TEXAS COURT OF APPEALS, THIRD DISTRICT, AT AUSTIN

NO. 03-19-00154-CR

Ex parte Ryan Sultanik

FROM COUNTY COURT AT LAW NO. 2 OF WILLIAMSON COUNTY NO. 18-1046-CC2, THE HONORABLE BURT CARNES, JUDGE PRESIDING

M E M O R A N D U M O P I N I O N

Ryan Sultanik pleaded guilty in 2015 to the offense of assault family violence causing bodily injury and was placed on deferred adjudication for twelve months. *See* Tex. Code Crim. Proc. art. 42A.101; Tex. Penal Code § 22.01(a)(1). Three years later, after completing his deferred adjudication and having the proceedings against him dismissed, Sultanik filed an application for a writ of habeas corpus alleging that he suffered collateral consequences, including limited job opportunities and "hindrance" to military-service eligibility, despite the dismissal. *See* Tex. Code Crim. Proc. arts. 11.072, 42A.111. The habeas court held an evidentiary hearing on the application and issued an order denying it.

Sultanik appeals that order, contending that the habeas court erred by issuing fact findings that were not supported by the record and by determining that his counsel's performance was not deficient and did not prejudice him. *See id*. art. 44.02; Tex. R. App. P. 31. Sultanik also complains that counsel did not advise him about eligibility for a pretrial-intervention program, interview the victim, discuss the availability of a self-defense argument, or seek nonprosecution affidavits. We will affirm the habeas court's order.

BACKGROUND

Sultanik and the State filed extensive documentary evidence for the habeas court. Defense counsel's account of his representation conflicted in many respects with Sultanik's and that of Sultanik's family. At the hearing on the habeas application, the court noted that it had read the application and response and that it wanted to hear from witnesses other than the lawyers who filed affidavits.[1] The court proceeded to hear testimony from Sultanik,[2] his parents Annabelle Silva and Bryan Sultanik, and his younger brother C.S., who was a minor at the time of the assault. *See* Tex. R. App. P. 9.10(a)(3).

The evidence showed that when Sultanik was eighteen, he and C.S. were involved in a physical fight at home that escalated after Sultanik became angry about Silva's refusal to take him out to eat when he did not want the dinner she was preparing. Only Sultanik, C.S., and Silva were home when the fight occurred, and they were the only witnesses to the events leading to it. Silva recalled that she and Sultanik were arguing while she was cooking and that their argument became "a little heated." She stated that C.S. "went after" Sultanik, wanting to stop the argument and trying to get Sultanik to "shut up." Although she thought that C.S. instigated the altercation, she "wouldn't say that he was the aggressor." The boys fought for a few minutes

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[1] The court stated, "I ruled that we would have an evidentiary hearing on the fact witnesses alone, not the—and not have the lawyers that filed the affidavits come in and testify." Sultanik's habeas application and filing in reply to the State's response included affidavits from four lawyers. In addition, Sultanik's defense counsel and the Chief of the Criminal Division of the Williamson County Attorney's Office filed affidavits.

[2] Sultanik's habeas counsel stated that he was calling Sultanik "to assert his constitutional right to effective assistance of counsel without sacrificing his right against self incrimination of future trial in guilt/innocence." *See Simmons v. United States*, 390 U.S. 377, 394 (1968) (holding that defendant's testimony in suppression hearing could not be used against him at trial on issue of guilt unless he makes no objection).

before Silva was able to get Sultanik off his younger and smaller brother, and she stated that she tore Sultanik's shirt in the process. Silva testified that Sultanik ruined the dinner she had prepared by pouring bleach on it.

C.S. similarly testified that after he grabbed Sultanik, Sultanik began beating him with his fist until Silva pulled Sultanik off him. C.S. stated that he wanted to press charges against Sultanik "originally" and that he "vaguely" recalled that his parents wanted to press charges as well.

Sultanik's father Bryan[3] testified that when he arrived home from work, he saw his family "in disarray," "everybody's face was red," and "everyone seemed to be pretty passionate." Bryan stated that he tried to calm the situation by separating everyone and talking to them. He testified that there were "red marks" on his body because when he "was separating people, people were passionate."

