

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,

Respondent,

v.

LORENZO PRATT,

Appellant.

No. 79467-1-I

DIVISION ONE

UNPUBLISHED OPINION

ANDRUS, A.C.J. — Lorenzo Pratt entered into a plea agreement to resolve multiple felony charges. Several months after he was sentenced in accordance with the parties' joint recommendation, Pratt filed a motion to withdraw his guilty plea, raising claims of ineffective assistance of counsel. Following two years of litigation surrounding discovery issues, the trial court denied the motion. Because Pratt fails to demonstrate that counsel's representation was constitutionally inadequate, we affirm.

FACTS

The State charged Lorenzo Pratt with first degree murder while armed with a firearm and unlawful possession of a firearm, arising from the April 2014 shooting and death of 20-year-old Deszaun Smallwood. In a separate case, the State charged Pratt with assault in the second degree based on the allegation that he

pointed a firearm at an oncoming motorist a few days before the shooting. The court granted the State's motion to join the two causes for trial.

According to police reports, both incidents occurred in the immediate aftermath of the murder of Kevin Brown, a close friend of Pratt's. The first incident took place on the day of Brown's death. Pratt pointed a firearm at the occupant of an oncoming vehicle, in apparent frustration at being unable to pass the vehicle on a narrow street. Pratt later admitted that he brandished a firearm, explaining that he was "jumpy" and distraught, and that he initially thought the approaching vehicle was associated with the person who killed Brown.

The shooting that resulted in Smallwood's death occurred five days later, two blocks from Flo Ware Park, in the Central District neighborhood of Seattle, where a memorial for Brown took place earlier in the day. Police reports and a prosecutor summarized the evidence leading to Pratt's arrest for murder: At the memorial, Pratt approached a group that included Smallwood and his friend, Laumont Lancaster. Pratt challenged Lancaster, and Lancaster "sucker punched" Pratt in the face. Smallwood initially tried to diffuse the conflict and was not involved in the violence. Lancaster reportedly prevailed in the fight and Pratt fled in a vehicle. Word quickly spread that Pratt was defeated in a fight.

A few hours later, Pratt arrived at a residence near the park where several people, including Smallwood, were milling around in the yard and in the street. Apparently still angry about the earlier fight with Lancaster, Pratt immediately initiated a confrontation with Smallwood. Pratt punched Smallwood in the head, and Smallwood fought back. The fight moved into the street and when Smallwood

appeared to be gaining the upper hand in the fight, Pratt disengaged and moved toward a parked vehicle. He produced a firearm and fired approximately six shots at Smallwood. Bullets struck Smallwood in the arms and back. First responders pronounced Smallwood dead on the scene. Several people witnessed the shooting, but most were extremely reluctant to cooperate with law enforcement.

About six weeks after Smallwood's murder, police officers arrested Pratt in Portland, Oregon. During a lengthy interview with Seattle detectives, Pratt eventually admitted that he was involved in the fight at Flo Ware Park. He said that during the fight, Smallwood threatened to "air [him] out," which Pratt understood to mean that Smallwood intended to shoot him. Pratt also admitted that he confronted Smallwood when he saw him again and made statements implying that he shot Smallwood out of self-defense, because although he did not see a firearm, he believed Smallwood was about to retrieve one.

In July 2015, approximately two months before the evidentiary portion of the trial was scheduled to begin, the court held pretrial proceedings. On July 7, the court conducted the first portion of a hearing to determine the admissibility of Pratt's recorded statements to Seattle police officers. A substantial portion of his statement was played in court. Following that hearing, Pratt decided to accept the State's plea offer to allow him to plead guilty to reduced charges: second-degree murder and second-degree assault, without a firearm enhancement as to either charge, and unlawful possession of a firearm.

On the evening before he changed his plea, Pratt made several telephone calls from the jail to family and friends. During those recorded calls, Pratt laid out

his reasons for accepting the State's plea offer. Pratt said that he felt terrible when he saw the victim's mother and uncle in court. He mentioned the significant ties between his family and the victim's family and said he wanted to avoid subjecting either family to a difficult and traumatic trial. In the recorded custodial statements that were the subject of the pretrial hearing, Pratt had made unflattering remarks about his family and the victim, and, at one point, suggested that he could provide information to law enforcement about other cases, in exchange for his release. Pratt expressed dismay at hearing some of his own statements replayed in court that he was not "proud" of. Pratt also explained that by accepting the State's offer to recommend a 20-year sentence, he would avoid facing a substantially longer sentence if he lost at trial, and expressed a desire to put the shooting "behind" him.

