

No. 26-_____

IN THE SUPREME COURT OF THE UNITED STATES

ARBEN BREGU, Petitioner,

v.

STATE OF FLORIDA, Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE DISTRICT COURT
OF APPEAL OF FLORIDA, FIFTH DISTRICT

PETITION FOR A WRIT OF CERTIORARI

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Questions Presented

1. Whether a State satisfies the Due Process Clause of the Fourteenth Amendment, and the requirement that a guilty plea be knowing and voluntary under *Boykin v. Alabama*, 395 U.S. 238 (1969), when it accepts a plea to a charge carrying a mandatory minimum from a defendant who states on the record that he cannot read or write English "[n]ot really," and the record does not show that the interpreter was sworn or that the colloquy itself was interpreted.
2. Whether a State may deny, without an evidentiary hearing, a postconviction claim that a guilty plea was involuntary and that plea counsel was ineffective because of inadequate interpretation, by treating the defendant's brief affirmative answers in the plea colloquy as conclusively refuting the claim, where those answers were given in the language the defendant alleges he did not adequately understand. See *Hill v. Lockhart*, 474 U.S. 52 (1985); *Lee v. United States*, 582 U.S. 357 (2017); *Blackledge v. Allison*, 431 U.S. 63 (1977).

Parties to the Proceeding and Related Proceedings

The parties are Petitioner Arben Bregu, who was the defendant in the trial court and the appellant in the Fifth District Court of Appeal, and Respondent the State of Florida. Petitioner is an individual, so no corporate disclosure is required. The following proceedings are directly related to this case under Rule 14.1(b)(iii):

State v. Bregu, No. 16-2013-CF-005960-AXXX-MA (Fla. 4th Jud. Cir. Ct., Duval County): order denying the amended Rule 3.850 motion entered January 23, 2026. Bregu v. State, No. 5D2026-0514 (Fla. 5th DCA): appeal from the order denying the Rule 3.850 motion; affirmed per curiam July 16, 2026.

RULE 29.6 STATEMENT

Neither Petitioner nor Respondent is a corporation. There is no parent corporation or publicly held company owning 10% or more of the stock of any party to this proceeding.

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Opinions Below

The per curiam decision of the Fifth District Court of Appeal of Florida, *Bregu v. State*, No. 5D2026-0514 (Fla. 5th DCA July 16, 2026), affirmed without opinion and is unreported. It is reproduced at Pet. App. A. The order of the Circuit Court of the Fourth Judicial Circuit, Duval County, Florida, denying Petitioner's amended Rule 3.850 motions, entered January 23, 2026, is unreported and reproduced, without exhibits, at Pet. App. B.

Jurisdiction

The Fifth District Court of Appeal entered judgment on July 16, 2026. [No motion for rehearing was filed. This petition is filed within 90 days of that date. Sup. Ct. R. 13.1, 13.3.]

This Court's jurisdiction rests on 28 U.S.C. § 1257(a). A decision without opinion from a Florida district court of appeal is not reviewable by the Supreme Court of Florida, so the Fifth District is the highest court of the State in which a decision could be had. Petitioner specially set up and claimed rights under the Due Process Clause of the Fourteenth Amendment and the Sixth Amendment, as shown in the Statement of the Case.

Constitutional Provisions Involved

The Fourteenth Amendment to the United States Constitution provides in relevant part: "nor shall any State deprive any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1.

The Sixth Amendment provides in relevant part: "In all criminal prosecutions, the accused shall enjoy the right . . . to have the Assistance of Counsel for his defence." U.S. Const. amend. VI.

