

STATE OF RHODE ISLAND

PROVIDENCE, SC.

SUPERIOR COURT

(FILED: August 5, 2026)

FREDI LOPEZ

v.

STATE OF RHODE ISLAND

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C.A. No. PM-2025-00115

DECISION

MONTALBANO, P.J. Before this Court is an application for postconviction relief filed by Fredi Lopez (Petitioner or Mr. Lopez). *See* Application for Post-Conviction Relief (Appl.). Petitioner contends that his conviction and sentence should be vacated on the basis that he received ineffective assistance of counsel. *See id.* Petitioner further argues that he entered a plea that was not voluntary, knowing, and intelligent. *See id.* The Court has jurisdiction pursuant to G.L. 1956 §§ 10-9.1-1 and 10-9.1-2.

I

Facts and Travel

On July 30, 2016, Mr. Lopez stabbed Andres Arguijo Acosta after allegedly breaking into his ex-girlfriend's apartment and threatening her with a knife. *See* Appl. Ex. A. On October 12, 2016, Mr. Lopez was charged by criminal indictment with First-Degree Murder for the killing of Mr. Arguijo Acosta (Count I), Breaking and Entering of a Dwelling (Count II), and Felony Assault of Marta Santos (Count III). *See* P1-2016-2973A, Grand Jury Indictment 1-2. Petitioner retained Joseph Voccola, Esq. (Attorney Voccola) and Robert Watt, Esq. (Attorney Watt) to represent him. *See* P1-2016-2973A, Docket. Attorney Voccola entered his appearance as

defense counsel on November 2, 2016, and Attorney Watt entered his appearance as co-counsel on November 21, 2016. *See id.*

On January 2, 2019, Mr. Lopez pled nolo contendere to Second-Degree Murder. *See* P1-2016-2973A, Req. to Enter Plea of Nolo Contendere or Guilty. In exchange for Petitioner’s plea, the State amended Count I to Second-Degree Murder and dismissed Counts II and III. *See id.* On March 21, 2019, Mr. Lopez was sentenced to a term of life imprisonment. *See* P1-2016-2973A, J. of Conviction and Commitment.

On January 7, 2025, Petitioner filed a petition for postconviction relief, alleging ineffective assistance of counsel. *See* Appl. The *pro se* application included motions to assign, appoint counsel, and proceed *in forma pauperis*, as well as a motion for transcripts and a petition for a writ of habeas corpus. *See id.* On February 24, 2025, Attorney Andrew Berg was appointed by the Court to represent Petitioner. *See* Docket. This Court heard testimony from Petitioner and Attorney Watt during the postconviction-relief hearing on July 14, 2026. *See id.*

II

Standard of Review

Postconviction relief is a statutory remedy “available to any person who has been convicted of a crime and who thereafter alleges . . . that the conviction violated the applicant’s constitutional rights” *Lambert v. Salisbury*, 336 A.3d 299, 301 (R.I. 2025) (quoting *Mattatall v. State*, 947 A.2d 896, 901 (R.I. 2008)); *see* § 10-9.1-1(a)(1). “Because the postconviction remedy amounts to a collateral attack on a conviction, the action is civil in nature[.]” *Hernandez v. State*, 196 A.3d 286, 288-89 (R.I. 2018) (quoting *Campbell v. State*, 56 A.3d 448, 454 (R.I. 2012)); *see also* § 10-9.1-7 (“All rules and statutes applicable in civil proceedings shall apply. . . .”). In pursuing such claims, a petitioner bears the burden of

proving—by a preponderance of the evidence—that he or she is entitled to postconviction relief. *Rivera v. State*, 316 A.3d 683, 695-96 (R.I. 2024) (citing *Motyka v. State*, 172 A.3d 1203, 1205 (R.I. 2017)). In accordance with the statute, “[t]he court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented.” Section 10-9.1-7.

“The sole focus of an application for post-conviction relief filed by an applicant who has pled guilty [or nolo contendere] is ‘the nature of counsel’s advice concerning the plea and the voluntariness of the plea.’” *Miguel v. State*, 774 A.2d 19, 22 (R.I. 2001) (quoting *State v. Dufresne*, 436 A.2d 720, 722 (R.I. 1981)). Furthermore, “[a] defendant who pleads guilty on the advice of counsel must demonstrate at his postconviction hearing that that advice was not within the range of competence demanded of attorneys in criminal cases.” *Dufresne*, 436 A.2d at 723. “[T]he defendant must demonstrate a reasonable probability that but for counsel’s errors, he or she would not have pleaded guilty and would have insisted on going to trial and, importantly, that the outcome of the trial would have been different.” *Navarro v. State*, 187 A.3d 317, 326 (R.I. 2018) (quoting *Neufville v. State*, 13 A.3d 607, 610 (R.I. 2011)) (internal quotation marks omitted). If an applicant does not make both showings, “‘it cannot be said that the conviction . . . resulted from a breakdown in the adversary process that renders the result unreliable.’” *LeFebvre v. State*, 313 A.3d 1156, 1162 (R.I. 2024) (quoting *Strickland v. Washington*, 466 U.S. 668, 687 (1984)).

