

**IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

**NO. 2021-CP-00930-COA**

**VIRGIL L. JARVIS A/K/A VIRGIL LAMONT  
JARVIS A/K/A VIRGIL JARVIS**

**APPELLANT**

**v.**

**STATE OF MISSISSIPPI**

**APPELLEE**

DATE OF JUDGMENT: 07/23/2021  
TRIAL JUDGE: HON. CLAIBORNE McDONALD  
COURT FROM WHICH APPEALED: PEARL RIVER COUNTY CIRCUIT COURT  
ATTORNEY FOR APPELLANT: VIRGIL L. JARVIS (PRO SE)  
ATTORNEY FOR APPELLEE: OFFICE OF THE ATTORNEY GENERAL  
BY: ALEXANDRA RODU ROSENBLATT  
NATURE OF THE CASE: CIVIL - POST-CONVICTION RELIEF  
DISPOSITION: AFFIRMED - 11/01/2022  
MOTION FOR REHEARING FILED:

**BEFORE CARLTON, P.J., McCARTY AND SMITH, JJ.**

**SMITH, J., FOR THE COURT:**

¶1. Virgil Jarvis appeals from the Pearl River County Circuit Court’s judgment denying his motion for post-conviction collateral relief (PCR). Finding no error, we affirm.

**FACTS**

¶2. Following Jarvis’s arrest on February 25, 2016, a Pearl River County grand jury indicted him for attempted murder, possession of a weapon by a convicted felon, and possession of a controlled substance in Cause Number 55:16-CR-0056CM. The Pearl River County Circuit Clerk issued the indictment on May 20, 2016. Due to the charges against him, Jarvis’s parole was revoked, and he was placed in the custody of the Mississippi Department of Corrections (MDOC). On August 1, 2016, the Mississippi Parole Board

denied Jarvis's parole for an additional six months. Two days later, Jarvis filed two pro se motions related to the charges in Cause Number 55:16-CR-0056CM. Although Jarvis's indictment had not yet been served on him, the circuit court ordered Jarvis's case to be placed on the active docket to allow Jarvis's motions to be heard. Jarvis and his court-appointed trial attorneys appeared in court on October 19, 2016. At that time, Jarvis was served with the indictment that had been issued on May 20, 2016. The circuit court set Jarvis's pre-trial conference for November 15, 2016, and his trial for May 3, 2017. Because Jarvis's trial attorneys requested additional time to review Jarvis's pro se motions, the circuit court set the motions hearing for the same date as the pre-trial conference.

¶3. Thirteen days before the pre-trial conference, one of Jarvis's court-appointed attorneys resigned as the public defender for Pearl River County. The following day, Jarvis was assigned a new court-appointed attorney. Due to the serious nature of the charges against Jarvis, his trial attorneys and the State requested that the circuit court move the pre-trial conference closer to the May 2017 trial date. Based on the parties' request, the circuit court rescheduled the pre-trial conference for January 20, 2017.

¶4. Because Jarvis's original indictment did not include his status as a habitual offender, a grand jury re-indicted him on December 19, 2016, for the same charges. The new cause number assigned to the matter was Cause Number 55:16-CR-0460CM. Jarvis was served with his indictment in Cause Number 55:16-CR-0460CM on January 5, 2017.

¶5. On January 24, 2017, the circuit court held an arraignment for the new indictment in

Cause Number 55:16-CR-0460CM and re-appointed Jarvis's trial attorneys. Due to a lack of available trial dates in May, the circuit court—with the parties' agreement—set Jarvis's new trial date for August 8, 2017. On January 26, 2017, the circuit court dismissed Jarvis's original indictment in Cause Number 55:16-CR-0056CM. On April 6, 2017, Jarvis filed multiple pro se motions, including a motion to dismiss the charges against him for failure to provide a speedy trial. Following a motions hearing on May 12, 2017, the circuit court denied Jarvis's motion to dismiss due to a speedy-trial violation. Jarvis then requested time to file an interlocutory appeal in the Mississippi Supreme Court from the denial of his motion to dismiss. After a hearing on August 1, 2017, the circuit court entered an order on August 2, 2017, granting Jarvis's motion for permission to file an interlocutory appeal.<sup>1</sup>

