

APPENDIX

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APPENDIX

A

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT, IN AND FOR
DUVAL COUNTY, FLORIDA

CASE NO.: 16-2013-CF-05960-AXXX
DIVISION: CR-E

STATE OF FLORIDA

v.

ARBEN BREGU,

Defendant.

**ORDER DENYING DEFENDANT'S AMENDED RULE 3.850 MOTIONS FOR
POSTCONVICTION RELIEF**

This matter comes before the Court on "Defendant Bregu's Response to Order Dismissing Rule 3.850 Motion" filed by and through counsel on September 11, 2025, and Defendant's concurrent filing written in Albanian, filed by and through counsel on the same day. The Court considers the former filing as Defendant's Amended Motion for postconviction relief, pursuant to Rule 3.850. Having considered the pleadings and the contents of the court file, this Court finds and rules as follows:

Defendant was charged by Information with one count of attempted murder in the first degree, and on November 13, 2015 plead guilty pursuant to a voluntary agreement with the State (Ex. A). Defendant was not in custody at the time of his plea but was required to surrender his passport. Defendant absconded prior to sentencing. A capias was issued for Defendant's arrest, and he was located in Albania several years later, taken into custody and extradited to Florida to complete sentencing. During a sentencing hearing on February 11, 2022, Defendant was adjudicated guilty of attempted murder in the first degree and sentenced to a 25-year prison term

with 491 days credit for time served prior to imposition of sentence, with a 20-year minimum mandatory term pursuant to Florida Statute. (Ex. B) Defendant appealed his judgment and sentence, which appeal was dismissed on November 29, 2022, pursuant to Florida Rule of Appellate Procedure 9.350(b) (1D22-0509). (Ex. C).

Defendant's initial postconviction motion filed under Rule 3.850 was timely, but dismissed with leave to amend. Fla. R. Crim. P. 3.850(b). The instant postconviction motions are timely pursuant to the Court's Order Granting Leave to Amend and an Extension of Time.

Defendant's Initial Rule 3.850 Motion

Before the instant filings, Defendant's counsel filed "Defendant Bregu's Motion to Vacate Plea, Judgment and Sentence Pursuant to Rule 3.850, Fla. R. Crim. P." on November 1, 2024. After assessing that Motion, the Court wholly dismissed it without prejudice with an Order issued on May 29, 2025, and granted Defendant sixty (60) days' leave to amend all facial and legal insufficiencies, pursuant to Florida Rule of Criminal Procedure 3.850(f)(2)-(3). Following a request for and granted extension of time, Defendant filed these two Responses. Because the Court wholly dismissed Defendant's Initial Motion, the Court will not address that filing here and considers the Initial Motion wholly superseded by these instant filings.

Defendant's Responses (Written in English and Albanian)

In the English-language Response (construed as and hereafter referred to the "Amended Motion"), Defendant lists three grounds for relief: 1) Defendant's guilty plea was involuntary because he did not fully understand the consequences of the plea due to an inadequate grasp of the English language; 2) Defendant was denied due process because he did not have an adequate interpreter during the plea hearing, and; 3) Defendant was denied effective counsel because trial

counsel failed to secure an adequate interpreter during their conference, where they discussed the proposed plea agreement, and during the hearing where Defendant changed his plea.

Presumably, the Albanian-language filing, which Defendant's counsel filed contemporaneously with the Amended Motion, is identical to Defendant's English-language Amended Motion. Since the Court is unable to read a Rule 3.850 amended motion which is not written and submitted in the English language, the Court will treat the Albanian-language motion as a mirrored-pair with the English-language Amended Motion. The Albanian-language motion has the oath and certification attached, which the Court accepts for both filings.

Legal Standard for Ineffective Assistance of Counsel

For a defendant to succeed on an argument of ineffective assistance of counsel ("IAC"), first they "must show that counsel's performance was deficient. This requires a showing that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the defendant by the Sixth Amendment." Strickland v. Washington, 466 U.S. 668, 687 (1984). Second, "the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable." Id. "[T]he defendant must overcome the presumption that, under the circumstances, the challenged action 'might be considered sound trial strategy.'" Id. at 689 (quoting Michel v. Louisiana, 350 U.S. 91, 101 (1955)). Counsel's performance need not be perfect but must not fall below the required standard. See Bruno v. State, 807 So. 2d 55, 68 (Fla. 2001). To demonstrate prejudicial effect, "[t]he defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." Strickland, 466 U.S. at 694. "A mere conclusory allegation that the outcome would have

been different is insufficient to state a claim of prejudice under Strickland; the defendant must demonstrate how, if counsel had acted otherwise, a reasonable probability exists that the outcome would have been different.” Jones v. State, 998 So. 2d 573, 584 (Fla. 2008).

