)

Considered and decided by Cochran, Presiding Judge; Slieter, Judge; and Larson,
Judge.

NONPRECEDENTIAL OPINION

COCHRAN, Judge

Appellant challenges the postconviction court's denial of her petition to withdraw her guilty plea based on ineffective assistance of counsel. Because the postconviction court did not abuse its discretion when it denied her petition, we affirm.

FACTS

This case arises out of appellant Stacy Lee Row's guilty plea to one count of first-degree criminal sexual conduct and her related postconviction claim of ineffective assistance of counsel. The following facts are drawn from the record of the postconviction proceedings and prior proceedings before the district court.

In 2019, respondent State of Minnesota charged Row with first-degree criminal sexual conduct based on allegations that Row and her ex-husband sexually assaulted Row's stepdaughter. The child was 13 years old at the time of the alleged sexual assault. The complaint further alleged that Row admitted to the sexual conduct. On the same day as the state charged Row, the state also provided notice that it intended to seek an aggravated sentence. The notice asserted that a number of factors supported an upward durational departure from the presumptive executed sentence including the particular vulnerability of the victim.

Prior to trial, the parties engaged in settlement discussions and reached a plea agreement. Under the terms of the agreement, Row would plead guilty to the charge of first-degree criminal sexual conduct. In exchange, the state agreed not to seek an aggravated sentence, which could have resulted in a sentence of up to 360 months. The state also agreed that Row could "argue for . . . [a downward] dispositional or durational departure at sentencing." The parties further agreed that, if the district court denied Row's request for a downward dispositional departure, the executed sentence would be capped at the presumptive mandatory minimum sentence of 144 months. Conversely, if the court were to grant Row's request for a downward dispositional departure and put her on

probation, the plea agreement allowed the state to argue for a stayed sentence of 172 months—the top of the presumptive sentencing range.

In December 2020, Row pleaded guilty pursuant to the plea agreement. The district court accepted Row’s plea of guilty and scheduled a sentencing hearing.

Stearns County Community Corrections then conducted a presentence investigation (PSI) and made recommendations regarding sentencing. Based on the PSI, Community Corrections recommended that the district court grant a downward dispositional departure, stay the execution of any sentence, and place Row on supervised probation for 30 years. Community Corrections based this recommendation on Row’s lack of a criminal history, the low likelihood that she would reoffend, her remorse, her participation in treatment, and her cooperation with conditions of release prior to sentencing.

At the sentencing hearing in June 2021, Row moved for a downward dispositional departure relying primarily on the factors identified by Community Corrections. Row supplemented her argument with letters from her family, that asked the district court to place Row on probation. The state argued against a downward dispositional departure. The district court also heard victim impact statements from the victim, her mother, and her stepfather. Both the victim’s mother and stepfather urged the district court to sentence Row to a term of imprisonment. At the conclusion of the sentencing hearing, the district court determined that no “substantial and compelling reasons” existed to support a downward dispositional departure. The district court sentenced Row to 144 months’ imprisonment, consistent with the cap agreement of the parties.

In January 2023, with new counsel, Row filed a petition for postconviction relief, seeking to withdraw her guilty plea “on the grounds that her guilty plea was effectively coerced because her [trial] counsel was ineffective.” In support of her petition, Row submitted an affidavit stating that her trial counsel induced her to plead guilty “by telling [her] that he was quite certain that [she] would obtain a sentence to probation because it was [her] first offense.” Row’s affidavit further alleged that her counsel misled her because “there [was] no way [that] any judge in Minnesota [was] going to sentence [her] to a dispositional departure on a first-degree sexual conduct charge, no matter what [her] record [was].”

The postconviction court held an evidentiary hearing on Row’s petition for postconviction relief. Row was the sole witness to testify at the evidentiary hearing. Row testified that when she had conversations with her trial counsel about pleading guilty, she informed him that she “would plead guilty if [she] got probation.” Row stated that when her trial counsel discussed the state’s offer with her, he “kept telling [her] that [she] had a very good chance at getting probation.” Row did not testify that she would have gone to trial but for this advice. And on cross-examination, Row acknowledged that she understood that the district court decided whether she would be sentenced to probation or imprisonment. After Row’s testimony, the postconviction court granted the state’s request to leave the record open so that it could, if necessary, submit additional evidence. The state offered and the postconviction court received two emails into evidence. Those emails provided details on the plea-agreement negotiations between Row’s trial counsel and the prosecutor. The emails indicated that, before the parties reached the agreed-upon plea deal,

the state considered and rejected two plea offers made by Row's trial counsel that would have been more favorable to Row.