¶6. Jarvis's trial proceedings began as scheduled on August 8, 2017. Prior to the State's presentation of its case-in-chief, Jarvis informed the circuit court that he wished to accept the State's sentencing recommendation and plead guilty as a non-habitual offender to Count I and as a habitual offender to Counts II and III. After conducting a hearing, the circuit court found that Jarvis knowingly, intelligently, and voluntarily pled guilty. The circuit court ordered Jarvis to serve the following sentences in MDOC's custody: (1) twenty-seven years in Count I for attempted murder; (2) ten years as a habitual offender without eligibility for parole in Count II for possession of a firearm by a convicted felon; and (3) eight years as a

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<sup>1</sup> By its order filed on August 23, 2017, the Mississippi Supreme Court dismissed as moot Jarvis's emergency writ and petition for an interlocutory appeal after noting that Jarvis had pled guilty to the indictment charges on August 8, 2017. *In re Jarvis*, 2017-M-00896.

habitual offender without eligibility for parole in Count III for possession of a controlled substance. The circuit court further ordered that all three sentences run concurrently with each other and with a sentence in a separate cause number. In addition, the circuit court fined Jarvis \$1,000.

¶7. On April 1, 2020, Jarvis filed his PCR motion and asserted that (1) his indictment was defective; (2) his trial attorneys had rendered ineffective assistance of counsel; and (3) his guilty pleas were involuntary. After an evidentiary hearing on Jarvis’s claims, the circuit court entered its judgment on July 23, 2021. The circuit court found that each of Jarvis’s claims lacked merit and denied Jarvis’s PCR motion. Aggrieved, Jarvis appeals.

#### **STANDARD OF REVIEW**

¶8. We review a trial court’s “dismissal or denial of a PCR motion for abuse of discretion” and decline to reverse unless “the trial court’s factual findings are clearly erroneous.” *Bevalaque v. State*, 337 So. 3d 691, 694-95 (¶6) (Miss. Ct. App. 2022). We review questions of law de novo. *Id.*

#### **DISCUSSION**

¶9. In his pro se appellate brief, Jarvis raises fifteen assignments of error. Although he renews his PCR claims regarding a defective indictment and ineffective assistance of counsel, Jarvis also asserts additional errors related to these issues and to the circuit court’s denial of his speedy-trial motion. To the extent that these additional alleged errors are procedurally barred because Jarvis never raised them before the circuit court, we decline to

address them for the first time on appeal. *See Camphor v. State*, 339 So. 3d 205, 207 (¶6) (Miss. Ct. App. 2022) (“It is well settled that ‘an issue is procedurally barred if not first raised in a PCR motion before a circuit court.’” (quoting *Taylor v. State*, 313 So. 3d 1106, 1111 (¶15) (Miss. Ct. App. 2021))). We therefore only address those arguments regarding the indictment and ineffective assistance that Jarvis properly preserved for appeal.

### **I. Defective Indictment**

¶10. As in his PCR motion, Jarvis asserts on appeal that his indictment was defective because (1) there was evidence to suggest that the grand jury foreman’s signature and the circuit court clerk’s seal were not authentic; and (2) the evidence only established a sufficient basis for aggravated assault rather than for attempted murder.

¶11. We first address Jarvis’s contentions regarding the authenticity of his December 2016 indictment. In his PCR motion, Jarvis claimed that “the stamp of the State seal and signature of the grand jury [foreman] are clearly double stamp[ed] and cop[i]ed onto the paper work.” As a result, Jarvis argued his indictment was invalid.

