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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

| | | |
|-------------------------|---|-------------------------------|
| THE PEOPLE OF THE STATE |) | Appeal from the Circuit Court |
| OF ILLINOIS, |) | of Kane County. |
| |) | |
| Plaintiff-Appellee, |) | |
| |) | |
| v. |) | No. 00-CF-594 |
| |) | |
| VLADIMIR K. VLADIMIROV, |) | Honorable |
| |) | Mark A. Pheanis, |
| Defendant-Appellant. |) | Judge, Presiding. |

PRESIDING JUSTICE BIRKETT delivered the judgment of the court.
Justices Hutchinson and Schostok concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court properly summarily dismissed defendant’s postconviction petition, as the record refuted his claim that his guilty plea was invalid because he could not understand the appointed interpreter.

¶ 2 Defendant, Vladimir K. Vladimirov, appeals a judgment summarily dismissing his *pro se* petition for relief under the Post-Conviction Hearing Act (Act) (725 ILCS 5/122-1 *et seq.* (West 2016)) from his conviction of first-degree murder (720 ILCS 5/9-1(a)(1) (West 2000)). We affirm.

¶ 3 I. BACKGROUND

¶ 4 On April 12, 2000, defendant, a Bulgarian citizen, was indicted on two counts of first-degree murder (*id.* § 9-1(a)(1), (a)(2)) in connection with his ex-wife's death.

¶ 5 On April 13, 2000, the trial court appointed an interpreter for defendant and defendant was arraigned. In response to the trial court's questioning, defendant indicated that he understood the charges, understood the possible sentencing ranges, and understood his rights. Defendant entered his plea of not guilty.

¶ 6 On August 18, 2000, defense counsel advised the trial court that she had been contacted by the Bulgarian consulate about defendant. According to counsel, the consulate's main concern was that an interpreter be present for defendant. Counsel stated: "I told him that there was. In spite of the fact that [the interpretation] was not his native language, it was in Russian, [defendant] understood and in Russian he was able to communicate, which satisfied the consulate."

¶ 7 Between August 18, 2000, and March 28, 2002, defendant appeared in court for several status hearings, along with an interpreter. On May 17, 2001, defense counsel told the court: "The State is also in the process of trying to get an offer to us as well. We have been having ongoing contact with the Bulgarian consulate that's involved."

¶ 8 On March 28, 2002, defendant, with an interpreter present, pleaded guilty to first-degree murder (*id.* § 9-1(a)(1)). At the plea hearing, the trial court first admonished defendant that he would have to serve the entire length of the proposed 30-year sentence and asked defendant if he was aware of that. Defendant responded, "yes." The court asked defendant if he was under the influence of any prescription medication or anything that would interfere with his ability to understand the plea, and defendant responded, "no." The court asked defendant if he understood

the nature of the charge to which he was pleading guilty, and defendant responded, “yes.” The court admonished defendant of all the possible sentencing ranges that he faced prior to entering the plea and asked whether he understood, and defendant replied, “yes.” Defendant also replied “yes” when asked if he understood that he had the right to a jury trial and if he knew what a jury trial was. Defendant answered “yes” when asked if he wished to waive a jury trial. The court asked defendant if he knew that he had the right to a bench trial and if he wished to waive that right, and defendant responded “yes” to each question. The court asked defendant if he knew that he had the right to plead not guilty, and defendant responded, “yes.” Defendant responded “yes” when asked whether he knew that the State had the burden of proving him guilty beyond a reasonable doubt. Defendant was asked whether he understood that if he pleaded guilty there would be no trial and defendant responded, “yes.” Defendant was asked if he understood that, by pleading guilty, he would be giving up his right to confront witnesses and to present evidence, and defendant responded, “yes.” Thereafter, the following colloquy occurred:

“THE COURT: You understand you’re giving up all those rights if you plead guilty at this time?

THE DEFENDANT: Yes.

THE COURT: [Defendant], has anyone pressured or forced you into pleading guilty.