A deputy was dispatched to the residence regarding the assault and spoke with Sultanik, Silva, and C.S. According to the deputy's arrest warrant affidavit, both Silva and C.S. believed that Sultanik was about to physically attack Silva. C.S. grabbed Sultanik to defend Silva, and Sultanik punched C.S.'s forehead using a closed fist, causing pain and swelling.

Based on these events, Sultanik was charged with assault family violence causing bodily injury and was placed on deferred adjudication for twelve months. After Sultanik's arrest, a magistrate noted that this event was not a first-time occurrence of family violence but rather that "incidents have occurred multiple times over the past year," that there had been prior 911 calls from the victim's address regarding this family, there had been an increase in the frequency

[3] Because Sultanik and his father share the same last name, we refer to Sultanik's father by his first name.

or severity of violence, and family violence was likely to occur in the foreseeable future. The magistrate's information sheet reflects that both the "guardian of the victim" and a peace officer requested issuance of an emergency protective order against Sultanik.

The magistrate appointed attorney Randall Scott Magee to represent Sultanik. Before the habeas hearing, Magee filed an affidavit providing a detailed account of his work on the case. Magee stated that he was licensed in 1999; that he has practiced criminal law exclusively since 2006, representing defendants on over a thousand matters ranging from misdemeanors to capital-murder cases; and that he has a reputation for being ethical, knowledgeable, hard-working, and thorough. He averred that he had attempted to zealously represent Sultanik and summarized his efforts, including requesting discovery of the State's paper and media evidence soon after his appointment, discussing the evidence and explaining the elements of the charged offense with Sultanik, and negotiating with prosecutors.

Magee averred that Sultanik's parents said "they hated to press charges but that something needed to be done about [Sultanik]'s behavior, which had become increasingly aggressive."[4] Bryan told Magee that although he was not present when the assault occurred, Sultanik had caused other violent incidents, which were growing in both intensity and number. Sultanik's parents provided Magee with a neuropsychological evaluation of Sultanik "in an effort to help him receive a more lenient plea bargain or be placed on a more helpful mental-health caseload." The neuropsychological evaluation showed that Sultanik had anxiety and had been acting out and aggressive with his parents and also that he had a high-average IQ and possessed sufficient executive reasoning. Neither Sultanik's parents nor C.S. ever indicated to Magee that

[4] The Texas Court of Criminal Appeals has noted that the attorney-client privilege is waived by ineffective-assistance-of-counsel claims. *In re Harris*, 491 S.W.3d 332, 335 n.8 (Tex. Crim. App. 2016) (citing *State v. Thomas*, 428 S.W.3d 99, 106 (Tex. Crim. App. 2014)).

Sultanik had been acting in self-defense during the assault. In fact, Sultanik "admitted his factual guilt" to Magee and "indicated throughout the pendency of his case that he did not wish to have a trial."

Silva testified that she could not recall requesting an emergency protective order against Sultanik. She denied wanting to press charges against Sultanik and stated that Magee was "incorrect" in stating she had said that she "hated to press charges but that something had to be done about Ryan's behavior."

Bryan testified that he "didn't recall" requesting to press charges against Sultanik for what he had done to C.S. Bryan also testified that he did not recall asking for an emergency protective order against Sultanik, but that he "may have participated" in such a request. Bryan further testified that he did not recall saying to police officers that he "hated to press charges but that something had to be done about [Sultanik]'s behavior." Bryan then clarified that he "may have been present for it" "when it was said" but did not recall making that statement. He noted, "Sometimes things were said by my ex-spouse that were interpreted in other situations as us both saying something[,] which is not the case" because he "typically was silent." Bryan stated that he was "resistant to" pursuing the assault charge to trial on C.S.'s behalf and that at the time of the plea offer, his first concern was avoiding confinement for Sultanik: "number one I wanted to keep my son out of prison." In retrospect, Bryan would have preferred a trial: "In hindsight I would have said let's go to court and let's not take that deal."

C.S. testified that Sultanik has "paid," noting that his night in jail "was enough" and "got the point across like his behavior wasn't okay." To that end, C.S. stated that he would have completed an affidavit of nonprosecution—not stating that he lied to police about what happened but that he did not want to pursue the charge anymore.