III

Analysis

Mr. Lopez argues his plea should be vacated because he received ineffective assistance of counsel from Attorney Watt. (Appl. 2-5.) He contends that “[d]ue to the attorney’s failure to effectively do his job, [Mr. Lopez] was forced and coerced into taking a plea deal.” *Id.* at 5.

A

Compliance with Rule 11

Rule 11 of the Superior Court Rules of Criminal Procedure states, in pertinent part:

“A defendant may plead not guilty, guilty or, with the consent of the court, nolo contendere. The court may refuse to accept a plea of guilty and shall not accept such plea or a plea of nolo contendere without first addressing the defendant personally and determining that the plea is made voluntarily with understanding of the nature of the charge and the consequences of the plea. . . .”
Super. R. Crim. P. 11.

“A defendant entering [a nolo contendere plea] waives several federal constitutional rights and consents to the judgment of the court.” *Camacho v. State*, 58 A.3d 182, 186 (R.I. 2013) (quoting *State v. Feng*, 421 A.2d 1258, 1266 (R.I. 1980)) (internal quotations, brackets, and citations omitted). Waivers of constitutional rights must consider the totality of the circumstances and must be “voluntary and knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences.” *Johnson v. Mullen*, 120 R.I. 701, 706, 390 A.2d 909, 912 (1978) (internal quotation omitted). “At the conclusion of a plea hearing, the trial justice should be able to say with assurance that the accused is fully aware of the nature of the charge and the consequences of the plea.” *Camacho*, 58 A.3d at 186 (internal quotation and brackets omitted).

The trial justice may attain this objective by:

“(1) an explanation of the essential elements by the judge at the guilty plea hearing; (2) a representation that counsel had explained to the defendant the elements he admits by his plea [footnote omitted]; [or] (3) defendant’s statements admitting to facts constituting the unexplained element or stipulations to such facts.” *Id.* (quoting *State v. Williams*, 122 R.I. 32, 41, 404 A.2d 814, 819 (1979)) (further internal quotation omitted).

However, “the standard is not whether the trial court sufficiently made a detailed explanation of the charges, element by element, and fact by fact, but, more importantly, whether the defendant understood them.” *Id.* “The applicant bears the burden of proving by a preponderance of the evidence that he or she did not intelligently and understandingly waive his or her rights.” *Id.* at 186-87 (internal quotation and brackets omitted).

In the present case, Petitioner alleges his plea was not made knowingly and voluntarily because he “did not know all of the facts of [the] case[,]” and if he had, “he would have gone to trial and mounted a proper defense.” *See* Appl. at 5. During the postconviction-relief hearing, Petitioner’s counsel also set forth the following arguments: (1) Attorney Watt told Petitioner that if he did not accept the plea deal, the judge would be angry; (2) Petitioner did not understand Attorney Watt’s Spanish; (3) Attorney Watt did not discuss the evidence and discovery with Petitioner; (4) Attorney Watt never discussed a diminished capacity defense with Petitioner; and (5) Attorney Watt told Petitioner that if he took the plea deal, he would receive between twenty to twenty-five years’ incarceration. *See generally* Hr’g Tr. July 14, 2026.

Viewing the entire record of the plea colloquy, this Court determines that Petitioner’s plea was made knowingly, intelligently, and voluntarily. At the outset of the plea, this Justice inquired about Petitioner’s education, whether he had any mental disabilities or other problems understanding the Spanish language, whether he was able to effectively communicate with the interpreter, and whether he was under the influence of drugs or alcohol. *See* Plea Tr. 2:15-25, 3:5-6, 3:11-13, Jan. 2, 2019. Petitioner acknowledged that he was able to communicate with his attorneys with the assistance of the interpreter, that he was satisfied with the work of his attorneys on this case, and that he reviewed the plea form with his lawyers before signing. *Id.* at 3:1-4, 3:7-10, 4:4-6. The following exchange occurred between the Court and Petitioner:

“THE COURT: How far did you go in school?

“THE DEFENDANT: Ninth.

“THE COURT: You’re represented by Mr. Watt and Mr. Voccola in this matter? . . .

“THE DEFENDANT: Yes, your Honor.

“THE COURT: And are you currently under the influence of any alcohol or drug?

“THE DEFENDANT: No, your Honor.

“THE COURT: Do you suffer from any mental disability that would affect your ability to understand what’s going on in this courtroom today?

“THE DEFENDANT: No, your Honor.” *Id.* at 3:5-17.

Petitioner’s argument that Attorney Watt told him that the judge would be angry if he rejected the plea deal is unconvincing. Attorney Watt testified at the postconviction-relief hearing that he spoke with Petitioner at length about the strengths and weaknesses of his case:

“Q: And what was your assessment of the State’s case?

“A: Very strong.

“Q: And did you share that with Mr. Lopez?

“A: We did because we discussed in great detail the history of the relationship between Fredi Lopez and Martha, and I discussed the nature of that relationship over time with multiple family members, multiple friends, multiple acquaintances who knew a very complicated historical record as to their relationship; what is it, what would have brought him to be there on that night.

“ . . .

