Fifth Circuit Court of Appeal
State of Louisiana

No. 26-KH-423

STATE OF LOUISIANA

versus

ELLIS ELLISON

IN RE ELLIS ELLISON
APPLYING FOR SUPERVISORY WRIT FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT, PARISH OF JEFFERSON, STATE OF LOUISIANA, DIRECTED TO THE HONORABLE JUNE B. DARENSBURG, DIVISION "C", No. 22-6119

TRUE COPY
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DEPUTY CLERK

November 02, 2026

Panel composed of Judges Fredericka Homberg Wicker, Jude G. Gravois, and Stephen J. Windhorst

WRIT DENIED

Relator-Defendant Ellis Ellison seeks review of the trial court's July 22, 2026 ruling denying his Application for Post-Conviction Relief (APCR) filed on July 13, 2026. For the reasons that follow, we deny the writ application.

BACKGROUND

On August 12, 2024, Relator pled guilty to four counts of simple burglary, and the trial court sentenced him to twelve years imprisonment at hard labor on each count with all sentences to run concurrently. The same day, the State filed a multiple offender bill of information alleging that Relator was a third-felony offender. Relator stipulated to the multiple bill. Thereafter, the trial court vacated Relator's

sentence on count one and resentenced him to twelve years imprisonment at hard labor without benefit of probation or suspension of sentence to run concurrently with his other sentences.

Relator did not file a motion for appeal; however, he did file an application for post-conviction relief on July 13, 2026. In his application, Relator made claims of defective bill of information, ineffective assistance of counsel, and involuntary guilty plea. On July 22, 2026, the trial court denied relief. The trial court found that Relator's claim of a defective bill of information was without merit, and that his counsel was not ineffective for failing to challenge the bill of information. Additionally, the trial court found that the guilty plea transcript "reflect[ed] the trial court's inquiries as to the petitioner's understanding of the crimes he was admitting, the rights he was waiving by pleading guilty, and the sentences he would receive."

Relator failed to file in the trial court a notice of intent to seek review of the trial court's denial of his APCR as required by Uniform Rules – Courts of Appeal, Rule 4-2.[1] On September 9, 2026, Relator's writ application, signed and dated August 31, 2026, was stamped as filed with this Court. Initially, Relator failed to attach documentation of a return date with his writ application, as required by Uniform Rules – Courts of Appeal, Rule 4-3.[2] Further, Relator was required by Uniform Rules – Courts of Appeal, Rule 4-3 to file a notice of intent within thirty days of the ruling at issue. Because more than thirty days passed between the trial court's July 22, 2026 ruling and either August 31, 2026 or September 9, 2026, we find that Relator's writ application is both procedurally deficient and untimely.

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[1] Rule 4-2 provides:

> The party, or counsel of record, intending to apply to the Court of Appeal for a writ shall give to the opposing parties or the opposing counsel of record, notice of such intention. The party, simultaneously, shall give notice to the judge whose ruling is at issue, by requesting a return date to be set by the judge within the time period provided for in Rule 4-3.

[2] According to Relator, he received the trial court's July 22, 2026 ruling on August 3, 2026.

However, even if this writ was filed in a timely manner and in compliance with the Uniform Rules – Courts of Appeal, after careful analysis, we would nevertheless deny Relator's writ application.

DISCUSSION

In his writ application, Relator re-urges the claims he asserted in his APCR. First, he maintains that the bill of information was defective because it failed to properly charge him with all elements of the offense of simple burglary. When a defendant enters a guilty plea, he waives all non-jurisdictional defects in the proceedings leading up to the guilty plea, which precludes review of such defects either by appeal or post-conviction relief. *State v. Turner*, 09-1079 (La. App. 5 Cir. 7/27/10), 47 So.3d 455, 459. Furthermore, the time for testing the sufficiency of an indictment or bill of information is before trial either through a motion to quash or an application for a bill of particulars. *State v. Noil*, 01-521 (La. App. 5 Cir. 12/26/01), 807 So.2d 295, 309, *writ denied*, 02-276 (La. 10/25/02), 827 So.2d 1177. Thus, as the trial court pointed out, Relator's claim appears procedurally barred from review under La. C.Cr.P. art. 930.4(B).[3] Nevertheless, because Relator also raises the instant claim in the context of an ineffective assistance of counsel claim,[4] we review it accordingly.