Magee averred that when, as here, his clients do not wish to have a trial, it is his pattern and practice to obtain a prosecutor's recommendation on cases in this order: dismissal; conditional dismissal; pretrial intervention program (PTIP); deferred adjudication; and, as a last resort, "straight probation." Magee recalled that the prosecution was unwilling to offer a dismissal, conditional dismissal, or PTIP based on their evaluation of the case. Magee therefore requested a deferred adjudication, which was the best of the remaining options (deferred adjudication, straight probation, and trial) to avoid the trial that Sultanik did not want.

According to an affidavit from Stephanie Greger, Chief of the Criminal Division of the Williamson County Attorney's Office and supervising attorney for the PTIP, participation in PTIP "has always been at the discretion of the prosecutor." Greger stated that if an assault family violence defendant had a history of prior aggression or assaults that went unreported to law enforcement, such prior history could prevent a prosecutor from offering participation in PTIP to that defendant. She also stated that during the relevant timeframe in 2015, PTIP did not include any mental-health treatment options. At that time, PTIP would not have been an option for a defendant with mental-health issues, and prosecutors would likely have recommended placement on the "special needs" caseload through community supervision.

Magee averred that he discussed the plea offer of deferred adjudication with Sultanik, who accepted the offer over a trial. Because the prosecution had not offered PTIP, Magee did not present it as an option or submit an application for it. Magee "reiterated" to Sultanik that he "did not have to accept any plea bargain" and that "he always had the right to have a trial before a judge or jury."

Magee averred that Sultanik said he did not want to take the case to trial. Sultanik also expressed interest in joining the military. Magee averred that, as with all his clients who

have military aspirations, he advised Sultanik to consult with a military recruiter "and get something in writing to bring back to me about a potential plea bargain's impact." But "Sultanik did not want to do so and wanted to move toward a resolution that day."

Sultanik pleaded guilty, signed plea paperwork, and was admonished by the trial court before it deferred his case for twelve months. Sultanik's case was ordered to be placed on a "special needs" caseload during his term of deferred adjudication community supervision, which he completed. Sultanik was then discharged from supervision, and the proceedings were dismissed.

Afterward, Sultanik found that he was unable to expunge the case from his criminal record. He testified that he "tried to apply to be a teller at a credit union and was denied as a result" of his record. He did not apply for any other jobs after that one. He stated that he considered working at BioLife Plasma, where some of his friends worked as technicians, but he did not apply because a manager there and his friends told him that his deferred adjudication would prevent his application from being accepted. Sultanik also spoke with an Air Force recruiter, who informed him that he could still join the military, but he would have to file for a waiver. Sultanik mentioned the PTIP to the recruiter, who stated that with the PTIP "it might be easier to explain," but that a waiver would still be necessary. Sultanik testified that he can pursue a waiver under his curwrent circumstances.

Sultanik filed this application for writ of habeas corpus in 2018, alleging that his plea was the result of ineffective assistance of counsel, who had not advised him about eligibility for PTIP, conducted an independent investigation by interviewing C.S., discussed the availability of a self-defense argument, or sought any nonprosecution affidavits.

Considering the development of the case, Magee averred that he had concluded that

Sultanik and his family either

> were lying to all or some of the various people involved in the case—the deputy, magistrate, me, and the trial judge—at the time of the events, or the story put forth now by Sultanik and his family is not true and merely an attempt to undo [Sultanik]'s plea deal and disposition to allow him to seek entry into the military.

The habeas court denied the application and filed lengthy findings of fact and conclusions of law. This appeal followed.

DISCUSSION

In his only point of error, Sultanik contends that the habeas court erred in denying his habeas application. He contends that the court issued fact findings that were not supported by the record and incorrectly determined that his counsel's performance was not deficient and did not prejudice him.

We review an order denying an application for a writ of habeas corpus under an abuse of discretion standard. *Ex parte Wheeler*, 203 S.W.3d 317, 324 (Tex. Crim. App. 2006). The habeas court abuses its discretion if it acts without reference to any guiding rules or principles or if it acts arbitrarily or unreasonably. *Ex parte Ali*, 368 S.W.3d 827, 830 (Tex. App.—Austin 2012, pet.ref'd). The applicant bears the burden of proving his habeas claim by a preponderance of the evidence. *Ex parte Torres*, 483 S.W.3d 35, 43 (Tex. Crim. App. 2016).