Pratt pleaded guilty the next day. Shortly after, the court accepted the recommendation of the parties and sentenced Pratt to 20 years' of confinement.

Approximately two months after he was sentenced, in October 2015, Pratt filed a pro se motion seeking to withdraw his guilty plea, alleging ineffective assistance of counsel, Kevin Donnelly. Several months later, assisted by new counsel, Cathy Gormley, Pratt filed a more specific motion with supporting documents.¹ Pratt alleged that although he told Donnelly about Smallwood's earlier threat and consistently maintained that he acted in self-defense, Donnelly told him he would be unable to prove self-defense. According to Pratt, Donnelly failed to explain that the State had the burden of disproving self-defense at trial.

¹ Gormley later withdrew and a third attorney represented Pratt at the hearing on his motion to withdraw.

Pratt also alleged that Donnelly failed to interview two witnesses who would have supported his defense. Pratt said that he specifically urged Donnelly to contact Donnie Adams,² who was present during the fight at Flo Ware Park and overheard Smallwood threaten him. Pratt claimed Donnelly refused to do so, insisting that Adams was a gang member who would refuse to talk to him. According to Gormley's declaration, she easily located Adams in March 2016 and he acknowledged that he overheard Smallwood threaten Pratt. Pratt also claimed that Donnelly should have interviewed a confidential informant identified in one of the police reports as having "heard" that Pratt acted in self-defense.

Finally, Pratt contended that Donnelly's representation was deficient because he failed to "investigate any mental health defenses," even though counsel was aware of the defendant's difficult upbringing and exposure to violence. Pratt relied on Donnelly's admission in a 2016 declaration, that prior to discussions with Gormley, he was not aware of the potential link between post-traumatic stress disorder (PTSD) and "perception of risk in a stressful situation." He also relied on a 2016 report obtained by Pratt's new counsel, following a psychological evaluation conducted by Dr. Jason Prinster.³ Dr. Prinster concluded that, according to Pratt's description of the events, he was experiencing symptoms consistent with a diagnosis of PTSD at the time of the shooting. Dr. Prinster concluded it was likely that, when Pratt shot Smallwood, he was "hypervigilantly

² The witness's first name is also spelled Donny in the record.

³ The report filed as an attachment to Pratt's 2016 motion to withdraw his plea is missing multiple pages. The State maintains that the trial court considered the complete report, and Pratt does not argue otherwise. The record on appeal includes the entire report.

reacting to a perceived threat.” In addition, Pratt provided the declaration of a law professor and expert in legal ethics, who opined, based on the assumption that all facts stated in Pratt’s motion to withdraw were correct, Donnelly performed deficiently.

More than two years of litigation followed. In the interim, Pratt filed two unsuccessful interlocutory appeals related to the extent of discovery the State could conduct into conversations Pratt had with his attorney. The State conducted an initial interview of Donnelly, and the defense objected to several lines of questioning. After the discovery issues were resolved, the State scheduled a second interview, but Donnelly passed away before the interview took place.

In January 2019, following an evidentiary hearing, the court denied the motion to withdraw. The court entered numerous factual findings and concluded that Pratt failed to establish deficient performance or prejudice. The court also found that Pratt’s claim that he would have proceeded to trial had Donnelly performed differently was not credible. Pratt appeals.

ANALYSIS

Pratt challenges the court’s denial of his motion to withdraw. He contends that counsel’s representation was deficient because he failed to (1) provide accurate information as to the burden of proving self-defense; (2) interview witnesses who would have corroborated his claim of self-defense; and (3) request an evaluation to determine whether he had PTSD. Pratt also claims that, but for counsel’s unprofessional errors, he would not have pleaded guilty.

