

STATE OF LOUISIANA

NO. 25-KH-298

VERSUS

FIFTH CIRCUIT

DARWIN NIGRINIS

COURT OF APPEAL

STATE OF LOUISIANA

FIFTH CIRCUIT COURT OF APPEAL
A TRUE COPY OF DOCUMENTS AS
SAME APPEARS IN OUR RECORDS


Morgan Naquin
Deputy, Clerk of Court

July 14, 2025

Morgan Naquin
Deputy Clerk

IN RE DARWIN NIGRINIS

APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE LEE V. FAULKNER,
JR., DIVISION "P", NUMBER 13-3566, 13-3567, 14,1167

Panel composed of Judges Susan M. Chehardy,
Stephen J. Windhorst, and E. Adrian Adams, Pro Tempore

WRIT DENIED

Relator, Darwin Nigrinis, seeks this Court's supervisory review of the district court's April 30, 2025 and May 7, 2025 oral rulings, which denied his motions to withdraw guilty pleas and set aside convictions and sentences. We deny the writ application for the following reasons.

On April 10, 2025, Mr. Nigrinis, a non-U.S. citizen, who purports to be a "lawful permanent resident," filed a "Motion to Withdraw Guilty Plea and Set Aside Sentence," in proceeding numbers 13-03566, 13-03567, and 14-0116, respectively, arguing that at the time he entered his guilty plea, he was "unaware the guilty plea would cause negative consequences with respect to [his] immigration status." Specifically, Mr. Nigrinis claims that prior to his guilty pleas, his counsel advised him "and the Court" that any negative consequences with respect to his immigration status were inapplicable to his case. According to Mr.

Nigrinis, his convictions and sentences are considered to be “an aggravated felony under immigration law,” which will trigger automatic removal proceedings against him, but neither his counsel nor the Court explained to him the potential risks of deportation that may and/or would occur as a result of his guilty pleas. Mr. Nigrinis contends that as a result of his guilty pleas, he has been given deferred inspection as immigration authorities investigate his criminal record.

On April 30, 2025, the district court heard testimony and argument on Mr. Nigrinis’ motions—which motions are requests for remedies that attack the constitutional deficiency of the guilty pleas—after which the court took the matter under advisement. Pursuant to a minute entry dated May 7, 2025, in open court, the trial judge denied Mr. Nigrinis’ motions stating, “The Court feels that post conviction relief is the proper filing that is required to resolve this matter.” In other words, the vehicle chosen by Mr. Nigrinis to contest the constitutionality of his guilty pleas is improper.¹

In response, Mr. Nigrinis argues that, pursuant to La. C.Cr.P. art. 2, the provisions of the code are “... intended to provide for the just determination of criminal proceedings. They shall be construed to secure simplicity in procedure, fairness in administration, and the elimination of unjustifiable delay.” Consequently, he contends the district court had discretion to properly exercise its post-conviction jurisdiction and to grant him the relief he requested in his motions.

In the instant application for supervisory review, Mr. Nigrinis asks this Court: (1) to find that his “guilty pleas were not knowingly and intelligently made and as [he] showed an infringement on his constitutional rights during the hearing on his motions;” (2) “to reverse the Trial Court’s judgments and permit [him] to

¹ A defendant may challenge the guilty plea as constitutionally infirm before sentencing by filing a motion under La. C.Cr.P. art. 558, and “after sentencing by way of appeal or post conviction relief.” *State v. Dixon*, 449 So.2d 463, 464 (La. 1984). A defendant may also attack his guilty plea by filing a petition in federal court for *habeas corpus* relief under 28 U.S.C. § 2254. See *Crochet v. Goodwin*, 13-3106, 2014 WL 5093995 (E.D. La. Oct. 8, 2014).

withdraw his relevant guilty pleas, as well as vacate and set aside [his] convictions and sentences;” and (3) to find that the assistance provided by his counsel was ineffective because counsel failed to properly advise him of the immigration consequences of his guilty plea, thereby violating the duty owed to him to advise him fully concerning pleading guilty. According to Mr. Nigrinis, defense counsel’s deficient performance resulted in a prejudice to him because, without the defense counsel’s omission, the result of the proceedings would have been different. In short, Mr. Nigrinis claims he received ineffective assistance of counsel because there is a reasonable probability that, “but for the defense counsel’s unprofessional errors in not advising [Mr. Nigrinis] correctly about the immigration law applicable to his cases, the result of the proceedings would have been different in that [he] would not have plead [sic] guilty under the relevant plea agreements.”

As an initial matter, transcripts of the proceedings that took place on April 30, 2025, or May 7, 2025, resulting in the district court’s “judgments” at issue, are not contained in Mr. Nigrinis’ writ application. All that this Court has to review is the May 7, 2025 minute entry, which shows the district court denied Mr. Nigrinis’ motions on the basis that “post conviction relief is the proper filing that it required to resolve this matter.” As Mr. Nigrinis noted, the district court may have had discretion to address the matter within its “*habeas corpus* power” as a “request for *habeas corpus* post-conviction relief.” In this instance, however, it appears the district court chose not to do so. Additionally, and equally important, Mr. Nigrinis failed to attach a transcript of the guilty plea colloquies at issue, a copy of the waiver of constitutional rights forms, on which he claims had “not applicable” rather than his initials where the accused is advised of potential immigration consequences, or *any* other information with respect to his convictions and

sentences. In fact, Mr. Nigrinis has failed to attach any relevant documents, affidavits, or transcripts, etc., for this Court to review to substantiate the relief he seeks. Accordingly, on the showing made, without anything for this Court to properly review, this writ application is denied.

Gretna, Louisiana, this 14th day of July, 2025.

SMC
SJW
EAA

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
JOHN J. MOLAISSON, JR.
SCOTT U. SCHLEGEL
TIMOTHY S. MARCEL

JUDGES



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SUSAN S. BUCHHOLZ
CHIEF DEPUTY CLERK

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FIRST DEPUTY CLERK

MELISSA C. LEDET
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NOTICE OF DISPOSITION CERTIFICATE OF DELIVERY

I CERTIFY THAT A COPY OF THE DISPOSITION IN THE FOREGOING MATTER HAS BEEN TRANSMITTED IN ACCORDANCE WITH **UNIFORM RULES - COURT OF APPEAL, RULE 4-6** THIS DAY **07/14/2025** TO THE TRIAL JUDGE, THE TRIAL COURT CLERK OF COURT, AND AT LEAST ONE OF THE COUNSEL OF RECORD FOR EACH PARTY, AND TO EACH PARTY NOT REPRESENTED BY COUNSEL, AS LISTED BELOW:

CURTIS B. PURSELL
CLERK OF COURT

25-KH-298

E-NOTIFIED

24th Judicial District Court (Clerk)
Hon. Lee V. Faulkner, Jr. (DISTRICT JUDGE)
No Attorney(s) were ENOTIFIED

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MAILED

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