

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

AXEL ESTEBAN INOSTROZA,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D2025-0891

[May 20, 2026]

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Barbara Duffy, Judge; L.T. Case No. 062014CF004650A88810.

Melanie Anitra Malavé, Fort Lauderdale, for appellant.

James Uthmeier, Attorney General, Tallahassee, and Richard Chambers Valuntas, Senior Assistant Attorney General, West Palm Beach, for appellee.

CIKLIN, J.

Axel Esteban Inostroza appeals the denial of his rule Florida Rule of Criminal Procedure 3.850 motion following an evidentiary hearing. He claims trial counsel rendered ineffective assistance by misadvising him during plea negotiations, causing him to reject a favorable plea offer. We agree that the trial court applied an incorrect legal standard in evaluating prejudice, and the record establishes a reasonable probability that Inostroza was prejudiced by counsel's deficient advice. We therefore reverse and remand.

Before trial, the state extended a global plea offer of twelve years' imprisonment followed by three years' probation. Inostroza rejected the offer and proceeded to trial. After trial, Inostroza was convicted and received substantially greater sentences amounting to concurrent prison terms of 30 years for second-degree murder, 22.4 years for leaving the scene resulting in death, and 5 years for tampering with evidence.

Inostroza's rule 3.850 motion alleged that counsel advised him to reject the plea offer based on an unreasonable assessment of the case and incorrect advice regarding sentencing exposure. Inostroza further alleged that, but for this advice, he would have accepted the plea offer. The trial court conducted an evidentiary hearing and denied relief, concluding that Inostroza failed to establish prejudice because he did not present evidence that the trial court would have accepted the plea.

Following an evidentiary hearing, we defer to the trial court's factual findings if supported by competent substantial evidence, but review legal conclusions de novo. *Patrick v. State*, 246 So. 3d 253, 260 (Fla. 2018).

To establish ineffective assistance of counsel, a defendant must satisfy the two-pronged test of *Strickland v. Washington*, 466 U.S. 668 (1984). In the plea context, prejudice is evaluated under *Alcorn v. State*, 121 So. 3d 419, 422 (Fla. 2013), and *Missouri v. Frye*, 566 U.S. 134, 147 (2012).

Deficient Performance

A defendant may establish deficient performance where counsel's misadvice leads the defendant to reject a favorable plea. *Steel v. State*, 684 So. 2d 290, 291 (Fla. 4th DCA 1996). Counsel has a duty to provide reasonably accurate advice regarding both the strength of the state's case and the defendant's potential sentencing exposure. See *Cobb v. State*, 394 So. 3d 1195, 1198 (Fla. 3d DCA 2024) ("Generally, defense counsel is obligated to advise the defendant of all pertinent matters bearing on the choice of which plea to enter, including the strength of the case brought by the State against the defendant."); *Louima v. State*, 247 So. 3d 564, 566 (Fla. 4th DCA 2018) (noting that "[a]n ineffective assistance claim is sufficient where the attorney failed to advise the defendant of the maximum penalty that he or she faces").

Here, the record reflects that counsel advised Inostroza that the case was "not a murder case" and that, at worst, he would be convicted of a lesser offense carrying a significantly lower sentence. This was based on counsel's opinion that a bacterial infection was an intervening cause of the victim's death. This opinion was both factually and legally inaccurate.

Evidence at trial established that Inostroza, while driving after drinking alcohol, struck the victim and then hid the victim next to a dumpster. Inostroza failed to seek help for the victim and tried to conceal evidence of the accident. The victim initially survived the collision but subsequently died from what the medical examiner described as a "sequela of multiple blunt force injuries" and a resulting bacterial infection. As the infection

was not the sole cause of the victim's death, counsel's intervening cause opinion was incorrect. See *Williams v. State*, 253 So. 3d 1211, 1214-15 (Fla. 4th DCA 2018) (“[A]n intervening occurrence does not cut off causation unless it is the ‘sole’ cause of death . . . [C]ontributing, rather than sole, causes of death do not extinguish a defendant’s criminal liability for a death.”).

Counsel also misadvised Inostroza regarding the maximum sentence which he faced on at least one of the charged offenses. Counsel acknowledged at the evidentiary hearing that his understanding of the applicable felony level—and thus the potential sentencing exposure—was incorrect.

While an attorney’s strategic assessment of trial prospects does not constitute deficient performance merely because such assessment proves inaccurate, this case involves more than a prediction that failed to materialize. Cf. *Cobb*, 394 So. 3d at 1198 (finding counsel’s mistaken prediction about the outcome of the case was not deficient performance because counsel’s belief was reasonable given the lack of physical evidence against the defendant and the inconsistencies in witness identifications). The advice given to Inostroza was based, in part, on an incorrect understanding of the applicable law and sentencing exposure. Viewed cumulatively, the misadvice fell below an objective standard of reasonableness.

Prejudice

The trial court denied relief solely on the ground that Inostroza failed to present evidence that the trial court would have accepted the plea. This was an incorrect legal standard.

Under *Frye* and *Alcorn*, a defendant is not required to present affirmative evidence, such as the trial judge’s testimony, that the plea would have been accepted. Rather, the defendant must demonstrate a reasonable probability that the plea would have been entered and accepted. *Frye*, 566 U.S. at 148. This determination is made through an objective assessment of the circumstances at the time of the plea offer. *Key v. State*, 357 So. 3d 1227, 1229 (Fla. 4th DCA 2023).

As to the first *Alcorn* factor, Inostroza testified that he would have accepted the plea offer had he been properly advised regarding his sentencing exposure and the risks of proceeding to trial. The trial court did not reject this testimony as not credible, and the record does not refute this testimony. Given the substantial disparity between the plea offer and

the possible maximum sentence, the evidence supports a reasonable probability that Inostroza would have accepted the offer. *See id.* at 1229 (“As to the first *Alcorn* factor, both Key and counsel testified that Key would have accepted the 15-year plea offer if counsel had properly advised him that he could be sentenced up to 30 years as an HFO even if he were successful in obtaining a conviction for aggravated battery. The trial court did not find that testimony not to be credible, and the state did not introduce any evidence to refute it.”).

As to the remaining factors, nothing in the record suggests that the state would have withdrawn the offer or that the trial court would have rejected it. Nor does any dispute exist that the sentence imposed after trial was significantly greater than the plea offer.

Accordingly, Inostroza satisfied the prejudice prong.

Where a defendant establishes ineffective assistance in the plea process, the appropriate remedy is to require the state to reoffer the plea. *Lafler v. Cooper*, 566 U.S. 156, 174 (2012). If the defendant accepts the offer, the trial court may then exercise its discretion in determining the appropriate disposition. *Id.*

Because counsel’s deficient performance resulted in a reasonable probability that Inostroza rejected a favorable plea offer, and because Inostroza demonstrated prejudice and the trial court applied an incorrect legal standard in denying relief, we reverse and remand for further proceedings consistent with this opinion.

Reversed and remanded.

MAY and KLINGENSMITH, JJ., concur.

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Not final until disposition of timely-filed motion for rehearing.