¶12. The copy of Jarvis’s indictment contained in the appellate record shows the grand jury foreman’s signature and the circuit court clerk’s seal displayed at the end of the document on the bottom right-hand side of the page. And as Jarvis contends, the reversed outlines of both the grand jury foreman’s signature and the circuit court clerk’s seal are visible on the left-hand side of the same page. The following page in the record contains the grand jury foreman’s affidavit, which states in relevant part:

BEFORE ME, the undersigned authority in and for said County and State *shown on reverse side hereof*, . . . the undersigned AFFIANT, who, after being by me first duly sworn as the law directs says on oath that at the Term of Court referred to *on reverse side hereof*, in said County and State aforesaid, the undersigned Affiant was then and there selected to serve as Foreman of the Grand Jury for said County and that Affiant has served in such capacity for the period of the entire Grand Jury.

(Emphasis added). Below the affidavit, the grand jury foreman once again signed his name, and the circuit court clerk notarized the document with her signature and seal.

¶13. Our review of the record indicates that the two pages described above are actually the corresponding front and back pages of the same document, and when viewed as such, the grand jury foreman's signature and the circuit court clerk's seal from the back page of the document align with their reversed outlines on the front page of the document. We therefore find that the record clearly refutes Jarvis's assertions regarding the authenticity of his indictment. As a result, we conclude his defective-indictment claim based on this argument lacks merit.

¶14. Jarvis also alleged that his indictment was defective due to an insufficient factual basis as to Count I for attempted murder. In his PCR motion, Jarvis asserted that the State's evidence presented a factual basis consistent with aggravated assault rather than attempted murder and that the circuit court therefore erred by sentencing him to attempted murder. "[T]he law is settled that with only two exceptions, the entry of a knowing and voluntary guilty plea waives all other defects or insufficiencies in the indictment. A guilty plea does not waive an indictment's failure to charge an essential element of the crime, and it does not

waive lack of subject matter jurisdiction . . . .” *Joiner v. State*, 61 So. 3d 156, 159 (¶7) (Miss. 2011) (citations and internal quotation marks omitted) (emphasis omitted). Similarly, our caselaw recognizes that “[a] valid guilty plea waives the right to challenge the sufficiency of the State’s evidence.” *Higginbotham v. State*, 307 So. 3d 1253, 1256 (¶11) (Miss. Ct. App. 2020) (quoting *Higginbotham v. State*, 114 So. 3d 9, 16 (¶24) (Miss. Ct. App. 2012)).

¶15. Here, Jarvis contended neither that his indictment failed to charge an essential element of attempted murder nor that a question existed regarding subject-matter jurisdiction. Instead, he challenged only the sufficiency of the evidence that the State presented as a factual basis for the attempted-murder charge. We therefore must determine whether Jarvis has waived this defective-indictment claim by entering a guilty plea that was voluntary, knowing, and intelligent.

¶16. “Before accepting a guilty plea, a circuit court must determine that the plea is voluntary and intelligently made and that there is a factual basis for the plea.” *Nance v. State*, 309 So. 3d 1097, 1105 (¶39) (Miss. Ct. App. 2020). “A guilty plea is voluntarily and intelligently made if the circuit court advised the defendant of his rights, the nature of the charge against him, as well as the consequences of the plea.” *Phillips v. State*, 332 So. 3d 408, 411 (¶9) (Miss. Ct. App. 2022) (quoting *Goul v. State*, 223 So. 3d 813, 815 (¶7) (Miss. Ct. App. 2017)). To determine whether a factual basis exists for a guilty plea, the trial court may rely on the following evidence:

[A] statement of the prosecutor, the testimony of live witnesses, and prior proceedings, as well as an actual admission by the defendant although it is not

necessary that the factual basis be established with words spoken from the defendant's own mouth. An affirmative confession to the charge is sufficient for establishing a factual basis. Further, a bare admission of guilt is enough to consider a guilty plea valid.

*Nance*, 309 So. 3d at 1105 (¶40) (citations and internal quotation marks omitted).