“A: From everything that I saw and heard during the bail hearing and watching Martha testify, shaking repeatedly throughout the testimony, and then following our conversations with [Mr. Lopez] as well and family members and acquaintances, I thought there was a strong case listed.” Hr’g Tr. 7:16-25, 8:18-22, July 14, 2026.

Attorney Watt also testified that it was Mr. Lopez's decision whether to go to trial or to raise certain affirmative defenses. *See id.* at 12:6-12, 18:15-16. Attorney Watt testified: "So, [Mr. Lopez] made the decision that rather than risk going to trial, that he would accept that offer by the State, [thirty-five] to life with an opportunity for a pre-sentence report and a mitigation package to be submitted." *Id.* at 20:18-21. Petitioner also testified during the plea colloquy that nobody forced him to sign the plea form. (Plea Tr. 4:10-11, Jan. 2, 2019.) Attorney Watt adequately explained to Petitioner the strengths and weaknesses of his case and allowed Petitioner to make an informed decision as to whether to proceed to trial. Thus, this Court finds that there is no evidence that Mr. Lopez entered his plea involuntarily or was coerced to do so.

Further, Petitioner's assertions that he did not understand Attorney Watt's Spanish are without merit. Attorney Watt testified to the following during the postconviction-relief hearing:

"Q: And how about your language skills; do you speak any other language other than English?

"A: I do. I speak Spanish.

"Q: And how long have you spoke Spanish?

"A: The Superior Court used to allow me to interpret in the proceedings here in the Superior Court before they went to the court-approved certified interpreter system.

"Q: So you used to actually interpret for the Court?

"A: Absolutely, until 1986/1987 when they went to a more formal and probably more professional system, yes.

"Q: And where did you learn Spanish?

"A: In college, and then on the street, and then with clients. And, so I came here in 1978, in Central Falls primarily.

"Q: And do you use your Spanish language skills oftentimes during your practice over the years?

“A: Fifty percent of the time with clients, easy.

“... .

“Q: And what was the intended and the actual split between handling the case? Was it going to be 80 percent you, 20 percent Mr. Voccola, or how was that --

“A: I can’t say there was a specific understanding. It was by default almost because I spoke to [Petitioner’s] sisters and to [Petitioner] in Spanish exclusively. I think only one family member was at least minimally competent in English. It was all Spanish. . . .

“Q: And during these conversations with Fredi, Mr. Lopez, were you satisfied that he was understanding you?

“A: A hundred percent.” (Hr’g Tr. 4:17-5:8, 5:14-6:5, July 14, 2026.)

Attorney Watt’s Spanish-speaking skills were explored more on cross-examination, to which Attorney Watt testified the following:

“Q: Is it fair to say within the Spanish language, there’s a number of different dialects?

“A: There are.

“Q: Depending if you’re, for example, from the Dominican Republic, it might be different from than if you’re from Guatemala?

“A: It might be, yes.

“Q: And there’s certain challenges in understanding different dialects?

“A: There are. I’m not going to opine, but most of my clients are Guatemalan, and in the Guatemalan context you have the indigenous that speak a multiplicity of indigenous dialects. And you have the Latinos, the Latins. [Mr. Lopez] is from the Latin sector of the Guatemalan community, as are all his family, and I have had no problems since 1978 communicating to that population without difficulty.” *Id.* at 25:20-26:11.

What is more, Petitioner's plea form was in Spanish, which is his native language. The following exchange occurred between the Court and Petitioner during the plea colloquy:

"THE COURT: Is your native language Spanish?

"THE DEFENDANT: Yes.

"THE COURT: And do you have any problems reading, writing, or understanding the Spanish language?

"THE DEFENDANT: No.

"THE COURT: Are you able to effectively communicate with the interpreter here today?

"THE DEFENDANT: Yes.

"THE COURT: And with the assistance of the interpreter, have you been able to communicate with your attorneys today?

"THE DEFENDANT: Yes, your Honor.

"...

"THE COURT: All right, showing you now two forms; one is written in Spanish and one is written in English. Have you read the Spanish version of this form? (INDICATES)

"THE DEFENDANT: Yes, your Honor.

"THE COURT: Is this your signature on page two of both forms? (INDICATES)

"THE DEFENDANT: Correct.

"THE COURT: That's your signature on both forms? (INDICATES)

"THE DEFENDANT: Yes.

"THE COURT: Has your attorney explained to you the contents of this form?

"THE DEFENDANT: Yes.

“THE COURT: Do you have any questions about what the form means?

“THE DEFENDANT: No, your Honor.” (Plea Tr. 2:18-3:4, 3:18-4:9, Jan. 2, 2019.)

This Court finds no indication in the record that Petitioner did not understand Attorney Watt’s Spanish, nor any indication that Petitioner did not understand the substance and gravity of the plea form. Based on Attorney Watt’s extensive experience speaking Spanish to clients with the same dialect as Petitioner, as well as the fact that Attorney Watt was “a hundred percent” clear that Petitioner was understanding him during their conversations, this Court is satisfied that Petitioner understood Attorney Watt throughout his representation.

