

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY
CRIMINAL DIVISION

STATE OF FLORIDA,

UCN: 512016CF000853CFAXWS

v.

DIVISION: 4

JROKTON D WILLIAMS,

SPN: 00707238, Defendant. _____ /

**FINAL ORDER GRANTING, IN PART, AND DENYING, IN PART, DEFENDANT'S
MOTION FOR POSTCONVICTION RELIEF**

THIS CAUSE came before the Court upon review of Defendant's "Motion for Postconviction Relief," filed 10 January 2020, and pursuant to Florida Rule of Criminal Procedure 3.850. Defendant filed a timely appeal of the Court's denial of his postconviction motion. On 16 August 2021, the Second District Court of Appeals issued a mandate reversing the Court's ruling for further consideration. The Court, having reviewed the motion, the record, and applicable law, finds as follows:

Procedural History

On 10 February 2017, Defendant was found guilty after trial of aggravated assault on a law enforcement officer. The Court sentenced Defendant to fifteen years of imprisonment with credit for seventy-four days of time served. The Court also sentenced Defendant as a Habitual Felony Offender (HFO). Defendant timely appealed and on 14 December 2018, the Second District Court of Appeals issued a mandate affirming the sentence.¹

On 10 January 2020, Defendant filed a motion for postconviction relief. On 27 April 2020, the Court issued an order, hereby incorporated by reference, denying Defendant's motion for postconviction relief. On 12 May 2020, Defendant filed a motion for rehearing.² On 8 July 2020, the Court issued an order, hereby incorporated by reference, denying Defendant's motion for rehearing. Defendant timely filed an appeal and on 16 August 2021, the Second District Court of Appeals issued a mandate reversing for further consideration of the Defendant's claims.³

¹ See *Williams v. State*, 257 So. 3d 962 (Fla. 2d DCA 2018).

² On 25 May 2020, Defendant filed an amended motion for rehearing.

³ See *Williams v. State*, 323 So. 3d 359 (Fla. 2d DCA 2021).

On 8 November 2021, after the mandate reversing this Court's summary denial, the Court issued an order, hereby incorporated by reference, reserving ruling, in part, and directing the State to respond, in part, to Defendant's motion for postconviction relief. On 16 May 2022, after the Court granted several extensions of time, the State filed its response. On 17 May 2022, Defendant motioned for leave to reply to the State's response, which the Court granted. On 25 July 2022, Defendant filed his reply.⁴ On 17 October 2022, the Court issued an order, hereby incorporated by reference, granting an evidentiary hearing as to Claims One and Two of Defendant's motion and reserving on Claim Three. On 29 September 2023, the Court held an evidentiary hearing on Defendant's claims. Appearing before the Court were Defendant; counsel for Defendant Michael Ufferman, Esquire; and Assistant State Attorney Kristi Aussner, Esquire.⁵

Analysis

Claims One and Two

Both Claims One and Two of Defendant's motion relate to alleged misadvice from Defendant's trial counsel regarding a plea offer from the State. In his first claim, Defendant alleges that his trial counsel misadvised him of the maximum sentence he faced, leading him to reject a plea offer from the State. Defendant claims that his trial counsel advised him that his maximum sentence was fifteen years in prison, when it was actually thirty years, and that, had he known he was facing thirty years of imprisonment, he would have accepted a three-year plea offer from the State. Defendant also argues that "the prosecutor would not have withdrawn the offer, that the trial court would have accepted the plea offer, and the sentence under the offer's terms would have been less severe than under the judgment and sentence that in fact were imposed."

In his second claim, Defendant alleges that he rejected the State's three-year plea offer because his trial counsel assured him that "he had case law that would defeat the State's case and would result in a judgment of acquittal." Defendant alleges that, if not for this advice, he would have accepted the State's offer, the prosecutor would not have withdrawn the offer, the Court would have accepted the offer, and his sentence would have been less severe under the terms of the plea than the sentence he received.

At the hearing on 29 September 2023, the parties advised the Court that they reached an agreed-upon disposition to resolve this claim. The parties agreed to vacate the original judgment

⁴ On 31 August 2022, Defendant filed an amended copy of the reply containing an oath.

⁵ A transcript of the hearing is attached as Exhibit 1 of this Order.

and sentence and re-sentence Defendant in exchange for Defendant agreeing to waive moving forward on his claims.⁶ Defendant agreed that his waiver would be with prejudice. The parties agreed that the Court would re-sentence Defendant to ten years of incarceration in the Department of Corrections, with a three-year minimum-mandatory, and as a habitual felony offender. The parties agreed that Defendant shall receive all prison and jail credit for the time he has already served in this offense. All original conditions of Defendant's sentence, including, but not limited to, any costs, fines, conditions, restitution, surcharges, are re-imposed.

Claim Three

The last claim of Defendant's motion was one of cumulative error. Defendant argued that because of the various failures of his trial counsel to act effectively, Defendant was prejudiced and the outcome of the proceedings were affected. While Defendant's relief has been granted based upon the agreement of the parties, Defendant has failed to establish that his trial counsel committed any other error that prejudiced the outcome of his trial. Therefore, this claim is denied.

Accordingly it is hereby **ORDERED AND ADJUDGED** that Defendant's Motion for Postconviction Relief is **GRANTED IN PART** and **DENIED IN PART**, as set forth in the body of this order.

IT IS FURTHER ORDERED AND ADJUDGED that the Clerk shall file a judgment and sentence which complies with the directives outlined in the body of this order, *nunc pro tunc* to 10 February 2017.

DEFENDANT IS HEREBY NOTIFIED that this is a final order, and he has thirty days from the date of this Order in which to file an appeal, should he choose to do so.

DONE AND ORDERED in Chambers in New Port Richey, Pasco County, Florida, this 13th day of October, 2023. A true and correct copy of this order has been furnished to the parties listed below.

2016-CF-000853 10/13/2023 1:13:42 PM
Circuit Judge Joshua Riba
2016-CF-000853 10/13/2023 1:13:42 PM

Joshua Riba, Circuit Judge

⁶ Counsel for Defendant initially indicated that Defendant would either waive his claims with prejudice or voluntarily dismiss his motion for postconviction relief in exchange for the agreed upon re-sentencing with the State. Although the Court's language on the record tracked the voluntary dismissal language by Defendant's postconviction counsel, upon further review, the Court is concerned that voluntary dismissal of the claims made in the motion would unintentionally divest this Court of the jurisdiction to order that the plea be vacated and to re-sentence Defendant as the parties intended. As a result, this Court has chosen to use verbiage consistent with Defendant's postconviction counsel's waiver with prejudice.

cc: Office of the State Attorney; Staff Attorney-KK

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