Under CrR 4.2(f), the trial court “shall allow a defendant to withdraw the defendant’s plea of guilty whenever it appears that the withdrawal is necessary to correct a manifest injustice.” Where, as here, a criminal defendant moves to withdraw his guilty plea after entry of judgment, the motion must also meet the requirements of CrR 7.8(b).⁴ CrR 4.2(f); State v. Lamb, 175 Wn.2d 121, 128, 285 P.3d 27 (2012). A defendant who demonstrates he received ineffective assistance of counsel meets the burden of establishing a manifest injustice under CrR 4.2(f) and a basis for allowing the withdrawal of a guilty plea under CrR 7.8(b)(5). State v. Taylor, 83 Wn.2d 594, 597, 521 P.2d 699 (1974); State v. Martinez, 161 Wn. App. 436, 440-41, 253 P.3d 445 (2011).

The test under Strickland v. Washington, 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984), applies to claims of ineffective assistance of counsel during the plea process. State v. Stowe, 71 Wn. App. 182, 186, 858 P.2d 267 (1993). A defendant must show that (1) his counsel’s performance fell below an objective standard of reasonableness and (2) the deficient performance prejudiced him. Strickland, 466 U.S. at 687. In the context of a guilty plea, the defendant must show that counsel failed to substantially assist him in deciding whether to plead guilty. State v. McCollum, 88 Wn. App. 977, 982, 947 P.2d 1235 (1997). We

⁴ CrR 7.8(b) provides, “[o]n motion and upon such terms as are just, the court may relieve a party from a final judgment, order, or proceeding for the following reasons:

- (1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;
- (2) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 7.5;
- (3) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
- (4) The judgment is void; or
- (5) Any other reason justifying relief from the operation of the judgment.

review de novo a trial court's denial of a motion to withdraw a guilty plea that is based on ineffective assistance of counsel. State v. A.N.J., 168 Wn.2d 91, 109, 225 P.3d 956 (2010).

There is a strong presumption that counsel's performance was reasonable. State v. Grier, 171 Wn.2d 17, 33-34, 246 P.3d 1260 (2011). This presumption may be overcome only if, under the circumstances of the case, there was no conceivable tactical reason for counsel's decisions. Id.

When analyzing prejudice related to effective assistance of counsel during plea negotiations, the focus is on "whether counsel's constitutionally ineffective performance affected the outcome of the plea process." Hill v. Lockhart, 474 U.S. 52, 59, 106 S. Ct. 366, 88 L. Ed. 2d 203 (1985). "[T]he 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." Id.; State v. Buckman, 190 Wn.2d 51, 62, 409 P.3d 193 (2018). A bare assertion that the petitioner would not have pleaded guilty but for the alleged deficiency is not sufficient to establish prejudice. In re Pers. Restraint of Elmore, 162 Wn.2d 236, 254, 172 P.3d 335 (2007). Where a defendant alleges a failure to conduct an adequate investigation, the defendant must show a reasonable probability that, but for the failure to investigate potentially exculpatory evidence, counsel would have made a different plea recommendation. Hill, 474 U.S. at 59; State v. Garcia, 57 Wn. App. 927, 933, 791 P.2d 244 (1990). This assessment turns on whether the evidence likely would have changed the outcome of a trial. In re Pers. Restraint of Clements, 125 Wn. App. 634, 646, 106 P.3d 244 (2005).

Where a trial court weighs evidence following a CrR 7.8 hearing, we review its factual findings for substantial evidence. State v. Hill, 123 Wn.2d 641, 647, 870 P.2d 313 (1994). Substantial evidence exists when the record contains sufficient evidence to persuade a “fair-minded, rational person that the declared premise is true.” In re Pers. Restraint of Davis, 152 Wn.2d 647, 679-80, 101 P.3d 1 (2004). But we defer to the trial court on issues of conflicting testimony, credibility of witnesses, and the persuasiveness of the evidence. State v. Camarillo, 115 Wn.2d 60, 71, 794 P.2d 850 (1990).

Law of Self Defense

Pratt first contends that he pleaded guilty, in large part, because counsel provided inaccurate and misleading information as to the law of self-defense. Specifically, Pratt argues that Donnelly told him he could not “successfully raise self-defense.” But the trial court made findings to the contrary, findings that are supported by substantial evidence.