Statement of the Case¹

A. The plea

Petitioner Arben Bregu was charged by information with one count of attempted first-degree murder. App. B at 1. The offense, as charged, carried a 25-year minimum mandatory term. Plea Tr. 9. According to his postconviction allegations, he was born and raised in northern Albania, spoke the northern Albanian dialect, had limited English, and could not read English well enough to understand a written plea agreement. Mot. 3. He alleged that the interpreter who read the form to him before the hearing spoke the southern Albanian dialect, which he could not understand well enough to follow the legal language. Mot. 4. The case was set for jury selection on Monday, November 16, 2015. On Friday, November 13, plea counsel told the trial court that Mr. Bregu had received the State's offer the day before, had not had enough time to think about it, and that counsel wanted a continuance. Plea Tr. 3-4. The court declined to continue the case. The State said it would withdraw the offer, and the court said the offer would

¹ Citations are to the Appendix: App. A (Fifth DCA decision) and App. B (circuit court order of January 23, 2026, with its Exhibits A-E). "Plea Tr." is Exhibit D to the order (plea hearing, November 13, 2015), and "Sent. Tr." is Exhibit E (sentencing hearing, February 11, 2022). "Mot." is Petitioner's Rule 3.850 motion, filed November 1, 2024 and filed again in Albanian translation on September 11, 2025, and "Fifth DCA Br." is Petitioner's initial brief in No. 5D2026-0514, filed March 23, 2026.

be gone if the plea was not entered that day. Plea Tr. 4-5. Counsel asked for a short recess to make sure Mr. Bregu "had enough time," and the court agreed. Plea Tr. 5-6.

At the start of the hearing the court noted that Mr. Bregu was present "with his attorney as is an Albanian translator." The translator gave and spelled her name, and nothing else she said appears in the transcript. Plea Tr. 3. After the recess, plea counsel announced the negotiated disposition: a plea to the information as charged, the State's waiver of the 25-year minimum mandatory term, and a sentencing range of a 20-year minimum mandatory up to 40 years, to be set by the court after a hearing. Counsel added that he had "gone over the blue form with the Albanian translator which read every word to him in Albanian." Plea Tr. 7. Mr. Bregu was sworn. The transcript does not reflect that the translator was sworn. Plea Tr. 7. Notably the translator did not translate during the proceeding but was simply present.

The court then asked Mr. Bregu whether he had reviewed the plea form with his attorney and "the Albanian interpreter," and he said yes. Asked whether he had read the form himself, he answered: "She did for me." Asked whether he spoke English "somewhat," he said "Yes, yes." The court observed that he had appeared before it over two years "without an interpreter, this being your first time," and he

agreed. The court then asked: "Can you read or write the English language at all?" He answered: "Not really." Plea Tr. 8. The court proceeded in English with the remainder of the colloquy. Mr. Bregu answered "Yes, ma'am" or "No, ma'am" to the court's questions about the charge, the 25-year minimum mandatory as charged, the negotiated range of 20 to 40 years, voluntariness, satisfaction with counsel, and the rights waived. Plea Tr. 8-14. Every question was put to him in English and he answered directly in English; the transcript reflects no interpretation of any part of the colloquy. The court found the plea was entered "freely, willingly and voluntarily with a full understanding of the nature and consequences of doing so." Plea Tr. 16.

B. Sentencing and direct appeal

Sentencing was set for January 4, 2016. Mr. Bregu did not appear. A capias issued, and he was later located in Albania, taken into custody, and extradited to Florida. App. B at 1. On February 11, 2022, the court sentenced him to 25 years in prison with 491 days' credit and a 20-year minimum mandatory term. App. B at 1-2.

After the court announced the sentence, it asked to see the plea agreement. Defense counsel said: "it's my understanding it was 20 to 40 with no min-man." The prosecutor responded that the agreement said "minimum mandatory. Range to

20 years minimum mandatory to 40 years." The court concluded the agreement was a range of a 20-year minimum mandatory to 40 years, that it had to abide by the plea agreement, and that the 20-year minimum mandatory stood. Sent. Tr. 81.

A direct appeal was dismissed on November 29, 2022 under Fla. R. App. P. 9.350(b). App. B at 2.

C. Postconviction proceedings

Mr. Bregu's counseled Rule 3.850 motion, filed November 1, 2024, was dismissed without prejudice on May 29, 2025 with 60 days to amend. App. B at 2. On September 11, 2025 counsel filed an English-language response, which the court treated as the amended motion, and a concurrent Albanian-language filing with an interpreter's oath. App. B at 1-3. The court read the amended motion as raising three grounds: that the plea was involuntary because Mr. Bregu did not understand its consequences given his English; that he was denied due process because he lacked an adequate interpreter at the plea hearing; and that counsel was ineffective for failing to secure an adequate interpreter for the plea conference and the hearing. App. B at 2-3.