Petitioner also argued that Attorney Watt did not discuss the evidence and discovery with him prior to him entering the plea. This argument is without merit. Attorney Watt testified during the postconviction-relief hearing that Petitioner heard a portion of the State’s evidence during his bail hearing. (Hr’g Tr. 6:8-17, July 14, 2026.) He also testified on multiple occasions that he had explained to Mr. Lopez the State’s evidence and the discovery he had obtained:

“Q: When you went to see him, what was some of the things that you talked about?

“A: We talked about the evidence that was coming in as it was provided. We talked about the pictures. He saw the pictures of the wounds. He saw the reports as they came in. So, he saw everything that was available to me through discovery.

“Q: Medical examiner’s report?

“A: Yes.

“Q: You said the wounds. Those were shown in medical examiner photos?

“A: In the photographs, yes.

“... .

“Q: All right. Now, when you got the discovery -- I mean, in addition to the bail hearing for which this defendant was present, you received discovery?

“A: That’s correct.

“Q: And did you share that with Mr. Lopez?

“A: I did.

“Q: And did you go over it with him?

“A: Detail notes show that not only with him, but with all members of the family who were particularly concerned about [Mr. Lopez], being the youngest member of that family. There was a lot of contact between the family and the Voccola Law Office as well as the participation at my office and in Joe Voccola’s office where the discovery was completely discussed, yes.

“...

“Q: Why did you share the discovery with not only -- well, obviously with Mr. Lopez. But, why would you share it with the family and talk about the State’s case?

“A: Well, they were seeing, I think, [Mr. Lopez] more often, I’m assuming, than were his attorneys and going out to Cranston. But, the family was extremely concerned about his own -- what was going to happen to [Mr. Lopez], so they were in and out of the office. . . .” *Id.* at 6:18-7:4, 10:17-11:5, 11:10-17.

This Court finds Attorney Watt’s testimony to be credible. Attorney Watt spoke in great detail with both Mr. Lopez and his family members regarding the evidence and discovery received in the case. Although he stated that he was unsure whether Petitioner had discovery at the Adult Correctional Institutions, he was firm in his contention that his sisters had copies of the documents. Attorney Watt testified that he “can remember [Mr. Lopez] asking me after the sentencing on one or two occasions for me to send him the file, which I brought out to him on one occasion, and then there was a second request that came in.” *Id.* at 21:10-17. This Court

therefore finds that Attorney Watt explained to Mr. Lopez and his family, adequately and in Spanish, the complete evidence and discovery in this case.

Likewise, contrary to Petitioner's assertions, it is clear that Attorney Watt did discuss a diminished capacity defense with Petitioner. Critically, Attorney Watt testified at the postconviction-relief hearing as follows:

"Q: And in terms of his drinking or any type of drug use immediately preceding the murder, were you looking into that for purposes of maybe a diminished capacity defense?

"A: Absolutely.

"Q: And did you consider that?

"A: I did.

"Q: And did you discuss that with Mr. Lopez?

"A: We did. In fact, he gave me detailed information as best he could recall about his alcohol consumption and, perhaps, the consumption of another substance during those preceding hours leading up to the incident itself.

"Q: And after you did that, those interviews, and you talked to your client, did you do anything else with regard to diminished capacity?

"A: Well, I think it was with Joe Voccola that that issue came up based upon factors that were present throughout the case. A lot of beer, a lot of alcohol, continued drinking after the incident. So, at some point, I think it may have been Joe Voccola that said, why don't we try to get Dr. Recupero involved in this case.

"Q: And did you?

"A: We did.

"Q: And you got a report?

"A: A report came in at some point in time. . . .

". . .

“Q: Were you impressed by [the report] favorably, unfavorably?

“A: Dr. Recupero has got a lot of respect in this courthouse. She felt there was no -- based upon PTSD from many incidents in [Mr. Lopez’s] past, whether it was a combination of that along with alcohol or other liquor consumption, it may have prohibited him forming a specific intent to commit first degree murder or murder aforethought.

“Q: Were you impressed with that favorably or unfavorably?

“A: The answer is yes, favorably

“ . . .

“Q: Did you discuss that report or those meetings or doctor’s findings with Mr. Lopez?

“A: I did.

“ . . .

“Q: And [Mr. Lopez] said that you never discussed any type of diminished capacity partial defense with him; is that true?

“A: Not true because when we went through the facts, and we went through the facts on a couple of occasions in trying to position [Mr. Lopez] in that bedroom as it related to the closet where the two of them ended up in the closet, and then the memory went a little vague. We’ve had that conversation on multiple occasions. It was my intention to see if what was preceding the positioning of [Mr. Lopez] and [Mr. Arguijo Acosta] in the closet, whether that made sense from a person either acting under a delusion or in self-defense, or if it might be some excessive alcohol that would have caused that falling into the closet.” *Id.* at 14:9-15:7, 15:18-16:2, 16:12-14, 22:2-15.