Based on counsel’s declaration and interview statements, the trial court found that Donnelly sufficiently understood the law of self-defense to properly inform and advise Pratt. The court found that Donnelly explained the law in “terms that the defendant could understand.” Even if Donnelly used the term “preponderance,” instead of “some evidence” to describe Pratt’s burden of production, the court determined that Donnelly’s advice was not misleading because he did not tell Pratt that he could not satisfy that burden or that he would bear the burden of proving self-defense at trial. Donnelly simply conveyed to Pratt his belief that Pratt “would have to testify in order to persuade the jury that he acted

in self-defense.” The court determined that Donnelly’s strategic assessment was reasonable and his concerns about “the defendant’s ability to withstand an attack on his credibility during cross-examination were also reasonable in context with the other evidence that would have been admitted at trial.”

When interviewed by the State, Donnelly stated that he discussed self-defense with Pratt on “a number of occasions.” He explained to Pratt that there had to be some evidence of an imminent danger and “a strong reason to believe that [he was] subject to a threat and then the force used must be reasonable.”

When asked if he explained to Pratt that the State had to disprove self-defense, Donnelly stated:

[T]he problem with clients is, is you’re trying to explain the—the legal standard. You raise the issue by a preponderance, then it has to be disproved by a reasonable doubt. But you also have to acknowledge that I’m not trying this to a judge. I’m probably gonna try it to a jury. So uh I—I don’t know if I got that technical with him, but I would have communicated that he would have had to testify and would have had to convince a jury.

Pratt points to Donnelly’s use of the word preponderance here to argue that he must have misunderstood the defense burden of production and must have suggested to Pratt that he had to prove he acted in self-defense on a more probable than not basis in order to shift the burden of proof back to the State.

The trial court certainly did not interpret Donnelly’s statement in this manner, nor do we. Donnelly made it clear that when he spoke to Pratt about self-defense, he did not focus on the legal standard but on how it would play out practically at trial. Donnelly clearly stated that he would not have told Pratt he had the burden of proving self-defense; instead, he told Pratt that, for all practical purposes, he

would have to testify and “[h]e would have to be persuasive,” because when you “assert self-defense, it’s gonna have to be persuasive to a jury ‘cause I don’t think a jury understands . . . that legal standard.”

Although counsel is expected to understand the applicable law when advising a client, counsel is also expected to communicate with a client in language that client is able to understand. ABA Criminal Justice Standards for the Defense Function, Standard 4-3.1(d) (2017).⁵ We conclude, as did the trial court, that Donnelly’s use of the word “preponderance,” when read in the context of Donnelly’s complete interview, did not prove Donnelly misunderstood the law of self-defense or reached an erroneous conclusion on the viability of a self-defense claim based on some misunderstanding of the law.

Donnelly did advise Pratt that, in his opinion, the self-defense claim would not be successful at trial. Donnelly’s advice was based on several evidentiary concerns. First, Donnelly thought Pratt’s statement to police gave the prosecutor a lot of ammunition to undercut and discredit him. While Pratt raised self-defense in his police interview, Donnelly described this statement as a sort of “hypothetical statement.” Second, Pratt’s flight from Washington, with cell phone records showing he had traveled to California after the shooting, would lead to an inference that he did not act in self-defense. Third, Pratt told police he did not see Smallwood with a gun. This raised a question as to the reasonableness of Pratt’s use of force. Finally, the other witnesses at the scene of the shooting did not support self-

⁵ Available at https://www.americanbar.org/groups/criminal_justice/standards/DefenseFunctionFourthEdition/

defense. In light of this evidence, it was not unreasonable to tell Pratt he would likely have to testify and that his testimony would have to be found credible by the jury to succeed at trial.

Even if Pratt testified, Donnelly's concerns about the viability of the defense were well-founded. According to testimony from the lead prosecutor, had the case gone to trial, the State had evidence that on April 24, 2014, Pratt initiated the verbal and physical altercation at Flo Ware Park and several eye witnesses saw Pratt being aggressive, hostile, provocative, and the instigator of the fight with Lancaster. These witnesses believed Smallwood was trying to diffuse the situation. The State also had evidence that Pratt then retrieved a firearm, returned to a location he knew people involved in the Flo Ware fight would be located, and started another fight.

