

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D20-427

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LEAH MANNING,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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On appeal from the Circuit Court for Escambia County.  
W. Joel Boles, Judge.

October 13, 2020

ROWE, J.

Leah Manning appeals an order denying her postconviction motion filed under Florida Rule of Criminal Procedure 3.850. Finding no error by the trial court, we affirm.

Manning's convictions arose from two cases involving multiple charges. In the first case, the State charged Manning with two counts of failure to report child abuse, one count of principal to unlawful sexual activity with minors, four counts of soliciting a child for sexual battery while in a position of custodial authority, and one count of sexual performance of a child with the consent of a parent or guardian. In the second case, the State charged Manning with two counts of lewd or lascivious battery and one count of simple battery.

Facing a term of life in prison, Manning entered an open guilty plea to all charges. The trial court sentenced her to multiple prison terms, all to run concurrently. In the first case, Manning received five years on counts one and two; fifteen years on count three; twenty-five years on counts four, five, six and seven; and fifteen years on count eight. In the second case, Manning received five years in prison on counts one and two, and thirty days in county jail on count three.

This Court affirmed Manning's judgment and sentence on direct appeal. *Manning v. State*, 236 So. 3d 1001 (Fla. 1st DCA 2017) (unpublished table decision). Manning later moved for postconviction relief, raising three claims. She alleged that her counsel was ineffective for failing to: (1) advise her that she could not accrue gain-time on her twenty-five-year sentence; and (2) file a motion for change in venue. And she asserted a claim of cumulative error.

The trial court denied Manning's motion. The court found that her claims lacked merit and were conclusively refuted by the record. Manning appeals that order.

To prevail on her ineffective assistance of counsel claims, Manning had to show that (1) counsel's performance was deficient and (2) the deficient performance prejudiced the defense. *Strickland v. Washington*, 104 S. Ct. 2052, 2064 (1984). Put differently, she needed to show that (1) counsel's performance was unreasonable under the "prevailing professional norms" and (2) there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. *Taylor v. State*, 3 So. 3d 986, 995 (Fla. 2009). If a defendant fails to meet either prong, the claim must be denied. *Preston v. State*, 970 So. 2d 789, 803 (Fla. 2007). Manning failed to show that her counsel's performance was deficient. And so, the trial court correctly denied her claims alleging ineffective assistance of counsel.

In her first claim, Manning alleged that her counsel promised that she would be released from prison by a specific date based on accrual of gain time. Before she entered her plea, the trial court informed Manning of the maximum penalties she faced. Manning

stated under oath that she understood the possible penalties. She acknowledged that the trial court could sentence her to life in prison. And Manning affirmed that no one made any representations about what sentence the trial court would impose. Manning then entered an open plea, with no agreement on what sentence she would receive. Based on these facts, the record conclusively refutes her claim that her counsel made any representations about the sentence she would receive and how much time she would spend in prison.

Manning's second claim, that her counsel was ineffective for not moving for a change of venue, is also refuted by the record. When Manning entered her plea, she knew that her counsel had not moved for a change of venue. Yet she swore under oath that she was satisfied with her counsel's services. This attestation prevents her from complaining now of her counsel's performance. *See Stano v. State*, 520 So. 2d 278, 280 (Fla. 1988); *Hill v. State*, 258 So. 3d 577, 579 (Fla. 1st DCA 2018) (holding that after freely and voluntarily entering a guilty plea, a defendant may not attack events before entry of the plea).

As to Manning's final claim of cumulative error, she waived the claim by not raising the issue in her brief. *See Rosier v. State*, 276 So. 3d 403, 406 (Fla. 1st DCA 2019) (en banc) ("[I]ssues not raised in the initial brief are considered waived or abandoned.").

Because the record conclusively refutes Manning's claims of ineffective assistance of counsel and because she waived her claim of cumulative error, we AFFIRM the order denying the motion for postconviction relief.

ROBERTS and KELSEY, 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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Leah Manning, pro se, Appellant.

Ashley Moody, Attorney General, and Quentin Humphrey,  
Assistant Attorney General, Tallahassee, for Appellee.