On January 23, 2026 the court denied the motion on the pleadings and the court file, without an evidentiary hearing. App. B at 1, 7. It treated all three grounds as "sub-claims branching from the IAC allegation," reasoning that

without that claim "it would not follow that Defendant's due process rights were violated or that his guilty plea was involuntary." App. B at 4. It applied the "manifest injustice" standard governing post-sentence plea withdrawal under Fla. R. Crim. P. 3.170, while acknowledging that the motion was not filed under that rule. App. B at 4-5. It held that Mr. Bregu "failed to allege any specific facts" showing that counsel's alleged deficiency produced an inadequate interpreter. App. B at 5.

The court then held, on the merits, that the plea colloquy showed counsel was not deficient: the translator read the form to Mr. Bregu, and he said he understood it and was satisfied with counsel. App. B at 5-6. It further held that, even assuming deficiency, it did "not find it reasonable" that Mr. Bregu would have rejected the plea and gone to trial with a "more adequate" interpreter, because he said he understood the sentence. App. B at 6. The court concluded that the interpreter "was well-suited to convey the plea deal and its terms fully and intelligibly, as Defendant affirmed under oath," and that Mr. Bregu "was not deprived of due process" and his plea "was not involuntarily or unintelligibly entered." App. B at 7. In a footnote the court rejected his reliance on the sentencing-hearing exchange, reading the record as clarifying that there was a 20-to-40-year range and no 25-year minimum mandatory. App. B at 6 n.1.

D. The Fifth District

Mr. Bregu appealed. His brief in No. 5D2026-0514, filed March 23, 2026, argued that the plea and sentencing transcripts did not conclusively refute any of the three grounds and that an evidentiary hearing was required. Fifth DCA Br. 5-20. It argued that the plea was not knowing, intelligent and voluntary, that due process required adequate interpretation at the plea hearing (invoking "the Due Process Clause of the United States and Florida Constitutions," Fifth DCA Br. 10 n.1), and that counsel failed to ensure adequate interpretation. Fifth DCA Br. 6-17. The Fifth District affirmed on July 16, 2026, per curiam and without opinion. App. A.

E. How the federal questions were raised and decided

This petition concerns the Due Process Clause of the Fourteenth Amendment and the Sixth Amendment as applied to a guilty plea entered through inadequate interpretation. See Sup. Ct. R. 14.1(g)(i).

Trial court. The motion alleged that "[a] criminal defendant is denied due process when he is unable to understand the proceedings due to a failure to provide an adequate interpreter for a change of plea proceeding." Mot. 5. It alleged that "Due Process guaranteed by the Constitutions of the United States and Florida" requires a competent, qualified, sworn interpreter at a change of plea, that

"Due Process required that a competent, qualified, properly sworn interpreter be present and provide simultaneous translation . . . throughout the entire plea proceeding," and that "[n]othing was done to fulfill this Constitutional requirement." Mot. 5-7. It raised ineffective assistance of counsel on the same facts. Mot. 5-7. The circuit court decided them: it applied *Strickland v. Washington*, 466 U.S. 668 (1984), and *Hill v. Lockhart*, 474 U.S. 52 (1985), and held that Mr. Bregu "was not deprived of due process." App. B at 3-4, 7. Fifth District. Mr. Bregu presented the same claims in his brief, Fifth DCA Br. 6-17, and the Fifth District affirmed without opinion. App. A.

Reasons for Granting the Petition

This petition presents an important federal question that this Court has not settled, Sup. Ct. R. 10(c): what the Due Process Clause and the Sixth Amendment require when a defendant with limited English pleads guilty and the only interpretation shown on the record is a pre-hearing reading of the plea form.

I. The Court has not decided what *Boykin* requires when a plea is taken from a defendant who cannot read or write English.