In the context of guilty pleas, the prejudice prong focuses on whether counsel’s ineffective performance affected the outcome of the plea process. Hill v. Lockhart, 474 U.S. 52, 59 (1985). “To establish prejudice [a defendant] ‘must show that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.’” Valle v. State, 778 So. 2d 960, 965-66 (Fla. 2001) (citations omitted). In other words, “the defendant must show that there is a reasonable probability that, but for counsel’s errors, he would not have pleaded guilty and would have insisted on going to trial.” Hill, 474 U.S. at 59. The defendant must demonstrate *both* ineffectiveness and prejudice to state a sufficient claim for relief. Strickland, 466 U.S. at 687; Stephens v. State, 748 So. 2d 1028, 1033 (Fla. 1999).

Defendant’s Amended Motion

In his Amended Motion, Defendant couches his Amended Motion as three separate claims, as listed above. They are essentially sub-claims branching from the IAC allegation for failure to secure an “adequate interpreter;” without that IAC claim, it would not follow that Defendant’s due process rights were violated or that his guilty plea was involuntary as he claims.

Rule 3.170, Florida Rules of Criminal Procedure, generally governs a request to withdraw plea. “[T]his provision allows withdrawal of a plea only on the limited grounds listed in Florida Rule of Appellate Procedure 9.140(b). Such grounds include lack of subject matter jurisdiction, violation of the plea agreement, and involuntariness of the plea. Moreover, once sentence has been imposed, to withdraw a plea a defendant must demonstrate a manifest injustice requiring

correction.” State v. Partlow, 840 So. 2d 1040, 1042 (Fla. 2003). “This is a more stringent standard than a motion to withdraw a plea filed before sentencing; the burden falls on the defendant to prove that withdrawal is necessary to correct the manifest injustice.” Powell v. State, 929 So. 2d 54, 55 (Fla. 5th DCA 2006). In this case, this Motion is not filed under Rule 3.170, and it would be untimely had it been so. Fla. R. Crim. P. 3.170(l). However, the legal standard is still informative on how the Court should consider Defendant’s argument and weigh the burden of proof.

The Court finds that Defendant’s allegations do not entitle him to relief, both as a matter of law and based on the record evidence. “We conclude that [defendant’s] motion was facially insufficient because it failed to allege that withdrawal of his plea was necessary to correct a manifest injustice.” Powell, 929 So. 2d at 55 (citing Bradford v. State, 869 So.2d 28, 29 (Fla. 2d DCA 2004)). “Further, conclusory allegations are insufficient. Rather, a defendant must offer some proof that his plea was not voluntarily entered.” Id. (citing Robinson v. State, 761 So.2d 269, 274 (Fla.1999)). Defendant has failed to allege manifest injustice, nor has he offered sufficient factual allegations or proof of an involuntary plea in the Amended Motion. Defendant alleges in the Amended Motion that his counsel was ineffective for failing to provide an “adequate interpreter,” but Defendant has failed to allege any specific facts in the Amended Motion itself that would show that trial counsel’s alleged deficiency led to the provision of an inadequate Albanian interpreter. Despite the Court granting Defendant an opportunity to amend his Motion and provide the Court with more than conclusory allegations, Defendant has not done so. As such, the Court may deny Defendant’s Amended Motion, and Defendant’s Amended Motion fails as a matter of law. Fla. R. Crim. P. 3.850(f)(2), (f)(5).