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[3] La. C.Cr.P. art. 930.4(B) provides: "If the application alleges a claim of which the petitioner had knowledge and inexcusably failed to raise in the proceedings leading to conviction, the court shall deny relief."

[4] The general rule that a guilty plea waives all non-jurisdictional defects includes all ineffective assistance of counsel claims, except when the ineffectiveness is alleged to have rendered the guilty plea involuntary. *See State ex rel. Knight v. Frederick*, 21-1061 (La. 11/23/21), 328 So.3d 71 (per curiam). *See also United States v. Palacios*, 928 F.3d 450, 455 (5th Cir. 2019); *Smith v. Estelle*, 711 F.2d 677, 682 (5th Cir. 1983), *cert. denied sub nom. Smith v. McKaskle*, 466 U.S. 906, 104 S.Ct. 1685, 80 L.Ed.2d 159 (1984). Here, Relator does not contend that counsel's ineffectiveness rendered his guilty plea involuntary. Nevertheless, the Supreme Court has held that a defendant's entry of a counseled plea of guilty did not serve to waive a post-conviction ineffective assistance claim. *Hill v. Lockhart*, 474 U.S. 52, 58, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985). *See also State v. West*, 09-2810 (La. 12/10/10), 50 So.3d 148, 149 (per curiam) ("When a defendant enters a counseled plea of guilty, this court will review the quality of counsel's representation in deciding whether the plea should be set aside."). Thus, we review Relator's ineffective assistance claim.

La. C.Cr.P. art. 384 provides that "[a]n information is a written accusation of a crime made by the district attorney or the city prosecutor and signed by him. It must be filed in open court in a court having jurisdiction to try the offense, or in the office of the clerk thereof." La. C.Cr.P. art. 463 sets forth the form that a bill of information may follow. Simple burglary is defined as "[t]he unauthorized entering of any dwelling, vehicle, watercraft, or other structure, movable or immovable, or any cemetery, with the intent to commit a felony or any theft therein[.]" *See* La. R.S. 14:62A.

According to Relator, the bill of information only states that he committed the four counts of simple burglary at certain addresses without describing the actual structures. In the bill of information, each of the four counts of simple burglary states the name of the establishment (*i.e.,* French Press Coffee House, J's Bayou Seafood, New Orleans Food & Spirits, and New Orleans Original Daiquiri) and the address for each establishment. Therefore, even in the absence of the word "structure" appearing in the bill of information, the bill of information indicated that a "structure" was entered by delineating the name of each establishment and stating its specific address. Additionally, the same descriptions were used during the State's recitation of the facts to which Relator subsequently pled guilty. In *State v. Spellman*, 13-908 (La. App. 5 Cir. 4/9/14), 140 So.3d 751, 755, *writ denied*, 14-1315 (La. 2/6/15), 158 So.3d 815, this Court found that the bill of information charging the defendant with simple burglary sufficiently alleged a burglary had been committed at a structure when the bill listed the address of the structure, and the defendant stated that he was pleading guilty because he "broke into the gas station," despite the defendant's argument that the bill listed "Kid Creole" as the name of the structure and the defendant believed that was a person's name. Thus, in the instant case, we find that the information contained in the bill was sufficient to place Relator

on notice of the crimes charged. Relator's claim that the bill of information was defective is therefore without merit.

Next, Relator asserts that his counsel rendered ineffective assistance by failing to file a motion to quash the bill of information as defective. Under the Sixth Amendment to the United States Constitution and Article I, § 13 of the Louisiana Constitution, a defendant is entitled to effective assistance of counsel. *State v. Casimer*, 12-678 (La. App. 5 Cir. 3/13/13), 113 So.3d 1129, 1141. To prove ineffective assistance of counsel, a defendant must satisfy the two-prong test set forth in *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). *Casimer*, 113 So.3d at 1141. Under the *Strickland* test, the defendant must show: (1) that counsel's performance was deficient, that is, that the performance fell below an objective standard of reasonableness under prevailing professional norms; and (2) that the deficient performance prejudiced the defense. *Id*. When a defendant claims that counsel's ineffective assistance rendered a guilty plea invalid, the *Strickland* analysis under the first deficiency prong remains the same, whereas under the second prejudice prong, "the defendant must show that there is a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial." *Hill v. Lockhart*, 474 U.S. 52, 58–59, 106 S.Ct. 366, 88 L.Ed.2d 203 (1985).