The prosecutor further testified that the State had eye witnesses who were expected to testify that Smallwood was unarmed, that he demonstrated to Pratt he was unarmed, and Pratt pulled his gun and shot Smallwood only when Smallwood appeared to get the upper hand in a fist fight with Pratt. Pratt admitted in a police interview that he did not actually see a firearm in Smallwood's hand and Smallwood was shot in a manner suggesting that he was moving away from the shooter, including a gunshot wound in the middle of his back. And, as Donnelly noted, Pratt fled the State following the shooting. It was reasonable for Donnelly to conclude that this evidence would be sufficient for the State to prove Pratt had not acted in self-defense beyond a reasonable doubt.

Based on the trial court's findings of fact, all of which are supported by substantial evidence, we conclude Pratt has failed to demonstrate that Donnelly's representation was deficient with respect to his understanding and explanation of the law of self-defense.

Failure to Interview Witnesses

Pratt next argues that counsel's performance fell below an objective standard of reasonableness because he failed to interview Donnie Adams. He contends the failure to interview Adams cannot be justified on any strategic basis.

The trial court found that Donnelly considered interviewing Adams and asked his investigator to locate him. At the time Pratt entered his plea, Donnelly "had not foreclosed the possibility of interviewing Mr. Adams" before trial.

The record supports this finding. When Pratt pleaded guilty, the evidentiary portion on the trial was not scheduled to begin for approximately two months. Pratt does not challenge the court's finding that before pretrial proceedings began, Donnelly had already conducted numerous interviews and "[a]dditional interviews were in the process of being scheduled and investigation was ongoing." The record shows that Donnelly had twice attempted to contact Adams, to no avail. There is no evidence to suggest that Donnelly would have made no further attempts. The evidence in the record does not, therefore, establish that Donnelly would not have interviewed Adams had Pratt proceeded to trial.

And, perhaps more importantly, the trial court also found that Donnelly was concerned Adams might provide information helpful to the State—Adams had told Smallwood's mother that he did not witness the shooting, that Smallwood had not

threatened Pratt, and that Pratt had instigated the confrontation. On this basis, the court found there were reasons to doubt that Adams would have provided “favorable testimony in support of the defendant’s claim of self-defense at trial in 2015.”

The record supports these findings. Although Adams apparently told attorney Cathy Gormley that he overheard Smallwood threaten to “air out” Pratt at Flo Ware Park, this statement was inconsistent with the statements of others who witnessed the fight at the park and with Adams’s own prior statements. The victim’s mother told police officers that, immediately after the shooting, Adams told her that Pratt had been “bullying” people at Flo Ware Park and that Smallwood said nothing to Pratt. Adams’s initial statement aligns with the statements of other witnesses who reported that Pratt was aggressive and hostile at the park and that Smallwood tried to diffuse the situation. According to Smallwood’s mother, Adams also told her that Pratt initiated the later confrontation that led to the shooting.

There is nothing in the record to indicate that Adams would have been willing to testify at trial in 2015. Expressing extreme reluctance and hostility, Adams provided a 2-minute statement to Gormley in 2016, but he provided no context or details and she did not ask him whether he would testify. Even if he had been willing to do so, Adams’s testimony would have been undoubtedly subject to impeachment, based on his prior statements and numerous letters that Pratt authored in jail. In his letters, Pratt directed his family and friends to put pressure on Adams to provide a statement to support his claim of self-defense, outlining the exact words he wanted Adams to say. Based on this evidence, Pratt cannot

establish that Donnelly performed deficiently by failing to interview Adams before he entered his plea or that discovery of the evidence would have led Donnelly to recommend against accepting the State's plea offer.

Pratt also claims that Donnelly performed deficiently by failing to interview a confidential informant who was identified in one of the police reports and apparently "heard on the streets" that Pratt acted in self-defense. While Pratt contends that it is "plainly necessary" to seek out all potential witnesses, the record here indicates that the confidential informant had no direct knowledge of the shooting, heard this information only "one time," and could not identify the source of information. Absent any indication that the informant could have provided admissible, material evidence in support of Pratt's defense, the record supports the court's finding that the failure to interview the informant was not objectively unreasonable.

