



Rule 11(f) requires that prior to accepting a plea, the court must make an inquiry to “satisfy it that there is a factual basis for the plea.” In In re Bridger, 2017 VT 79, this Court held that “Rule 11(f) requires a plea colloquy to include the defendant’s personal admission of the facts underlying the offense, that oral or written stipulations cannot satisfy the requirement, and that substantial compliance does not apply in determining whether the colloquy was satisfactory.” In re Barber, 2018 VT 78, ¶ 2.

On appeal, the State contends that prior to this Court’s decision in Bridger, 2017 VT 79, the standard for Rule 11(f) was substantial compliance; that Bridger does not apply to this case; and that the written waiver combined with petitioner’s admissions during the plea colloquy met the substantial-compliance standard. Following Bridger, we addressed the question of its applicability and concluded that it established new rules when it held that stipulations cannot substitute for defendant’s personal admission and that substantial compliance did not apply. Barber, 2018 VT 78, ¶¶ 12-13. We concluded that these new rules did not apply to proceedings where direct review was concluded, but collateral proceedings were pending. We held that it did not establish a new rule as to its first holding because the existing law required a defendant to personally admit to the facts supporting the charge. See id. ¶ 11 (“Existing precedent interpreting Rule 11(f) required a recitation of the facts underlying the charges and some admission or acknowledgement by defendant of those facts.”); State v. Yates, 169 Vt. 20, 24 (1999) (stating that “the factual basis for the plea may consist only of facts that defendant has admitted during the proceedings at which the plea is entered”).

As explained in Barber, Bridger’s holding rejecting the substantial-compliance standard does not apply to this collateral proceeding. We conclude, however, that under the pre-Bridger standard the plea colloquy was insufficient in this case. Petitioner acknowledged that the affidavit supported the charge but made no admission that he agreed with the facts recited in the affidavit. Even under a substantial-compliance standard, this is required. Barber, 2018 VT 78, ¶ 36 (concluding colloquy was insufficient where petitioner acknowledged facts could support guilty verdict, but did not admit to facts). Further, petitioner’s admission in the written waiver was not sufficient to comply with Rule 11(f) even prior to Bridger. Id. ¶ 24 n.6 (explaining that signing waiver-of-rights form is not relevant to determining if Rule 11(f) was satisfied). Therefore, Rule 11(f) was not satisfied, and the PCR court properly granted petitioner relief.

Affirmed.

BY THE COURT:

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Paul L. Reiber, Chief Justice

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Marilyn S. Skoglund, Associate Justice

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Beth Robinson, Associate Justice