Virtually every fact finding in a habeas proceeding involves a credibility determination, and the fact finder is the exclusive judge of the credibility of the witnesses. *Ex parte Mowbray*, 943 S.W.2d 461, 465 (Tex. Crim. App. 1996). In habeas proceedings under article 11.072 such as this one, where the Court of Criminal Appeals is not the ultimate fact finder, there is "less leeway" to disregard the habeas court's factual findings. *Ex parte Torres*,

483 S.W.3d at 42; *Ex parte Ali*, 368 S.W.3d at 830. We afford almost total deference to the habeas court's factual findings that are supported by the record, especially when such findings are based on credibility and demeanor. *Id*. Further, "a reviewing court will defer to the factual findings of the trial judge even when the evidence is submitted by affidavit." *Ex parte Thompson*, 153 S.W.3d 416, 425 n.14 (Tex. Crim. App. 2005) (Cochran, J., concurring); *Manzi v. State*, 88 S.W.3d 240, 242-44 (Tex. Crim. App. 2002).

We must view the facts in the light most favorable to the habeas court's ruling and uphold that ruling absent an abuse of discretion. *Ex parte Wheeler*, 203 S.W.3d at 324. If the facts are uncontested and the habeas court's ruling does not turn on the credibility or demeanor of witnesses, then a de novo review is appropriate. *Ex parte Marin*, 6 S.W.3d 524, 526 (Tex. Crim. App. 1999).

Ineffective Assistance of Counsel

To demonstrate entitlement to post-conviction relief on the basis of ineffective assistance of counsel, the habeas applicant must demonstrate that (1) counsel's performance was deficient, in that it fell below an objective standard of reasonableness, and (2) the applicant was prejudiced as a result of counsel's errors, in that but for those errors, there is a reasonable probability of a different outcome. *Ex parte Torres*, 483 S.W.3d at 43 (citing *Strickland v. Washington*, 466 U.S. 668, 687, 693 (1984)). In a collateral challenge to a guilty plea, the focus of the prejudice inquiry is on "whether counsel's constitutionally ineffective performance affected the outcome of the plea process" and on whether a defendant has shown that, "but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." *Id*. (quoting *Hill v. Lockhart*, 474 U.S. 52, 59 (1985)); *Perez v. State*, 310 S.W.3d 890, 892-93 (Tex. Crim. App. 2010). Failure to make the required showing of either deficient performance or

sufficient prejudice defeats the ineffectiveness claim. *Strickland*, 466 U.S. at 700; *Perez*, 310 S.W.3d at 893.

To establish prejudice, an applicant must "convince the court that a decision to reject the plea bargain would have been rational under the circumstances." *Ex parte Torres*, 483 S.W.3d at 48 (quoting *Padilla v. Kentucky*, 559 U.S. 356, 372 (2010)). The test is objective and turns on what "a reasonable person in the defendant's shoes would do." *Ex parte Ali*, 368 S.W.3d at 835 (quoting *United States v. Smith*, 844 F.2d 203, 209 (5th Cir. 1988)). "In determining whether an applicant would not have pleaded guilty but for counsel's deficient advice, a court is to consider 'the circumstances surrounding the plea and the gravity of the misrepresentation material to that determination.'" *Id.* at 835-36 (quoting *Ex parte Moody*, 991 S.W.2d 856, 858 (Tex. Crim. App. 1999)). "Even when a defendant wholly relies upon erroneous advice of counsel, the magnitude of the error as it concerns the consequences of the plea is a relevant factor; not every reliance on erroneous advice is sufficient to justify rendering the plea vulnerable to collateral attack." *Id.*

When, as here, the prejudice prong of the *Strickland* test is dispositive, we need only address that prong. *Ex parte Ali*, 368 S.W.3d at 835; *see Strickland*, 466 U.S. at 697 ("[T]here is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one. In particular, a court need not determine whether counsel's performance was deficient before examining the prejudice suffered by the defendant as a result of the alleged deficiencies.").

No Prejudice

Sultanik contends that but for Magee's allegedly deficient performance, he

"would have made the reasonable choice to reject the plea bargain and proceed to trial." The Court of Criminal Appeals has stated that the "prejudice inquiry" hinges on whether the defendant would have actually availed himself of a particular judicial proceeding:

> In the ineffective assistance of counsel context, the narrowed prejudice inquiry is designed to ensure that the defendant would actually have availed himself of the proceeding in question, so that he really is in the same position as someone whose rights were denied by the trial court: "counsel's deficient performance must actually cause the forfeiture [of the proceeding in question]. If the defendant cannot demonstrate that but for counsel's deficient performance, he would have [availed himself of that proceeding], counsel's deficient performance has not deprived him of anything, and he is not entitled to relief."