Furthermore, during sentencing, Attorney Watt told the Court that he explained Dr. Recupero’s report to Petitioner in his native language on at least one or two occasions. (Sentencing Tr. 14:22-24, Mar. 21, 2019.) They discussed the legal requirements of first-degree murder, second-degree murder, and manslaughter, the practical realities of the jury system, and the difference between a jury trial and a bench trial. *Id.* at 14:25-15:4. Attorney Watt stated,

“[w]e talked about the facts of the case, and it was clear to me that [Petitioner] understood the legal distinctions between the three levels of homicide.” *Id.* at 15:4-7. Attorney Watt further explained the following:

“With that, and even before that, Judge, [Dr. Recupero’s] report and its conclusions have been discussed with Mr. Lopez’s family. And the Court has a pretty good idea by now about what that family consists of. And it took the length of translating actually from the English version to the Spanish version the last ten pages, give or take, and that was gone over again by me with both [Mr.] Lopez and with at least two of his sisters and then again asked him did he understand. He understands. He made that decision voluntarily in front of this Court in January. He understands it completely and didn’t second guess his decision then or now to face the sentencing phase at this point in time, Judge.” *Id.* at 15:12-24.

This Court finds Attorney Watt’s testimony to be extremely credible. He and Attorney Voccola engaged Dr. Recupero, who produced a favorable report regarding Petitioner’s diminished capacity during the incident. After discussing with Mr. Lopez at length the facts of the incident in conjunction with the report, Petitioner made an informed decision not to pursue a diminished capacity defense and instead accept the State’s plea deal. His assertion that Attorney Watt never discussed the potential diminished capacity defense with him is baseless.

Finally, Petitioner contends that he accepted the plea deal because Attorney Watt told him that he would receive between twenty to twenty-five years’ incarceration. There is no evidence in the record to suggest that Attorney Watt explained this to Mr. Lopez, as Attorney Watt testified at the postconviction-relief hearing:

“Q: [D]id you give [Petitioner] any impression that he could get lower than [thirty-five] years to serve on the plea?

“MR. BERG: I’m going to object to that.

“THE COURT: Overruled, overruled.

“A: I don’t believe so. You mean from a straight sentence by the Court?

“Q: Yes.

“A: That’s not what the plea agreement was. You could always ask the Court. Depending upon the strength of the mitigation, the Court could consider it *sua sponte*. I was certainly arguing to the Court for *sua sponte* minimal relief as the Court might perceive it, but I didn’t tell him he could get less than [twenty-five] as a matter of course when he was pleading to [thirty-five] at the outset.” Hr’g Tr. 23:6-20, July 14, 2026.

What is more, Mr. Lopez testified during the plea colloquy:

“THE COURT: And, Mr. Lopez, do you understand that to be the agreement that you could be sentenced to serve up to life imprisonment with a *minimum of [thirty-five] years to serve?*

“THE DEFENDANT: Yes, your Honor.” (Plea Tr. 9:21-25, Jan. 2, 2019 (emphasis added).)

This Court finds no evidence in the record that Mr. Lopez was told he would receive less than thirty-five years to serve. Attorney Watt did testify that he discussed with Mr. Lopez the general parole obligations and the possibility that, if he received a sentence of thirty-five years, he would be eligible for parole at seventeen-and-a-half years. (Hr’g Tr. 20:5-16, July 14, 2026.) However, Mr. Lopez was clear during the plea colloquy that he understood that thirty-five years was the absolute minimum sentence he could receive. Thus, Petitioner’s argument is without merit.

Based on the foregoing, the Court finds that Petitioner understood the consequences of his plea. Attorney Watt explained to Petitioner the strengths and weaknesses of his case, all the relevant evidence and discovery, the likely effectiveness of a diminished capacity defense, and the absolute minimum sentence he could receive. Petitioner understood Attorney Watt’s Spanish and the consequences of his plea, and he made a voluntary decision to accept the plea deal rather

than proceed to trial. During the plea colloquy, Petitioner acknowledged that he understood that he was giving up certain constitutional rights with his plea of *nolo contendere*, and he acknowledged the potential immigration consequences. (Plea Tr. 4:23-7:1, Jan. 2, 2019.) The Court asked Mr. Lopez if he agreed with the facts he was pleading to as read by the prosecutor, and he agreed that the facts were true and that the State could prove the facts beyond a reasonable doubt if the case went to trial. *Id.* at 7:16-8:22. Ultimately, this Court found that Petitioner made a plea that was knowing, intelligent, and voluntary. *Id.* at 10:3-6. Critically, Attorney Watt explained during sentencing:

“[H]e is well aware, we even diagrammed on a couple of occasions what the challenges and what the decision-making process would be, he tendered his *nolo* plea to this Court, between a manslaughter [zero] to [thirty] and a bottom-end capped plea with life. *He made the decision to tender a nolo plea, he stands by it[.]*” (Sentencing Tr. 24:7-13, Mar. 21, 2019 (emphasis added).)

Therefore, this Court is satisfied that Petitioner’s plea was knowing, intelligent, and voluntary, and that the requirements of Rule 11 and the Fourteenth Amendment were complied with.