Failure to Obtain a Mental Health Evaluation

Finally, Pratt maintains that counsel was deficient in failing to understand the legal relevance of Pratt's mental status to his claim of self-defense. Pratt contends a mental evaluation would have revealed he suffers from PTSD, a condition that would have affected his subjective belief that he was in danger of being shot when fighting with Smallwood.

Donnelly explained in his declaration and interview that he did not seek to obtain a psychological evaluation because, based on his interactions with Pratt, he "could not articulate a reason to have such an evaluation performed." Donnelly also believed that such an evaluation could be "counterproductive to [the]

defense.” The trial court concluded that, in view of the information Donnelly had, his failure to obtain an evaluation to determine whether Pratt suffered from PTSD did not amount to deficient performance. The court determined that Donnelly’s course of action was strategically sound, since a report stemming from a mental health evaluation would have potentially included information detrimental to the defense and the State would have had the opportunity to procure its own evaluation. The court found that Donnelly’s statement that he would have “followed up” on the potential PTSD issue after speaking with Gormley and reading Dr. Prinster’s 2016 evaluation was nothing more than “hindsight.”

Substantial evidence supports the trial court’s findings. Whether or not Donnelly’s understanding of the potential relevance of a PTSD diagnosis to a self-defense claim evolved over time, there is nothing in the record to indicate that Donnelly had a reason to suspect Pratt suffered from PTSD at the time of the plea. Even though Gormley sought an evaluation, the record does not indicate that she did so because she knew or suspected that Pratt had PTSD.⁶ There is no support for the defense’s position that counsel was required to pursue a mental health evaluation simply based on general knowledge of Pratt’s upbringing and because he was “grief stricken” and “anxious” at the time of the crime. And because it is not clear that the benefits of obtaining a mental health evaluation outweighed the potential risks, the decision was clearly a matter of strategy.

⁶ According to Dr. Prinster’s report, Gormley sought an evaluation because she believed Pratt might have a “mood, cognitive, anxiety, or other disorder in addition to his known ADHD.”

Pratt cites State v. Fedoruk, 184 Wn. App. 866, 339 P.3d 233 (2014), to support his position that the failure to request a mental health evaluation was objectively unreasonable. In Fedoruk, the defendant had an extensive and well-documented history of serious mental illness and had previously been found not guilty by reason of insanity on several felony charges. Id. at 885. This background information was available to the defense from the beginning of the case. Id. at 881. Yet, defense counsel did not retain a mental health expert or otherwise pursue a mental health condition evaluation until the day before jury selection. Id. In these circumstances, we concluded that defense counsel was ineffective. Id. at 882.

Pratt, on the other hand, has no documented history of serious mental illness or of raising mental illness as a defense to prior criminal charges. There is no basis to conclude that counsel knew or should have known that Pratt likely had PTSD. And, in view of the potential negative consequences of pursuing a mental health evaluation, defense counsel's failure to investigate a potential PTSD diagnosis did not fall below an objective standard of reasonableness.

Pratt's reliance on State v. A.N.J., 168 Wn.2d 91, 225 P.3d 956 (2010), is also misplaced. In A.N.J., our Supreme Court held that "a defendant's counsel cannot properly evaluate the merits of a plea offer without evaluating the State's evidence." Id. at 109. There, the court allowed a juvenile defendant to withdraw his plea because defense counsel's deficient representation constituted a manifest injustice. Id. at 113-14. It based its ruling on several key facts not present here: A.N.J.'s counsel met with his client for as little as 55 minutes total before the plea

hearing, did not talk to any witnesses or use an investigator, and admitted he probably did not explain the consequences of the plea, and that his client never saw the plea documents until immediately before the plea hearing.

In contrast, by the time Pratt accepted the State's plea offer, counsel had numerous discussions with Pratt, had retained at least two investigators, and interviewed approximately 30 witnesses. Pratt does not allege that counsel failed to explain the consequences of the plea or inadequately review the plea documents with him. A.N.J. provides no basis for relief under these facts.

Prejudice

Pratt argues that the outcome of this case would have been dramatically different but for counsel's errors.