Following the evidentiary hearing, the parties submitted written briefs. In her brief, Row argued that she was misled by her trial counsel because counsel either knew, or should have known, that she was unlikely to receive a sentence of probation, but nonetheless told her that "it was probable that she would receive a downward dispositional departure." Row's brief concludes by stating that if Row is granted a new trial, "she will probably plead guilty and argue for a sentence more in line with her actions and personal characteristics."

In its brief, the state argued that Row's trial counsel was not ineffective because trial counsel's statement that Row had a "good chance of getting a dispositional departure" did not fall below an objective standard of reasonableness. The state further argued that Row's claim of ineffective assistance of counsel must fail because Row did not allege that she would have gone to trial if not for trial counsel's advice and thus failed to demonstrate that she was prejudiced by her trial counsel's advice.

The postconviction court denied Row's petition for postconviction relief. The postconviction court first determined that trial counsel's advice did not fall below an objective standard of reasonableness because counsel "gave his opinion on the likelihood of [Row] receiving a dispositional departure" and did not make "any factual misrepresentations." Further, the postconviction court determined that Row had failed to allege that she would have insisted on going to trial but for counsel's statement regarding her chances of receiving a probationary sentence and therefore did not meet her burden to

show prejudice resulting from the alleged misadvice. Therefore, the postconviction court determined that Row “failed to establish that her guilty plea was made involuntarily.”

Row appeals.

DECISION

Row argues that the postconviction court abused its discretion when it denied her petition for postconviction relief by determining that Row had not demonstrated that her guilty plea was rendered involuntary due to ineffective assistance of counsel.

“We review the denial of a petition for postconviction relief for an abuse of discretion.” *Pearson v. State*, 891 N.W.2d 590, 596 (Minn. 2017). “A postconviction court abuses its discretion when it has exercised its discretion in an arbitrary or capricious manner, based its ruling on an erroneous view of the law, or made clearly erroneous factual findings.” *Id.* (quotation omitted). We apply de novo review to the validity of a guilty plea and to a postconviction court’s analysis of claims of ineffective assistance of counsel. *Dikken v. State*, 896 N.W.2d 873, 876 (Minn. 2017) (applying de novo review to the validity of a guilty plea); *Pearson*, 891 N.W.2d at 600 (applying de novo review to a postconviction court’s analysis of claims of ineffective assistance of counsel).

“To be constitutionally valid, a guilty plea must be accurate, voluntary, and intelligent.” *State v. Bell*, 971 N.W.2d 92, 100 (Minn. App. 2022) (quoting *State v. Raleigh*, 778 N.W.2d 90, 94 (Minn. 2010)), *rev. denied* (Minn. Apr. 27, 2022). “The purpose of the voluntariness requirement is to [ensure] that the defendant is not pleading guilty because of improper pressures.” *State v. Arola Johnson*, 999 N.W.2d 103, 107 (Minn. App. 2023) (quoting *State v. Trott*, 338 N.W.2d 248, 251 (Minn. 1983)). When

a defendant “enters [her] plea upon the advice of counsel, the voluntariness of the plea depends on whether counsel’s advice was within the range of competence demanded of attorneys in criminal cases.” *Hill v. Lockhart*, 474 U.S. 52, 56 (1985) (quotation omitted). Thus, “[a] defendant may bring an ineffective assistance of counsel claim” to demonstrate that “[s]he was induced to enter a guilty plea by the objectively unreasonable advice of [her] attorney.” *Bell*, 971 N.W.2d at 106 (quoting *Leake v. State*, 737 N.W.2d 531, 540 (Minn. 2007)).

To determine whether a criminal defendant received ineffective assistance of counsel, Minnesota courts apply the standard set forth in *Strickland v. Washington*, 466 U.S. 668 (1984). *State v. Sardina-Padilla*, 7 N.W.3d 585, 603 (Minn. 2024). Under the *Strickland* standard as applied in the context of a guilty plea, a defendant must demonstrate (1) “counsel’s representation fell below an objective standard of reasonableness” and (2) “a reasonable probability that, but for counsel’s errors, [s]he would not have pleaded guilty and would have insisted on going to trial.” *Campos v. State*, 816 N.W.2d 480, 486 (Minn. 2012) (quotations omitted). If either one of the *Strickland* prongs is determinative, a reviewing court need not address the other. *Bell*, 971 N.W.2d at 106.