As a general matter, the filing of motions is squarely within the ambit of trial strategy. *State v. Pendelton*, 96-367 (La. App. 5 Cir. 5/28/97), 696 So.2d 144, 156, *writ denied*, 97-1714 (La. 12/19/97), 706 So.2d 450. In any event, however, "[w]hen the substantive issue that an attorney has not raised has no merit, then the claim that the attorney was ineffective for failing to raise the issue also has no merit." *See State v. Williams*, 613 So.2d 252, 256–57 (La. App. 1 Cir. 1992). We therefore find that Relator's re-purposing of his claim of a defective bill of information as one of

ineffective assistance of counsel is also without merit and does not entitle him to relief.

In his final claim, Relator contends that his guilty plea was involuntary because the trial court failed to inform him of the elements of simple burglary. The test for the validity of a guilty plea does not depend on whether the trial court specifically informed the defendant of every element of the offense. *State v. Blunt*, 20-171 (La. App. 5 Cir. 11/18/20), 307 So.3d 384, 392. When a defendant is represented by counsel, the trial court accepting his guilty plea may presume that counsel has explained the nature of the charge in sufficient detail that the defendant has notice of what his plea asks him to admit. *Id*. at 393 (quoting *State v. Dadney*, 14-511 (La. App. 5 Cir. 12/16/14), 167 So.3d 55, 60, *writ denied*, 15-90 (La. 10/30/15), 179 So.3d 614). La. C.Cr.P. art. 556.1(A)(1) also provides that the trial court, before accepting a guilty plea, must personally inform the defendant of the nature of the charge to which the plea is offered, any mandatory minimum penalty, and the maximum possible penalty. However, "[a]ny variance from the procedures required by this Article which does not affect the substantial rights of the accused shall not invalidate the plea." La. C.Cr.P. art. 556.1(E). Violations of Article 556.1 that do not rise to the level of *Boykin*[5] violations are subject to harmless error analysis. *See State v. Craig*, 10-854 (La. App. 5 Cir. 5/24/11), 66 So.3d 60, 64.

According to the transcript of Relator's guilty plea and sentencing hearing, the trial court advised him of his *Boykin* rights, and Relator, who was represented by counsel, waived those rights. Additionally, Relator signed and initialed a waiver of rights form. While the trial court did not read and explain the elements of simple burglary to Relator, the State provided a factual basis for each count. Furthermore, at no point during the colloquy did Relator advise the trial court or his counsel that

[5] *Boykin v. Alabama*, 395 U.S. 238, 89 S.Ct. 1709, 23 L.Ed.2d 274 (1969).

he did not understand the nature of or any element of the charges. Under these circumstances, we find that Relator failed to establish that he lacked awareness of the essential nature of simple burglary, to which he pled guilty, or that he was prejudiced by any failure of the trial court to fully comply with the provisions of Article 556.1. *See* La. C.Cr.P. art. 930.2.[6] Therefore, Relator's claim that his guilty plea was involuntary is without merit.

CONCLUSION

For the foregoing reasons, we deny the writ application.

Gretna, Louisiana, this 2nd day of November, 2026.

FHW
JGG
SJW

[6] La. C.Cr.P. art. 930.2 states: "The petitioner in an application for post-conviction relief shall have the burden of proving that relief should be granted."

SUSAN M. CHEHARDY
CHIEF JUDGE

FREDERICKA H. WICKER
JUDE G. GRAVOIS
MARC E. JOHNSON
STEPHEN J. WINDHORST
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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 **11/02/2026** 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

CURTIS B. PURSELL
CLERK OF COURT

26-KH-423

E-NOTIFIED
24th Judicial District Court (Clerk)
Honorable June B. Darensburg (DISTRICT JUDGE)
Darren A. Allemand (Respondent)

MAILED
Ellis Ellison #301503 (Relator)
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