B

Ineffective Assistance of Counsel

When evaluating claims of ineffective assistance of counsel, Rhode Island Courts adhere to the United States Supreme Court’s standard set forth in *Strickland*, 466 U.S. 668. *Navarro*, 187 A.3d at 325. To prevail on a claim of ineffective assistance of counsel, applicants must satisfy two criteria. *Id.* at 326. “First, the applicant must demonstrate that counsel’s performance was deficient, to the point that [her] errors were so serious that trial counsel did not function at the level guaranteed by the Sixth Amendment.” *Rivera*, 316 A.3d at 696 (quoting *Navarro*, 187 A.3d at 326). “This prong can be satisfied only by a showing that counsel’s representation fell below an objective standard of reasonableness.” *Id.* (quoting *Chapdelaine v.*

State, 32 A.3d 937, 941 (R.I. 2011)). Second, the applicant must demonstrate ““that the deficient performance prejudiced the defense.”” *Id.* (quoting *Navarro*, 187 A.3d at 326). ““This prong is satisfied only when an applicant demonstrates that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.”” *Id.* (quoting *Bell v. State*, 71 A.3d 458, 460 (R.I. 2013)).

As iterated above, “[t]he sole focus of an application for post-conviction relief filed by an applicant who has pled guilty [or nolo contendere] is the nature of counsel’s advice concerning the plea and the voluntariness of the plea.” *Miguel*, 774 A.2d at 22 (internal quotation omitted). “A defendant who pleads guilty on the advice of counsel must demonstrate at his postconviction hearing that that advice was not within the range of competence demanded of attorneys in criminal cases.” *Dufresne*, 436 A.2d at 723. “[T]he defendant must demonstrate a reasonable probability that but for counsel’s errors, he or she would not have pleaded guilty and would have insisted on going to trial and, importantly, that the outcome of the trial would have been different.” *Navarro*, 187 A.3d at 326 (quoting *Neufville*, 13 A.3d at 610-11) (further internal quotation omitted). If an applicant does not make both showings, ““it cannot be said that the conviction . . . resulted from a breakdown in the adversary process that renders the result unreliable.”” *LeFebvre*, 313 A.3d at 1162 (quoting *Strickland*, 466 U.S. at 687).

1

First Prong

The first prong of the *Strickland* analysis requires the applicant to ““demonstrate that counsel’s performance was deficient, to the point that the errors were so serious that trial counsel did not function at the level guaranteed by the Sixth Amendment.”” *Navarro*, 187 A.3d at 326 (quoting *Rodriguez v. State*, 941 A.2d 158, 162 (R.I. 2008)). To do so, Petitioner must show that

“counsel’s advice was not within the range of competence demanded of attorneys in criminal cases.” *Neufville*, 13 A.3d at 610 (internal quotation omitted). “[T]actical decisions by trial counsel, even if ill-advised, do not by themselves constitute ineffective assistance of counsel.” *Linde v. State*, 78 A.3d 738, 747 (R.I. 2013).

Our Supreme Court “requires that scrutiny of counsel’s performance be highly deferential, and ‘every effort must be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel’s challenged conduct, and to evaluate the conduct from counsel’s perspective at the time.’” *Tassone v. State*, 42 A.3d 1277, 1285 (R.I. 2012) (alteration in original) (quoting *Lynch v. State*, 13 A.3d 603, 606 (R.I. 2011)). Rhode Island courts “‘will not meticulously scrutinize an attorney’s reasoned judgment or strategic maneuver in the context of a claim of ineffective assistance of counsel.’” *Smith v. State*, 327 A.3d 374, 382 (R.I. 2024) (quoting *Linde*, 78 A.3d at 747). As such, counsel’s performance “must be assessed in view of the totality of the circumstances and in light of ‘a strong presumption that counsel’s conduct falls within the wide range of reasonable professional assistance.’” *Hazard v. State*, 968 A.2d 886, 892 (R.I. 2009) (quoting *Heath v. Vose*, 747 A.2d 475, 478 (R.I. 2000)); see *LeFebvre*, 313 A.3d at 1163.

With regard to the first prong, this Court must consider whether the advice of Attorney Watt to Petitioner regarding the plea was within the range of competence demanded of attorneys in criminal cases. See *Neufville*, 13 A.3d at 610. The Court’s scrutiny of his performance must be highly deferential, and it must make every effort to eliminate the distorting effects of hindsight, reconstruct the circumstances of his challenged conduct, and evaluate same from his perspective at the time. See *Tassone*, 42 A.3d at 1285.

In his *pro se* Application, Petitioner argues that his counsel's performance was deficient because Attorney Watt failed to (1) interview any crime scene eyewitnesses; (2) perform a data search of Mr. Lopez's cell phone; (3) challenge the fact that the medical examiner did not receive the alleged murder weapon for the victim's wound comparison; (4) challenge Mr. Lopez's improper interview with the Providence Police Department; (5) challenge why Petitioner only had a buccal swab taken and not a toxicology screening; (6) challenge the State to prove that the victim had Mr. Lopez's DNA under his fingernails; (7) challenge why there were no pictures of Mr. Lopez with injuries sustained while engaged in the alleged fight with the victim; (8) to provide and review all crime scene pictures with Petitioner; and (9) to inform Mr. Lopez and challenge the prosecuting attorney on their "invented" timeline and narrative of the crime. *See Appl.* at 2-4.