Johnson v. State, 169 S.W.3d 223, 231-32 (Tex. Crim. App. 2005) (alterations in original) (quoting *Roe v. Flores-Ortega*, 528 U.S. 470, 484 (2000)); *Ex parte Ali*, 368 S.W.3d at 835. Relevant factors in this prejudice inquiry include the evidence supporting an applicant's assertions, the likelihood of his success at trial, the risks the applicant would have faced at trial, and the benefits he received from the plea bargain. *Ex parte Torres*, 483 S.W.3d at 48. If the totality of the circumstances indicate that the applicant placed particular emphasis on certain consequences of a plea in deciding whether to accept it, this may constitute a circumstance that weighs in favor of a finding of prejudice. *Id.* (citing *United States v. Rodriguez-Vega*, 797 F.3d 781, 789 (9th Cir. 2015)) (addressing immigration consequences).

Here, the habeas court found that Sultanik "told Magee that he did not want to take the case to trial." That factual finding is supported by Magee's affidavit and accords with Bryan's testimony that he was "resistant to" pursuing the assault charge to trial but "in hindsight" would have preferred to go to court. *Cf. Thompson v. State*, 9 S.W.3d 808, 812 (Tex. Crim. App. 1999) (noting that, for claims of ineffective assistance, "judicial review must be highly deferential

to trial counsel and avoid the deleterious effects of hindsight").

Sultanik provided no evidence in his affidavit or in his testimony before the court that he would have rejected the State's plea offer and proceeded to trial. An attorney's arguments about what other options the habeas applicant would have pursued at the time, absent personal knowledge of that information, are an insufficient basis for granting habeas relief. *See Ex parte Torres*, 483 S.W.3d at 49-50. Although Sultanik testified that he would have applied for PTIP instead of taking the plea offer for deferred adjudication, he acknowledged that the State was unwilling to offer him PTIP. *See Lee v. State*, 560 S.W.3d 768, 770, 772 (Tex. App.—Eastland 2018, pet. ref'd) (noting that Legislature has provided no framework for determining defendant's eligibility for pretrial intervention and that it "is offered at the discretion of the prosecutor"). Further, as Sultanik acknowledged, even if he had completed PTIP, he would still need a waiver to join the military. Thus, the only option Sultanik was interested in pursuing other than deferred adjudication did not involve a trial and would not have removed the waiver prerequisite.

Moreover, Sultanik did not show that rejecting the plea bargain and proceeding to trial would have been a rational choice considering the likelihood of success at trial, the risk he would face if he had gone to trial, and the benefit he received from the plea bargain. *See Ex parte Torres*, 483 S.W.3d at 48. The responding deputy's account of events—based on his conversations with Sultanik, C.S., and Silva—that Sultanik punched C.S.'s forehead with a closed fist; the magistrate's notations that this was not a first-time occurrence of family violence and that an emergency protective order against Sultanik was requested; C.S.'s testimony that he did not lie to the police about what he stated happened; and Silva's acknowledgement that C.S. was not "the aggressor," increased the probability of Sultanik's conviction for assault family violence at the conclusion of a trial. If convicted, Sultanik could have faced a fine of up to $4,000

and one year in jail. *See* Tex. Penal Code § 12.21.

The habeas court's fact findings implicitly rejected Sultanik's version of the events and some of his family's testimony about the underlying assault. Specifically, the habeas court found that:

> Annabelle [Silva] and [C.S.] both believed Applicant was on the verge of physically attacking Silva. [C.S.] grabbed Applicant. Applicant began striking [C.S.] with a closed fist causing pain and swelling to [C.S.]'s head.
>
> [Deputy] Thomas concluded that [C.S.] was acting in defense of Silva and that Applicant was the primary aggressor.
>
> Applicant had been aggressive previously on multiple occasions and 911 had been contacted because of Applicant's behavior.
>
> That evening both Silva and [C.S.] told [Deputy] Thomas that they wanted to press charges against Applicant.
>
> Bryan was not present when the assault occurred.

