

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D19-2093

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CHRISTOPHER SALDANA,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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On appeal from the Circuit Court for Escambia County.  
Jan Shackelford, Judge.

May 6, 2020

BILBREY, J.

Christopher Saldana appeals the denial, after an evidentiary hearing on one ground and the postconviction court's finding the other grounds facially insufficient, of his second amended motion for postconviction relief. We affirm the postconviction court's order in its entirety and write only to address Saldana's appellate challenge to the postconviction court's conduct of his evidentiary hearing.

Saldana was convicted of three felony offenses after a jury found him guilty of using a computer to facilitate or solicit a parent, legal guardian, or custodian to consent to the sexual conduct of a child; traveling to meet a minor to engage in sexual conduct with consent by a parent, legal guardian, or custodian; and

attempted lewd and lascivious battery with a victim over 12 but under 16 years of age. The trial court adjudicated him guilty and imposed a downward departure sentence of 24 months' community control, followed by 8 years of sex offender probation.

In Saldana's direct appeal, this court affirmed without opinion. *Saldana v. State*, 132 So. 3d 229 (Fla. 1st DCA 2014). Saldana then filed his initial motion for postconviction relief, pursuant to rule 3.850, Florida Rules of Criminal Procedure. The motion was amended twice to remedy facial insufficiencies. In the second amended motion, Saldana alleged in part of grounds 3 and 4 of the motion that his trial counsel had provided ineffective assistance prior to the trial which caused Saldana to reject a favorable plea offer from the State. According to the second amended motion, trial counsel made unreasonable promises and assurances about going to trial and failed to advise Saldana of the consequences of turning down the State's plea offer. Saldana alleged that if he had been adequately advised by trial counsel, he would have accepted the plea offer and avoided sex offender designation. He claimed that he was prejudiced by this deficient performance by counsel when he proceeded to trial, was found guilty by the jury, and was designated a sex offender as part of his sentence.

After directing a response from the State on the issue of defense counsel's pre-trial advice on the State's plea offer, the postconviction court held an evidentiary hearing on this issue alone. *See Fla. R. Crim. P. 3.850(f)(8)*. During the hearing, Saldana's trial counsel testified about his communications with Saldana in general and specifically about the State's pre-trial plea offer. Saldana's trial counsel also testified that he advised Saldana more than once that the State's offer would meet their goals of avoiding prison time and avoiding designation as a sex offender. Despite counsel's advice, Saldana rejected counsel's offer to continue negotiations with the State and instead insisted on going to trial.

Three times during Saldana's postconviction counsel's examination of his trial counsel, the postconviction court directed postconviction counsel to limit his questions to facts surrounding trial counsel's statements and advice to his client about the plea

offer. When postconviction counsel continued to inquire about defense counsel's trial strategy, the entrapment defense, pre-trial motions, and other matters beyond the scope of the hearing, the postconviction court informed postconviction counsel that if he persisted, the court would "shut you down." Postconviction counsel then proceeded to ask about the extent to which trial counsel had discussed the "strengths and weaknesses" of the case with Saldana and whether trial counsel had given Saldana enough information to make "a knowing and intelligent decision" to accept or reject the offer. At this point, the court terminated postconviction counsel's examination and allowed the State to cross-examine.

Thereafter, postconviction counsel called Saldana's mother to testify, and the State objected to her testimony as irrelevant. The court heard postconviction counsel's proffer, that the mother had attended most of the meetings between her then 25-year-old son and trial counsel. Postconviction counsel also proffered that the mother would testify about Saldana's history of emotional issues, anti-anxiety medications, and attention-deficit disorder. However, there was not a claim in the second amended motion that Saldana lacked competence to proceed or lacked capacity during any stage of the trial proceeding. The court excluded the mother's testimony as irrelevant and invited postconviction counsel to call his client to testify.

Saldana then testified in support of his motion. He agreed that trial counsel had discussed the plea offer with him, set out his two options (to plea to a non-sexual offense or go to trial), and advised him to accept the plea. Saldana understood that he did not want to be designated a sex offender, but he also did not want to be convicted at all. He explained that he went to trial to tell his side of the story and to establish his innocence, with the full support of his parents.

Here, Saldana argues in passing that the evidence adduced at the hearing was insufficient to support the postconviction court's denial of relief on grounds of ineffective assistance by trial counsel in advising his client about the plea offer. But the focus of Saldana's challenge on appeal to the postconviction court's ruling is that the court deprived him of a "full and fair" evidentiary

hearing by prematurely terminating his examination of trial counsel and by excluding his mother as a witness.

It is well-settled that “[t]he admission of evidence is within the sound discretion of the trial court, constrained by the application of the rules of evidence and the principles of stare decisis.” *Hayward v. State*, 183 So. 3d 286, 325 (Fla. 2015). A court’s exclusion of proffered evidence it rules irrelevant does not equate to a deprivation of a full and fair hearing. *Id.* at 324–25 (holding that exclusion of defendant’s mother’s testimony as irrelevant to postconviction proceeding not abuse of discretion). As this court recognized in *Stevenson v. State*, 234 So. 3d 828, 830 (Fla. 1st DCA 2017), “it is important to remember that trial courts have ‘*wide latitude*’ to regulate court proceedings before them ‘in order that the administration of justice be speedily and fairly achieved in an orderly and dignified manner.’” (alteration in original) (citations omitted). The postconviction court’s decision to exclude witnesses when it determines that the testimony would not be relevant to the issue to be decided, or would be cumulative to other testimony presented, is reviewed for an abuse of discretion. *Parker v. State*, 3 So. 3d 974, 983 (Fla. 2009). And in this case, like the postconviction hearing in *Parker*, there is “no merit to [Appellant’s] claim that he was denied a full and fair evidentiary hearing by the trial court” when his mother was not allowed to testify. *Id.*

Furthermore, even if the postconviction court’s limitation on counsel’s examination of defense counsel (after repeated admonitions) and exclusion of the mother’s testimony had been abuses of the court’s discretion, no harmful error is demonstrated. *See Taylor v. State*, 260 So. 3d 151, 157 (Fla. 2018) (holding that erroneous rulings in postconviction cases are subject to harmless error analysis). The next witness at the evidentiary hearing was Saldana himself, and his testimony was consistent with the testimony of his trial counsel. There is no indication in the record that additional examination of Saldana’s trial counsel would have uncovered more relevant evidence or that Saldana’s mother was privy to information which could not be presented through Saldana’s own testimony.

Saldana fails to demonstrate any reversible error in the postconviction court's denial of relief based on its detailed findings of fact supported by competent substantial evidence presented at the evidentiary hearing. Further, the postconviction court's termination of counsel's examination of defense counsel after repeated instructions to inquire only on relevant matters, and exclusion of the mother's testimony as irrelevant, were within the court's sound discretion. Even if any abuse of discretion had been shown, no harmful error is demonstrated because Saldana testified about his meetings with defense counsel and his reasoning for rejecting the State's plea offer consistent with his trial counsel's testimony.

AFFIRMED.

WOLF and M.K. THOMAS, JJ., concur.

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

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Michael D. Gelety and Michael T. Gelety, Fort Lauderdale, for Appellant.

Ashley Moody, Attorney General, and Damaris E. Reynolds, Assistant Attorney General, Tallahassee, for Appellee.