¶17. During Jarvis's plea hearing, the circuit court established that (1) Jarvis understood the constitutional rights he waived by pleading guilty; (2) no one had coerced or persuaded him to plead guilty; (3) he understood the nature of the charges against him and the minimum and maximum sentences applicable to each charge; (4) his attorneys had fully explained the elements of each charge, the applicable penalties, and the rights he waived by pleading guilty; and (5) he was satisfied with the representation and advice provided by his attorneys.

¶18. The circuit court then asked the State to make a proffer as to each count of the indictment. As to Count I for attempted murder, the State provided the following:

As to Count One, the State would show through witnesses who were at the scene and through members of the Pearl River County Sheriff's Department that on or about the 24th day of February, 2016, in Pearl River County, . . . that Virgil Lamont Jarvis did willfully, unlawfully, feloniously design and endeavor to commit an act, which accomplished would have constituted murder under Section 97-3-19 of the Mississippi Code as amended[, when] Mr. Virgil Jarvis . . . did attempt to kill and murder [the victim], a human being, by shooting [the victim] with a handgun contrary to and in violation of 97-1-7(2) of the Mississippi Code as amended and against the peace and dignity of the State of Mississippi.

¶19. After the State completed its proffer for each count, the following exchange occurred between the circuit court and Jarvis:

Circuit Court: Very well. Mr. Jarvis, you've heard the proffer of the State with respect to the three counts in your indictment.



Are these facts stated in the proffer and the State's apparent ability to prove them to the jury at trial beyond a reasonable doubt based upon your seeing the discovery provided by the State, based on your attorney's explanation of the law and elements of your crimes, and also applying the caselaw to these crimes, and the facts known only to you and your attorney, the reasons that you are pleading guilty to Count One, which is attempted murder, to Count Two, which is possession of a firearm by a convicted felon as a habitual offender, and[] Count Three, which is . . . possession of 8.49 grams of methamphetamine, a Schedule II controlled substance, in Cause [Number] 55:16CR0460 in the Circuit Court of Pearl River County, Mississippi?

Jarvis: Yes, sir.

Circuit Court: All right. Now, I have to formally ask for a plea on those charges. And in Cause Number 55:16CR0460 in the Circuit Court of Pearl River County, Mississippi, to Count One . . . of your indictment, which is that you attempted to murder [the victim] contrary to and in violation of Section 97-1-7(2) and 97-3-19 of the Mississippi Code of 1972 as amended, how do you plead, guilty or not guilty?

Jarvis: Guilty, Your Honor.

. . . .

Circuit Court: Now, are you pleading guilty to these three counts because you are guilty and are the facts stated in your indictment true and correct along with the facts in the proffer the State just read?

Jarvis: Yes, sir.

Circuit Court: Based on your testimony to me and the facts in the proffer, I'm determining for the record that there are enough facts established to constitute a legal and factual

basis for these pleas. And if these facts were brought before a jury, I find that they are sufficient enough that the jury would find you guilty on these three counts and charges beyond a reasonable doubt. Now, you've waived your formal reading of your charge by indictment[,] and you've pled guilty. And I want to remind you that once I do make my final decision and finding on the guilt and accept your plea, that you can't make any changes after that. If you want to make any changes about anything, you need to do it now. Do you want to make any changes at this time?

Jarvis: No, sir, Your Honor.

¶20. Based on the State's proffer and Jarvis's on-the-record admissions, the circuit court found a factual basis existed for the attempted-murder charge and that Jarvis entered his guilty plea voluntarily, knowingly, and intelligently. Upon review, we conclude the record contains ample support for the circuit court's findings and that Jarvis has therefore waived his defective-indictment claim based on an alleged insufficiency in the State's evidence. Accordingly, we find that this issue lacks merit.