However, the trial court found that Pratt's claim that he would have insisted on going to trial if Donnelly had performed differently was not credible. The court specifically found that the transcripts of the telephone calls Pratt made on the night before he changed his plea "persuasively" established that his decision to plead guilty was motivated by several factors, none of which related to counsel's performance. Pratt expressly related the following considerations: 1) his desire to avoid putting his family, the victim's family, and his community through a difficult and divisive trial, 2) his desire to prevent further public airing of his statements to the police, 3) his feelings of guilt, 4) his knowledge that even if acquitted, he would face adverse consequences in his community, and 5) a desire to avoid a significantly longer sentence.

Pratt contends the trial court erred in relying on these statements because “this decision was [made] in [the] context of a case where he had no hope, because no one was investigating the one witness who could help him, and the court had refused his only other alternative—seeking a new lawyer.” This argument, however, is solely based on Pratt’s testimony at the CrR 7.8 hearing where he explained that while he told his brother in a phone call that he did not want to put the family through trial, he actually felt like “my lawyer [was] not educating me on the laws of self-defense,” and his lawyer was “not doing his job.” He stated that had Donnelly interviewed Adams and called him to testify at trial, and had Donnelly obtained a mental health evaluation and discovered Pratt suffered from PTSD, and had Donnelly told Pratt of the relevance of this condition to the defense of self-defense, he would not have pleaded guilty but would have instead gone to trial. The trial court found this testimony not credible. Pratt is essentially asking this court to disregard the trial court’s credibility finding. The trial court had the opportunity to hear Pratt’s testimony, observe his demeanor, and adjudge the veracity of his testimony. We will not review this credibility determination.

The trial court concluded that Pratt failed to show that he was prejudiced by anything Donnelly failed to do or by the advice he gave in anticipation of the guilty plea. This conclusion is supported by the trial court’s findings of fact and its findings of fact are supported by the record below.

Because Pratt failed to establish deficient performance or prejudice, his claim of ineffective assistance of counsel fails. The trial court did not err in denying his motion to withdraw his plea.

Statement of Additional Grounds

Pratt raises several claims in a statement of additional grounds for relief.⁷ He reiterates the arguments raised by appellate counsel challenging the denial of his motion to withdraw his plea. He also claims that he would have been acquitted at trial on the murder charge because the State would not have been entitled to a first-aggressor instruction, there was significant evidence available to support his claim of self-defense, and he could have raised other viable defenses, such as voluntary intoxication and diminished capacity.

But when he pleaded guilty, Pratt specifically admitted that on April 24, 2014, he shot Smallwood with a firearm, Smallwood died as a result, and that he fired the weapon with intent to cause Smallwood's death. There was a sufficient factual basis for the plea. And by pleading guilty, Pratt waived his right to challenge the sufficiency or strength of the State's evidence. See State v. Carrier, 36 Wn. App. 755, 756–57, 677 P.2d 768 (1984) (a guilty plea waives any right to appeal from a deficiency in state's proof of the crime). We decline to further review the issues related to Pratt's motion to withdraw his plea that were adequately addressed by counsel. See RAP 10.10(a); State v. Thompson, 169 Wn. App. 436, 492-93, 290 P.3d 996 (2012) (the court need not address allegations of error that have been adequately addressed by counsel).

Pratt also challenges the trial court's denial of a motion to discharge counsel he raised prior to his plea. He contends that the trial court denied his motion

⁷ Pratt filed two separate statements of additional grounds on the same date. We address both statements.

without conducting a proper inquiry into the factual basis for his request. But, the court invited Pratt to orally explain the basis for his motion. Pratt said counsel was not listening to him, adequately communicating with him, or working diligently on his case. The court gave counsel the opportunity to respond, heard from both the State and the defense with regard to the trial preparations that would take place in the coming weeks, and denied the motion. Pratt fails to demonstrate that the court abused its discretion. See State v. Varga, 151 Wn.2d 179, 200, 86 P.3d 139 (2004) (decisions on motions to discharge counsel are reviewed for an abuse of discretion)

Finally, Pratt contends that the court erred by accepting his “equivocal” plea. But as explained, there was a factual basis to support Pratt’s plea. He expressed no confusion, reluctance, or equivocation in his guilty plea statement or during the formal plea colloquy. Pratt fails to establish a basis for relief.

Affirmed.

Andrus, A.C.J.

WE CONCUR:

H.S.J.

Smith, J.