In *Dufresne*, the defendant pled guilty to second-degree murder. *Dufresne*, 436 A.2d at 721. Thereafter, during his postconviction-relief hearing, he argued that trial counsel failed to employ helpful evidence or interview witnesses, made no pretrial motions, and failed to fully investigate the case. *Id.* at 721-22. The postconviction justice concluded that the defendant was sufficiently prejudiced by his attorney's representation, and he vacated the plea and sentence. *Id.* at 722. However, on appeal, our Supreme Court held that the postconviction justice had erred in vacating the plea. *See id.* The Court stated:

"The defendant's entry of the guilty plea to second-degree murder interrupted and halted the trial. That plea, therefore, fixed the posture of any further proceedings for postconviction relief. The only pertinent issue before the court, and the only issue that should have had any relevance at the postconviction hearing in the court below, was whether defendant's guilty plea was valid. The sole question was whether Dufresne knowingly and voluntarily entered his plea. Our consideration of that plea, therefore, makes discussion of the trial counsel's activities that were not related to the taking of the plea wholly irrelevant. Defendant's allegation

that he was denied constitutionally effective assistance of counsel throughout the entire proceedings does not change the essential nature of our inquiry.

“The focus of a postconviction inquiry when there has been a guilty plea is the nature of counsel’s advice concerning the plea and the voluntariness of the plea. If the plea is validly entered, we do not consider any alleged prior constitutional infirmity.” *Id.*

Because this Court has already determined that Mr. Lopez’s plea was validly entered, it need not consider any other prior constitutional infirmity. However, assuming *arguendo* that the plea was not valid, this Court finds that Petitioner has not demonstrated that Attorney Watt’s advice regarding the plea was not within the range of competence demanded of attorneys in criminal cases. *See id.* at 723. At the postconviction-relief hearing, Attorney Watt testified that he has been a lawyer for forty-eight years. (Hr’g Tr. 1:14-17, July 14, 2026.) He is a member in good standing of the Rhode Island bar, the Massachusetts bar, and the federal bar. *Id.* He has handled various types of cases, including criminal law, family law, personal injury, and immigration law. *Id.* at 1:18-24. Attorney Watt was also a member of the Criminal Justice Act (CJA) Panel in the federal court, representing clients as a criminal defense attorney before there was a public defender. *Id.* at 2:2-17. He has represented clients both in criminal cases that have pled out and proceeded to trial, and he has represented approximately half a dozen clients charged with first-degree murder, some of which have gone to trial. *Id.* at 2:23-3:7.

Petitioner’s contentions that Attorney Watt failed to interview any crime scene witnesses and review all crime scene pictures with him are without merit. Attorney Watt specifically testified at the postconviction-relief hearing that “[w]e talked about the evidence that was coming in as it was provided. We talked about the pictures. He saw the pictures of the wounds. He saw the reports as they came in. So, he saw everything that was available to me through discovery.” *Id.* at 6:20-24. Further, Attorney Watt testified as follows:

“A: And in terms of [Mr. Lopez’s] own mental capacity to have formed any kind of intent, I met with or spoke to fellows such as Cavinal . . . and I spoke to others in terms of where [Mr. Lopez] had been earlier in the evening, including drinking in a parking lot, and then going to at least two other locations, I think Guatemalan-type locations within the City of Providence, before he got to the house on Alverson. I spoke to the lady that was with him after the incident who had come into contact with [Mr. Lopez] and spent some hours with him trying to get some coffee into him, though there were still some drinking going on post incident.

“ . . .

“Q: Okay, so it sounds like you explored a lot of background from the day of the murder and the hours leading up to it. Why did you do that?

“A: Well, because I think you have to be cognizant of many facts as you can be. I, myself, went out personally to the scene. I contacted the owner because by that time Martha had moved from the first floor. I contacted the owner and then went out to the property that was being occupied by other tenants at this point in time and just looked and watched, walked, paced off where this happened, where that happened, depending on who was standing what and where.

“Q: And specifically in your investigation, if you will, of this defendant’s goings-on and state of mind in the hours leading up to it, why were you doing that? Were you exploring a specific defense with regard to that?

“A: Well, I mean, not with the anticipation of forethought but as to facts that might lead to be consistent with other theories of how he died, and where he died, and what could be a rational explanation, if any, for multiple stab wounds, and where was the bedroom in relationship to the kitchen, the front door, things of that sort. I just wanted to know.

“Q: Sure.

“A: Because if [Mr. Lopez] asked me a question, I’d be able to say, Look, I’ve been there, Fredi.” *Id.* at 12:12-13:1, 13:8-14:8.

The record is clear that Attorney Watt was extremely diligent in examining the crime scene, speaking with individuals that may have been with Mr. Lopez earlier in the night, and

seeking alternative theories and defenses that could potentially support Petitioner's defense. Thus, Petitioner's arguments are unpersuasive.