THE INTERPRETER: He didn’t understand you, sir.

THE DEFENDANT: I, I believe in God, and I believe in judgment, so I can’t say that I am not guilty if I am guilty. Nobody pushed me.

THE COURT: You’re pleading guilty of your own freewill? No one’s forcing you to plead guilty; is that correct?

THE DEFENDANT: No.

THE COURT: And has anybody made you any promises or the offer to give you anything in order—in exchange for your plea of guilty?

THE INTERPRETER: He wants to ask you a question.

THE COURT: Go ahead. Why don't you talk to your lawyer first, and then you can ask me the question.

(Whereupon, a discussion was had off the record.)

THE DEFENDANT: Nobody pushed me to say I am guilty because it was my confession, and I confess I am guilty, and nothing is going to change.”

¶ 9 Thereafter, the trial court heard the factual basis for the plea, which established that, on March 4, 2000, defendant argued with his ex-wife and choked her, causing her death. He fled to Mexico and, six days later, returned to the United States. He was questioned by INS agents because he did not have the necessary visa. During questioning, he confessed that he had murdered his ex-wife.

¶ 10 After hearing the factual basis, the trial court admonished defendant that he was subject to deportation following the completion of his sentence. It asked defendant whether he understood that and whether he still wished to plead guilty. Defendant said, “yes.” The trial court stated: “[Defendant], keeping in mind all of the rights that I have explained and the potential penalties you're facing, what is your plea to the charge of first degree murder? Are you pleading guilty or not guilty?” Defendant responded: “Yes, guilty.”

¶ 11 The court found that defendant knowingly and voluntarily pleaded guilty and that there was a sufficient factual basis to support the plea. The court sentenced defendant to 30 years in prison pursuant to the plea agreement.

¶ 12 After admonishing defendant of his appeal rights, the court asked defendant if he had any questions about anything, and defendant responded, “no.”

¶ 13 On December 8, 2016, defendant filed a *pro se* postconviction petition. Defendant alleged that he “did not/was not able to file any appeal(s) after his conviction” because he “was a citizen of Bulgaria who spoke no English whatsoever, hence hindering [his] ability to properly file an appeal.” He further alleged that he was denied his constitutional right to due process because, *inter alia*, during the plea hearing, he was not provided with a certified interpreter who spoke Bulgarian. He alleged that he did not speak Russian. Thus, according to defendant, he “did not fully understand the terms of his plea deal because of his inability to read, speak, and understand the English language.”

¶ 14 On March 7, 2017, the trial court dismissed the petition, finding that “the record clearly contradicts [defendant’s] allegations that he did not understand the terms of his guilty plea.”

¶ 15 **II. ANALYSIS**

¶ 16 Defendant argues that the trial court erred in summarily dismissing his postconviction petition, where the petition alleged an arguably meritorious claim that he did not knowingly plead guilty because he does not speak English and did not understand the Russian-language interpreter. We disagree.

¶ 17 The Act provides a method by which criminal defendants can assert that their convictions and sentences were the result of a substantial denial of their rights under the United States Constitution, the Illinois Constitution, or both. See 725 ILCS 5/122-1 *et seq.* (West 2016); *People v. Hodges*, 234 Ill. 2d 1, 9 (2009). “A postconviction proceeding not involving the death penalty contains three distinct stages.” *Hodges*, 234 Ill. 2d at 10. This appeal concerns a summary dismissal at the first stage. At the first stage, the trial court must independently review

the petition, taking the allegations as true, and determine whether the claim in the petition is “frivolous or patently without merit.” *Id.* A postconviction petition is frivolous or patently without merit only if it “has no arguable basis either in law or in fact.” *Id.* at 16. A petition that has no arguable basis in law or in fact is “based on an indisputably meritless legal theory or a fanciful factual allegation.” *Id.* An indisputably meritless legal theory is one that is “completely contradicted by the record,” and a fanciful factual allegation is one that is “fantastic or delusional.” *Id.* at 16-17. We review the summary dismissal of a postconviction petition *de novo*. *People v. Tate*, 2012 IL 112214, ¶ 10.