## **II. Ineffective Assistance**

¶21. Jarvis also alleged in his PCR motion that his trial attorneys had rendered ineffective assistance by (1) failing to file a motion to change Count I of the indictment from attempted murder to aggravated assault; (2) advising him to plead guilty to attempted murder although insufficient evidence supported the charge; (3) misinforming him as to his eligibility for early release on the attempted-murder charge; and (4) advising him that his guilty pleas would not affect his ability to pursue an interlocutory appeal from the denial of his speedy-trial motion.

¶22. “A claim of ineffective assistance of counsel requires proof that counsel’s performance was objectively deficient and that the defendant suffered prejudice as a result.” *Nance*, 309 So. 3d at 1108 (¶57) (quoting *Worth v. State*, 223 So. 3d 844, 849 (¶17) (Miss. Ct. App. 2017)). Our caselaw holds, however, that “[a] voluntary guilty plea waives claims of ineffective assistance of counsel, except insofar as the alleged ineffectiveness relates to the voluntariness of the giving of the guilty plea.” *Schmidt v. State*, 287 So. 3d 1035, 1037 (¶6) (Miss. Ct. App. 2019) (quoting *Thomas v. State*, 159 So. 3d 1212, 1215 (¶10) (Miss. Ct. App. 2015)). Thus, because Jarvis pled guilty to his indictment charges, he “must show counsel’s errors proximately resulted in the guilty plea, and, but for counsel’s error, [he] would not have entered the guilty plea. Moreover, [Jarvis] must show unprofessional errors of substantial gravity and allege such facts with specificity and detail.” *Wilson v. State*, 338 So. 3d 623, 628 (¶13) (Miss. Ct. App. 2021) (citations and internal quotation marks omitted).

¶23. Jarvis’s first argument of ineffective assistance—that his attorneys failed to file a motion to change Count I from attempted murder to aggravated assault—“pursue[s] a traditional claim that his [attorneys were] ineffective, and [is] not focused on whether the [attorneys’] alleged failures directly impacted his decision to plead guilty.” *Nance*, 309 So. 3d at 1108 (¶58). As a result, we find that the entry of Jarvis’s voluntary guilty pleas procedurally bars this alleged error. Upon further review, we conclude that Jarvis’s three remaining claims also lack merit.

¶24. As previously discussed, the record contains substantial evidentiary support for the

circuit court’s finding that a factual basis existed for Jarvis’s attempted-murder charge. We therefore find no merit to Jarvis’s claim that his attorneys were deficient by advising him to plead guilty to attempted murder due to insufficient evidence to support the charge.

¶25. As to Jarvis’s claim that his attorneys incorrectly advised him of the impact his guilty pleas would have on his ability to pursue his interlocutory appeal, we note that the record contains no credible evidence to substantiate this assignment of error, and Jarvis provides nothing more than his own bare assertions to support the claim. As the PCR movant, Jarvis “bears the burden of showing he is entitled to relief by a preponderance of the evidence.” *Fluker v. State*, 210 So. 3d 1062, 1064 (¶2) (Miss. Ct. App. 2015). To satisfy this burden, Jarvis “must plead claims of ineffective assistance of counsel with specificity, and the claim must be supported by affidavits other than his own.” *Parks v. State*, 326 So. 3d 505, 509 (¶11) (Miss. Ct. App. 2021) (quoting *Moore v. State*, 250 So. 3d 521, 525 (¶12) (Miss. Ct. App. 2018)). When, as here, “the defendant fails to attach any supporting affidavits and relies solely on his own sworn motion, his ineffective-assistance claim must fail.” *Id.* (quoting *Evans v. State*, 237 So. 3d 1271, 1275 (¶18) (Miss. Ct. App. 2018)).

¶26. In addition, Jarvis’s own admissions during the plea hearing contradicted his later assertions that he still believed his guilty pleas would have no effect on the continued viability of his interlocutory appeal. A defendant’s “[s]olemn declarations in open court carry a strong presumption of verity.” *Reardon v. State*, 341 So. 3d 1004, 1009 (¶14) (Miss. Ct. App. 2022) (quoting *Singleton v. State*, 213 So. 3d 521, 524 (¶8) (Miss. Ct. App. 2016)).