Petitioner also contends that Attorney Watt failed to perform a data search of his cell phone, but he has not demonstrated why a data search would have been necessary, nor has he explained what evidence a data search would reveal. He argues that Attorney Watt failed to challenge why Mr. Lopez only had a buccal swab taken and not a toxicology screening, but he fails to demonstrate why a toxicology screening should have been given and the prejudice resulting from a lack thereof. Further, Mr. Lopez asserts that Attorney Watt failed to challenge his "improper" interview with the Providence Police Department, but there is no evidence that said interview was improper. He claims the translator provided by the Providence Police Department was "unofficial and unqualified," and that he "was never allowed to verbally ask for an attorney to be present during the interview." *See* Appl. at 2-4. However, there is nothing in the record indicating that the translator was unofficial or unqualified, and the interview transcripts demonstrate that Mr. Lopez was read his *Miranda* rights, including his right to an attorney. *See* Appl. Ex. D. None of these arguments carry any weight.

Mr. Lopez also avers that Attorney Watt failed to challenge (1) whether Mr. Arguijo Acosta had Mr. Lopez's DNA under his fingernails; (2) the fact that the medical examiner did not receive the alleged murder weapon for the victim's wound comparison; and (3) why there were no pictures of Mr. Lopez with injuries sustained while engaged in the alleged fight with the victim. *Id.* This Court finds that, even if Attorney Watt had challenged these facts, the outcome of Mr. Lopez's trial would likely have remained the same. Mr. Lopez admitted to having a knife at the scene and that he never intended to kill Mr. Arguijo Acosta. Hr'g Tr. 10:10-13, July 14, 2026. There were multiple eyewitnesses at the scene who observed Mr. Lopez fighting with Mr.

Arguijo Acosta and who saw Mr. Lopez with a knife. Whether Mr. Arguijo Acosta had Mr. Lopez's DNA under his fingernails, whether the medical examiner had received the murder weapon for wound comparison, and whether Mr. Lopez had injuries is of no consequence.

Finally, Petitioner argues that the prosecuting attorney engaged in prosecutorial misconduct by "invent[ing] a timeline of the alleged crime and creat[ing] a narrative of the events" on the night of the crime. *See* Appl. at 4. He contends that Attorney Watt failed to inform him of this and challenge the prosecuting attorney on the "invented" timeline. *See id.* Like Mr. Lopez's other arguments, there is no basis in fact for this allegation. Petitioner fails to articulate any discrepancies in the timeline of events.

In *Dufresne*, counsel advised the defendant to plead guilty to a reduced charge of second-degree murder after incriminating statements had been admitted against him, which our Supreme Court concluded was "within the range of competence demanded of criminal attorneys." *Dufresne*, 436 A.2d at 724. In this case, there were eyewitnesses to the fight, Mr. Lopez admitted to police officers that he had a knife, and, after a thorough independent investigation, Attorney Watt advised Mr. Lopez that there were likely no viable defenses available to him. Advising Mr. Lopez to plead guilty—which Attorney Watt told Mr. Lopez was entirely his decision—was within the range of competence demanded of criminal attorneys and was likely Mr. Lopez's best option to avoid a first-degree murder conviction. This Court finds no deficiencies in Attorney Watt's performance.

Although the proper inquiry in cases involving pleas is the nature of counsel's advice concerning the plea and the voluntariness of the plea, *see Miguel*, 774 A.2d at 22, this Court has examined each of Petitioner's arguments and finds that they are without merit. Attorney Watt's performance was in no way ineffective, and Petitioner has not demonstrated that but for

counsel's errors, he would not have pleaded guilty and would have insisted on going to trial. *See Navarro*, 187 A.3d at 326. This Court is satisfied that Attorney Watt's performance prior to a potential trial, during plea negotiations, and his representation during the plea colloquy certainly fell within the wide range of reasonable professional assistance to which Petitioner was entitled. Accordingly, Petitioner has not satisfied the first prong of the *Strickland* test.

2

Second Prong

Because of Petitioner's failure to prove that the representation by Attorney Watt was constitutionally deficient, the Court need not—and will not—address the second prong of the *Strickland* standard. *See Smith*, 327 A.3d at 383 (“Because we have determined that the petitioner failed to satisfy the first prong of *Strickland*, we need not go further.”). Nevertheless, this Court notes that Petitioner was in no way prejudiced by the representation by Attorney Watt, nor has Petitioner demonstrated that the outcome of the trial would have been different had he not pleaded guilty. *See Navarro*, 187 A.3d at 326. It is clear to this Court that Petitioner received effective assistance of counsel and a just result was produced. *LeFebvre*, 313 A.3d at 1162-63.

IV

Conclusion

In light of the foregoing, the Court concludes that Petitioner has not satisfied his burden of proving by a preponderance of the evidence that postconviction relief is warranted. Furthermore, this Court is satisfied that defense counsel provided competent and professional services in defense of the charges against Petitioner. Accordingly, the Application for Post-Conviction Relief is denied and dismissed.

Counsel shall submit an appropriate order for entry.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: **Lopez v. State of Rhode Island**

CASE NO: **PM-2025-00115**

COURT: **Providence County Superior Court**

DATE DECISION FILED: **August 5, 2026**

JUSTICE/MAGISTRATE: **Montalbano, P.J.**

ATTORNEYS:

For Plaintiff: **Andrew H. Berg, Esq.**

For Defendant: **Daniel Guglielmo, Esq.**