¶ 18 “Due process requires that the court accept defendant’s guilty plea only upon an affirmative showing that defendant entered his plea voluntarily and knowingly.” *People v. Haywood*, 2016 IL App (1st) 133201, ¶ 36. To that end, Illinois Supreme Court Rule 402, requires that, before the court accepts a guilty plea, it must admonish the defendant and determine that he understands: (1) the nature of the charge, (2) the minimum and maximum sentencing ranges, (3) that he has a right to plead not guilty, persist in that plea if it has already been made, or plead guilty, and (4) that, by pleading guilty, he waives the right to a jury trial and to confront witnesses against him. Ill. S. Ct. R. 402(a) (eff. July 1, 2018); *Haywood*, 2016 IL App (1st) 133201, ¶ 36. The rule also requires that, before the court accepts a plea of guilty, it must determine that the plea was voluntary, state the plea agreement in open court, confirm the terms of the plea agreement by questioning the defendant, and determine whether any force, threats, or promises, separate from the plea agreement, were used to obtain the plea. Ill. S. Ct. R. 402(b) (eff. July 1, 2018).

¶ 19 Defendant does not argue that the trial court did not properly admonish him under Rule 402. Instead, he asserts that he did not understand English or the Russian interpreter and thus did not knowingly enter the guilty plea. We find that the record rebuts this claim.

¶ 20 First, we note that an interpreter was appointed on April 13, 2000, at the arraignment, almost two full years before defendant entered his guilty plea. On that date, defendant indicated that he understood the charges, understood the possible sentencing ranges, and understood his rights. Defendant did not express that he had any difficulties understanding the interpreter when she was first appointed or at any point during any one of defendant's many appearances before the trial court over the following two-year period, including at the plea hearing. Indeed, on August 18, 2000, defense counsel represented to the trial court that, although the translation was in Russian, defendant was able to communicate in Russian, which satisfied the Bulgarian consulate. Counsel also indicated, on May 17, 2001, that she had been in ongoing contact with the consulate. Certainly, had defendant experienced any difficulties understanding the Russian translation, he had ample opportunities to communicate that fact to counsel, the interpreter, or the trial court.

¶ 21 In any event, the transcript from the plea hearing makes clear that defendant understood the proceedings. Throughout the trial court's admonishments, defendant repeatedly acknowledged that he understood the rights that he was giving up by pleading guilty and the charges and sentencing ranges. To be sure, when the trial court asked defendant whether anyone pressured or forced him into pleading guilty, the interpreter stated: "He didn't understand you, sir." Nevertheless, immediately thereafter defendant responded: "I, I believe in God, and I believe in judgment, so I can't say that I am not guilty if I am guilty. Nobody pushed me." Defendant then expressly agreed that no one was forcing him to plead guilty. The interpreter

also told the court that defendant had a question when the court asked: “[H]as anybody made you any promises or the offer to give you anything in order—in exchange for your plea of guilty?” However, after being given time to speak with his attorney, defendant stated: “Nobody pushed me to say I am guilty because it was my confession, and I confess I am guilty, and nothing is going to change.” Defendant clearly acknowledged that he wanted to plead guilty and that his plea was voluntary.

¶ 22 Based on the above, we find that the record rebuts defendant’s assertion that he did not knowingly and voluntarily plead guilty because he did not understand English or the interpreter. Thus, he has not presented an arguable constitutional claim. Accordingly, the trial court properly dismissed the petition as frivolous and patently without merit.

¶ 23 III. CONCLUSION

¶ 24 The judgment of the circuit court of Kane County is affirmed. As part of our judgment, we grant the State’s request that defendant be assessed \$50 as costs for this appeal. 55 ILCS 5/4-2002(a) (West 2016); see also *People v. Nicholls*, 71 Ill. 2d 166, 178 (1978).

¶ 25 Affirmed.