Row focuses her argument on the first *Strickland* prong, arguing that her trial counsel’s representation fell below an objective standard of reasonableness. Row argues that her trial counsel was not being candid with her when he told her that there was “a very good chance” that she would receive a probationary sentence. Row further argues that trial counsel either knew, or should have known, that it was unlikely that she would be

sentenced to probation. Consequently, Row asserts that her trial counsel's performance fell below an objective standard of reasonableness and the first *Strickland* prong is met.

We need not analyze the first *Strickland* prong because we conclude that Row has not established the second *Strickland* prong. The second prong is focused on prejudice. *Sardina-Padilla*, 7 N.W.3d at 603. As discussed above, to meet this prong in the context of a guilty plea, Row must show a reasonable probability that, but for counsel's alleged errors, she would not have pleaded guilty and would have insisted on going to trial. *Campos*, 816 N.W.2d at 486. The record supports the postconviction court's determination that Row did not make the required showing. At the postconviction evidentiary hearing, Row testified about the advice she received from trial counsel, stating that her trial counsel told her that she had a "very good chance at getting probation." But she did not testify that she would have insisted on going to trial if her trial counsel had not made such a statement. And, in post-hearing briefing, Row told the postconviction court that if the court allowed her to withdraw her guilty plea she would "probably plead guilty" again. Because the record does not establish that Row would have insisted on going to trial if she had not received the alleged misadvice from counsel, the postconviction court did not abuse its discretion when it determined that Row failed to meet the second *Strickland* prong and therefore failed to demonstrate ineffective assistance of counsel.

To convince us otherwise, Row argues that she need not show that she would have insisted on going to trial to show prejudice under the second prong of *Strickland*. Instead, she argues that she can meet this prong by showing that she probably would have pleaded guilty after seeking a better plea deal with the state. This argument is not supported by the

law or the record. As an initial matter, Row cites no legal authority, and we are aware of none, that establishes a defendant can meet the second *Strickland* prong if the defendant would not have insisted on going to trial but instead would have sought a better plea deal but for counsel's alleged misadvice. And Row does not explain how her argument can be reconciled with the supreme court's decision in *Campos*, which expressly requires a defendant who seeks to withdraw a guilty plea based on ineffective assistance of counsel to demonstrate "a reasonable probability that, but for counsel's errors, [s]he would not have pleaded guilty *and would have insisted on going to trial.*" 816 N.W.2d at 486 (emphasis added) (quoting *Hill*, 474 U.S. at 59).

Moreover, even if her legal argument could be reconciled with *Campos*, the record refutes any suggestion that Row would have been able to receive a better plea deal from the state than the one she accepted. The evidence submitted at the postconviction hearing shows that Row's trial counsel attempted to negotiate a plea deal more favorable to Row, but the state rejected trial counsel's offers. Specifically, an email entered into the record shows Row's trial counsel asked the state to agree to a downward dispositional departure if Row would plead guilty to first-degree criminal sexual conduct, but the state rejected that offer. The state also rejected an offer under which Row would plead guilty to second-degree criminal sexual conduct instead of the charge of first-degree criminal sexual conduct. Thus, the record does not support that Row would have received a more favorable plea agreement if she had not relied on counsel's advice related to the deal that she did accept. For these reasons, Row has failed to establish that she was prejudiced by counsel's advice as required under the second *Strickland* prong.

Row argues that if we disagree with her argument regarding the second *Strickland* prong, we should remand this case back to the postconviction court “for a full hearing on the issue of prejudice.” To support this argument, Row relies on the United States Supreme Court’s decision in *Padilla v. Kentucky*. 559 U.S. 356 (2010). In *Padilla*, the Supreme Court concluded that trial counsel’s performance fell below an objective standard of reasonableness but remanded the case to the state court for a determination of the issue of prejudice. *Id.* at 374-75. However, the Supreme Court did so because the issue had not been addressed by the state court and remand was therefore necessary to address the issue. *Id.* at 574. Here, the postconviction court *did* address the issue of prejudice and specifically determined that Row had “failed to show a reasonable probability that, but for counsel’s advice, the result of the proceeding would have been different.” And, as discussed above, we discern no error in that determination.

In sum, the postconviction court did not abuse its discretion in determining that Row failed to establish that her plea of guilty was involuntary due to ineffective assistance of counsel.

Affirmed.