Further, although Sultanik faults Magee for not obtaining nonprosecution affidavits, C.S. testified that he "originally" wanted to press charges and that he "vaguely" recalled that his parents did as well. The habeas court concluded that Sultanik "has not been prejudiced by Magee's investigation." We agree. Sultanik did not show that Magee failed to discover any evidence that existed at the time that, if known, would have caused Magee to change his recommendation as to the plea and would have caused Sultanik not to plead guilty and to insist on going to trial. *See Hill*, 474 U.S. at 59 (noting that where counsel's alleged error is failure to investigate or discover potentially exculpatory evidence, determination whether error "prejudiced" defendant by causing him to plead guilty rather than go to trial depends on likelihood that discovery of such evidence would have led counsel to change his recommendation

as to plea and on prediction of whether such evidence likely would have changed outcome of trial); *Ex parte Torres*, 483 S.W.3d at 43.

Additionally, it is unlikely that Sultanik would have been successful with a self-defense claim at trial given the deputy's reporting that both C.S. and Silva believed Sultanik was about to physically attack Silva when C.S. grabbed Sultanik to defend Silva. *See Hill*, 474 U.S. at 59 (noting that where counsel's alleged error is failure to advise defendant of potential affirmative defense to crime charged, resolution of prejudice inquiry depends largely on whether such defense likely would have succeeded at trial). By taking the plea and completing deferred adjudication community supervision, Sultanik avoided up to a year of confinement and an assault conviction.

Finally, as the habeas court found, Sultanik's parents did not ask counsel to have the charge dropped. Rather, they provided Magee with information showing that Sultanik had been acting out and behaving aggressively before the date of the offense. Although during the habeas hearing Bryan and Silva disputed or "didn't recall" telling Magee that they "hated to press charges but that something had to be done about Ryan's behavior," the habeas court is entrusted with determinations about the credibility of witnesses, and we defer to those findings. *See Ex parte Torres*, 483 S.W.3d at 42; *Ex parte Mowbray*, 943 S.W.2d at 465; *Ex parte Ali*, 368 S.W.3d at 830; *see also Ex parte Thompson*, 153 S.W.3d at 425 n.14 (noting that reviewing courts defer to factual findings of trial judge even when evidence is submitted by affidavit).

Considering the totality of the circumstances and deferring to the habeas court's factual findings—which reveal that it would not have been rational for Sultanik to reject the plea bargain and proceed to trial—we conclude that Sultanik failed to show that he was prejudiced as a result of Magee's failure to inform him about PTIP, interview C.S., and secure nonprosecution

affidavits. *See Hill*, 474 U.S. at 59; *Ex parte Torres*, 483 S.W.3d at 43; *see also Ex parte Riley*, No. 03-16-00350-CR, 2016 Tex. App. LEXIS 11022, at *20 (Tex. App.—Austin Oct. 11. 2016, pet. ref'd) (mem. op., not designated for publication) (concluding that habeas applicant failed to show that but for his counsel's failure to advise him about potential consequences concerning his military-service eligibility, applicant would have rejected plea bargain and pursued trial). Thus, Sultanik's prejudice claim fails. *See Ex parte Torres*, 483 S.W.3d at 48.

Having viewed the evidence in the light most favorable to the habeas court's ruling, we cannot conclude that the court abused its discretion by denying Sultanik's application for a writ of habeas corpus after concluding that Sultanik failed to prove by a preponderance of the evidence that there was a reasonable probability, sufficient to undermine confidence in the outcome, that but for Magee's allegedly deficient performance, Sultanik would not have pleaded guilty and would have instead insisted on going to trial. *See Strickland*, 466 U.S. at 694 (stating that "reasonable probability" is probability sufficient to undermine confidence in outcome); *Thompson*, 9 S.W.3d at 812 (same); *Ex parte Ali*, 368 S.W.3d at 841(affirming trial court's denial of habeas application on ground that applicant "failed to prove by a preponderance of the evidence that but for counsel's allegedly deficient advice, he would not have pleaded guilty and would have insisted on going to trial"). Accordingly, we overrule Sultanik's point of error.

CONCLUSION

We affirm the habeas court's order.

Gisela D. Triana, Justice

Before Chief Justice Rose, Justices Triana and Smith

Affirmed

Filed: May 28, 2020

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