Here, the circuit court discussed during the plea hearing each of the constitutional rights Jarvis would waive by pleading guilty. In so doing, the circuit court specifically informed Jarvis that these rights included the right to “a public and speedy trial,” and Jarvis acknowledged his understanding that the entry of his guilty pleas would waive that particular right.

¶27. The testimony given by one of Jarvis’s trial attorneys at the evidentiary hearing on Jarvis’s PCR motion further casts doubt on Jarvis’s allegations. According to Jarvis’s trial attorney, Jarvis first expressed interest in accepting a plea deal on the day of trial. When asked whether the conversation about a plea deal included any discussion of Jarvis’s pro se motion for an interlocutory appeal, the trial attorney responded that he did not recall any such exchange and did not recall ever advising Jarvis that he could still pursue the motion for an interlocutory appeal if he pled guilty to the indictment charges.

¶28. Based on the above record evidence, we find no manifest error in the circuit court’s denial of Jarvis’s claim regarding erroneous legal advice about his motion for an interlocutory appeal. With regard to this argument, Jarvis has not sufficiently established that his trial attorneys provided deficient legal representation that proximately caused him to enter his guilty pleas. We therefore find this alleged error lacks merit.

¶29. As a final basis for his ineffective-assistance claim, Jarvis asserts that his attorneys incorrectly advised him about his eligibility for early release on the attempted-murder charge. At the evidentiary hearing on his PCR claims, Jarvis acknowledged that at the time he had

entered his guilty pleas, he understood the following: (1) the plea deal required him to plead guilty to attempted murder in exchange for the State's recommendation that he serve a twenty-seven-year sentence; and (2) his twenty-seven-year sentence would run concurrently with another sentence in a separate cause number. Jarvis further testified, however, that prior to his plea hearing, his trial attorneys incorrectly informed him that the time he had already served in the separate cause number would be credited toward his twenty-seven-year sentence and make him eligible for release the following year in 2018. According to Jarvis, his attorneys explained that he would become eligible for release in July 2018 but that he might not be released from prison at that time since the decision would still be "up to the parole board and how [he] conducted [him]self while [he] was in [prison]." Jarvis testified that, but for his attorneys' incorrect legal advice, he would not have entered his guilty pleas.

¶30. To support the claim that his attorneys provided incorrect advice regarding his eligibility for early release, Jarvis attached to his PCR motion an affidavit from his sister. Jarvis's sister stated that she was present for a discussion Jarvis had with his trial attorneys regarding the State's proffered plea deal and Jarvis's eligibility for early release. According to the sister's affidavit, the trial attorneys stated that if Jarvis pled guilty to attempted murder, he would become eligible for early release in thirteen and a half years, which would run concurrently with his previously served time, and therefore make him eligible for release in 2018. At the evidentiary hearing, Jarvis's sister provided testimony consistent with the statements contained in her affidavit. Although she had attended the plea hearing and had

heard the circuit court's explanation of the minimum and maximum sentences applicable to the attempted-murder charge and the consequences of Jarvis's decision to plead guilty to the charge, Jarvis's sister testified that she did not recall any discussion or mention of a twenty-seven-year sentence for the attempted-murder charge.

¶31. Jarvis also called as a witness Charlene Arnold, who worked for a bail-bonds agency. Arnold stated that she was present during a conversation between Jarvis and his attorneys. Although she could not remember the entire conversation, Arnold testified the trial attorneys discussed the possibility of the twenty-seven-year sentence with Jarvis. Arnold further testified the attorneys told Jarvis that if he served thirteen and a half years, which amounted to fifty percent of his sentence, "he may be eligible" for early release.