Further, the plea colloquy transcript demonstrates that Defendant’s trial counsel was not deficient in the way Defendant alleges. During the plea hearing, before Defendant was sworn in,

the Court noted Defendant's presence with an interpreter and his trial counsel; Defendant's counsel told the Court that the parties reached a negotiated disposition, during which the Albanian translator read every word to Defendant in Albanian. (Ex. D at 6-7.) During the plea colloquy, the Court asked Defendant if he had sufficient time to review the plea form with his attorney and the interpreter, to which Defendant answered affirmatively, and Defendant told the Court that the Albanian interpreter had read the document for him, front and back. (Ex. D at 7-8.) Defendant further testified that: he signed the form; he understood the contents of the plea form, and that he understood the negotiated terms of the potential sentence. (Ex. D at 8-9.) Later, Defendant testified affirmatively that he had sufficient time to discuss the case with his attorney, that the attorney answered all his questions to his satisfaction and that he was satisfied with his representation. Further, he advised the Court that there was nothing his attorney had done or failed to do which would have required the Defendant to need more time to consider the plea. (Ex. D at 11-12.)

Assuming *arguendo* that trial counsel was deficient in the way Defendant alleges, Defendant fails to meet his burden under the prejudice prong of Strickland and Hill. The Court does not find it reasonable that Defendant would have rejected the negotiated plea deal and instead gone to trial if he had a "more adequate" Albanian language interpreter. Defendant stated that he fully understood the potential sentence as negotiated as well as the potential sentence he could have faced had he gone to trial, and he chose to enter his plea of guilty regardless. (Ex. D at 7-16.)

Although Defendant claims that the Court mistakenly advised Defendant as to the minimum mandatory term he was facing and that demonstrates his confusion with the terms of the plea deal, Defendant is misconstruing the record.¹ When read fully in context, the language

¹ Defendant also misconstrues the record during his allegation regarding the sentencing hearing, again pertaining to the minimum mandatory term and sentencing range. The Court clarified that there was no twenty-five year minimum mandatory, but rather a range from twenty to forty years, and the Court was bound to follow the terms of the negotiated plea deal. (Ex. E at 81.)

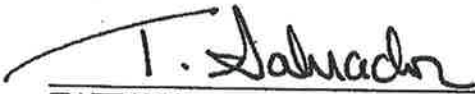
Defendant takes issue with is the Court outlining what the potential sentence Defendant could have faced without the plea deal, and the Court's very next question pertains to the terms of the deal itself, where "the State is going to waive that 25-year minimum mandatory," to which Defendant answered in the affirmative. (Ex. D at 9.)

Based on the record evidence and the reasoning above, the Court finds Defendant's trial counsel was not deficient in the way Defendant alleges here and Defendant is not entitled to postconviction relief. Fla. R. Crim. P. 3.850(f)(5). The plea hearing and colloquy transcript shows clearly that the Albanian interpreter, present before and at the plea colloquy hearing, was well-suited to convey the plea deal and its terms fully and intelligibly, as Defendant affirmed under oath. As such, Defendant's counsel was not deficient. Defendant has also failed to meet the legal standards provided by Strickland and Hill, and therefore was not prejudiced, was not deprived of due process, and Defendant's plea of guilty was not involuntarily or unintelligibly entered.

Accordingly, it is **HEREBY**

ORDERED and ADJUDGED that "Defendant Bregu's Response to Order Dismissing Rule 3.850 Motion" filed by and through counsel on September 11, 2025, and Defendant's concurrent filing written in Albanian, filed by and through counsel the same day, are both **DENIED**. Defendant has thirty (30) days from the date that this Order is issued to take an appeal, by filing a Notice of Appeal with the Clerk of the Court.

DONE AND ORDERED in Jacksonville, Duval County, Florida on January 23, 2026.


TATIANA R. SALVADOR
Circuit Judge

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Order has been furnished to the parties' counsel via electronic service and to Defendant by U.S. Mail on _____, 2025.

Deputy Clerk

Case No.: 16-2013-CF-05960-AXXX
Attachments: Exhibits A-E
TRS/js

APPENDIX

B

FIFTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

Case No. 5D2026-0514
LT Case No. 16-2013-CF-005960-A

ARBEN BREGU,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

3.850 Appeal from the Circuit Court for Duval County.
Tatiana R. Salvador, Judge.

William Mallory Kent, of Kent & McFarland Attorneys at Law,
Jacksonville, for Appellant.

James Uthmeier, Attorney General, and Michael Schaub,
Assistant Attorney General, Tallahassee, for Appellee.

July 16, 2026

PER CURIAM.

AFFIRMED.

LAMBERT, EDWARDS, and MACIVER, JJ., concur.

***Not final until disposition of any timely and
authorized motion under Fla. R. App. P. 9.330 or
9.331.***