A guilty plea waives the privilege against self-incrimination, the right to a jury trial, and the right to confront accusers, and the Constitution does not permit a court to presume that waiver from a silent record. *Boykin v. Alabama*, 395 U.S. 238, 242-44 (1969). The plea must be a knowing and intelligent act done with sufficient awareness of the relevant circumstances and likely consequences. *Brady v. United States*, 397 U.S. 742, 748 (1970). It is involuntary if the defendant did not receive real notice of the charge and its consequences. *Henderson v. Morgan*, 426 U.S. 637, 645 (1976).

Those requirements assume the defendant can understand what is said to him. This Court has not addressed what they demand when the record itself shows that he cannot sufficiently read or write English and the colloquy proceeds in English. Lower courts have long recognized that a defendant who cannot

understand the proceedings against him is not meaningfully present at them. *See, e.g., United States ex rel. Negron v. New York*, 434 F.2d 386 (2d Cir. 1970).

The question recurs wherever courts take pleas from limited-English defendants.

This case presents the question on an unusually clear record. Mr. Bregu told the court he could not sufficiently read or write English "[n]ot really." Plea Tr. 8. The translator gave her name and said nothing else on the record, and the transcript does not show that she was sworn or that the colloquy was interpreted. Plea Tr. 3, 7.

The only interpretation reflected is that counsel and Mr. Bregu said the form had been read to him in Albanian (outside the courtroom, not in open court and not part of the plea dialogue). Plea Tr. 7-8. The plea was entered the day after the offer was made, after the court refused a continuance that counsel said was needed because Mr. Bregu had not had time to think about it. Plea Tr. 3-6. And more than six years later, at sentencing, the court did not recall whether the agreement carried a minimum mandatory term, and defense counsel and the prosecutor disagreed about it in open court before the court resolved the point. Sent. Tr. 81.

II. The decision below treats colloquy answers as conclusive in a way that cannot be squared with *Blackledge*, *Hill* and *Lee*.

Solemn declarations in open court carry a strong presumption of verity, but this Court has held that they are not an insuperable bar to collateral relief.

Summary dismissal is proper for conclusory allegations and for allegations that the record makes wholly incredible. *Blackledge v. Allison*, 431 U.S. 63, 74 (1977).

Mr. Bregu's claim is different in kind. He alleges that his answers were given in a language he did not adequately understand, so the answers cannot also be the proof that he understood.

The circuit court nonetheless relied on those same answers for each ruling. It held counsel was not deficient because Mr. Bregu said he understood the form. App. B at 5-6. It held there was no prejudice because he "stated that he fully understood the potential sentence." App. B at 6. And it held the interpreter "was well-suited to convey the plea deal and its terms fully and intelligibly, as Defendant affirmed under oath." App. B at 7. Each step assumes the fact in dispute.

The prejudice ruling also departs from *Hill* and *Lee*. The question under *Hill v. Lockhart*, 474 U.S. 52, 59 (1985), is whether there is a reasonable probability that the defendant would have rejected the plea and insisted on trial. *Lee v. United States*, 582 U.S. 357 (2017), directs courts to look to contemporaneous evidence to test a defendant's claimed preferences, not to rest on after-the-fact assertions. The

contemporaneous evidence here points more than one way: counsel's same-day request for more time, the court's note that this was Mr. Bregu's first appearance with an interpreter, and the later confusion over the minimum mandatory. The court resolved the question by saying it did "not find it reasonable" that he would have gone to trial. App. B at 6. That is a factual finding made without a hearing.

III. The decision below does not rest on an independent state ground.

The circuit court observed that the amended motion lacked specific facts about the interpreter. App. B at 5. That observation applies the pleading burden under *Strickland* and *Hill*, and the court went on in the same order to decide the federal claims on the merits, including due process. App. B at 5-7. The Fifth District affirmed without explanation.

Conclusion

The petition for a writ of certiorari should be granted, or alternatively certiorari should be granted and the case remanded for further consideration in light of *Brady, et al.*

Respectfully submitted,

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