¶32. Finally, one of Jarvis's trial attorneys also testified at the evidentiary hearing. Consistent with Arnold's testimony, the trial attorney stated he had advised Jarvis that "he could possibly be eligible for release after no less than 50 percent of the sentence, which was 13 and a half years minus credit for time [already served]." According to the trial attorney, he explained to Jarvis that although attempted murder "was a violent offense" and Jarvis therefore "could not be eligible for parole[,] MDOC might have "other administrative reductions that could possibly be available on his sentence whereby it was possible for him to earn a release at 50 percent of the sentence." The trial attorney specifically testified that he had not "speculated . . . on how much time or percentage of any sentence" that Jarvis would "have to serve before becoming eligible for any type of release from custody . . . ."

He further testified that he always informed clients “there are no guarantees” and that he “could not promise anything and that only the MDOC had the discretion over when a person could be considered for release, whether it was parole on a non-violent offense or these other administrative reductions to sentences from the MDOC.” When asked whether he recalled any discussion about Jarvis being released from prison the next year in 2018, the attorney responded, “No. There’s no way.”

¶33. As the State correctly pointed out in its appellate brief, two of Jarvis’s four witnesses testified Jarvis was informed he might be eligible for early release after serving fifty percent of his sentence but that there were no guarantees made regarding the matter. In denying Jarvis’s PCR motion, the circuit court considered not only the testimony presented during the evidentiary hearing but also the admissions Jarvis made in his plea petition and during the plea hearing. “Great weight is given to statements made under oath and in open court, and though a plea petition is not an oral statement, ‘it is a sworn document presumptively prepared with an appreciation of its fateful consequences,’ and [it] ‘may be used to discredit post-plea allegations.’” *Thomas v. State*, 169 So. 3d 978, 981 (¶8) (Miss. Ct. App. 2015) (quoting *Vaughn v. State*, 85 So. 3d 907, 912 (¶16) (Miss. Ct. App. 2012)).

¶34. Here, the circuit court noted in its order that Jarvis’s declarations in his plea petition and in open court during the plea hearing indicated a clear understanding that his attorneys could not make any guarantees regarding his sentence. Despite his post-plea assertions, Jarvis acknowledged the following in his plea petition: (1) his understanding that the



attempted-murder charge carried a possible sentence of “20 years minimum to life [imprisonment] . . . maximum”; (2) his agreement that no one had “made any promise or suggestion of any kind to me, or within my knowledge to anyone else, that I will receive a lighter sentence, or probation, or any form of leniency if I plead ‘Guilty’, except the [S]tate did . . . have a recommendation on sentencing”; (3) his satisfaction with the advice and help of his trial attorneys; and (4) his understanding “that if I have been told by my lawyer that I might receive probation or a light sentence, that this is merely his or her prediction and is not binding on the Court, the Department of Corrections, or the Parole Board.”

¶35. During the plea hearing, Jarvis again confirmed the following: (1) his understanding that the sentence for attempted murder ranged from twenty years to life in prison; (2) his understanding that the circuit court had the final authority regarding his sentencing; and (3) his agreement that his attorneys had not promised he would receive a certain sentence to be served in a certain way.

¶36. Upon review of the record, we conclude Jarvis has failed to demonstrate that his attorneys’ allegedly incorrect advice as to his eligibility for early release “proximately resulted in the guilty plea[,] and, but for [his attorneys’ alleged] error, [he] would not have entered the guilty plea.” *Wilson*, 338 So. 3d at 628 (¶13) (quoting *Moore*, 248 So. 3d at 850 (¶14)). Thus, as with the other claims Jarvis raises regarding ineffective assistance, we find this argument lacks merit.

## CONCLUSION

¶37. Because we find no clear error or abuse of discretion, we affirm the circuit court's judgment denying Jarvis's PCR motion.

¶38. **AFFIRMED.**

**BARNES, C.J., CARLTON, P.J., GREENLEE, WESTBROOKS, McDONALD, LAWRENCE, McCARTY AND EMFINGER, JJ., CONCUR. WILSON, P.J., CONCURS IN PART AND IN THE RESULT WITHOUT SEPARATE WRITTEN OPINION.**