

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ROME DIVISION**

FILED IN CHAMBERS  
U.S.D.C ATLANTA

Date: May 15 2025

KEVIN P. WEMER, Clerk

By: Kari Butler  
Deputy Clerk

WILLIAM SANDRIDGE,	:	MOTION TO VACATE
BOP Reg. No. 59619-510,	:	28 U.S.C. § 2255
Movant <u>pro se</u> ,	:	
	:	CIVIL ACTION NO.
v.	:	4:24-CV-0202-WMR-WEJ
	:	
UNITED STATES OF AMERICA,	:	CRIMINAL ACTION NO.
Respondent.	:	4:23-CR-0013-WMR-WEJ-1

**FINAL REPORT AND RECOMMENDATION**

Movant William Sandridge, a federal prisoner currently confined at the Federal Medical Center in Lexington, Kentucky, has filed a pro se 28 U.S.C. § 2255 Motion to Vacate challenging his 2023 guilty plea conviction and sentence in this Court for distributing at least one visual depiction of a minor engaging in sexually explicit conduct, in violation of 18 U.S.C. §§ 2252(a)(2) and (b)(1). (See Mot. [32] at 1; J. [16] at 1.) The matter is before the Court on the § 2255 Motion and the government's Response in opposition. For the reasons stated below, **IT IS RECOMMENDED** that the § 2255 Motion be **DENIED** and that **no certificate of appealability issue**.

## **I. PROCEDURAL HISTORY**

On May 16, 2023, a federal grand jury indicted movant for two counts of distribution of a visual depiction of a minor engaged in sexually explicit conduct, in violation of 18 U.S.C. §§ 2252(a)(2) and (b)(1) (“Counts 1 & 2”), and one count of possession of a visual depiction of a minor engaging in sexually explicit conduct, in violation of 18 U.S.C. §§ 2252(a)(4)(B) and 2252(b)(2) (“Count 3”). (Indictment [1] at 1-2.) Ultimately, movant entered into a negotiated plea agreement to plead guilty to Count 2. (See Plea Agreement [9-1] at 5.) In exchange, the government would dismiss the remaining counts and recommend an 87-month sentence. (Id. at 5, 8.) Both movant and his attorney signed the plea agreement at the bottom. (Id. at 15-17.)

At movant’s change-of-plea hearing, movant testified under oath that he had an associate’s degree, that he could speak and read English, that he had not consumed any drugs or alcohol, that he was not suffering from any mental illness or disability. (Tr. [34] at 6-7.) The government summarized the plea agreement, including that movant was pleading guilty to distribution of child pornography as charged in Count 2 of the indictment and that the government agreed to dismiss the remaining counts and recommend a sentence of 87 months’ imprisonment. (Id. at 11-13.) Movant testified that the plea agreement accurately reflected his agreement

with the government, that no one had made any other promises not contained in the plea agreement to induce his guilty plea, and that no one had threatened or coerced him into signing the plea agreement. (Id. at 15-16.) Movant further testified that he had discussed the indictment and the charge in Count 2 with his attorney, that he had sufficient time to speak with his counsel and consider his options before entering his guilty plea, and that he was “absolutely” satisfied with his attorney’s representation. (Id. at 17-18.)

At the Court’s direction, counsel for the government recited that movant was pleading guilty to one count of distribution of a visual depiction of a minor engaged in sexually explicit conduct, in violation of 18 U.S.C. §§ 2252(a)(2), and explained the elements of the offense that the government would be required to prove at trial. (Id. at 17-18.) Movant testified that he understood the charge and its elements. (Id. at 18.) The government summarized the evidence that it would have presented at trial, and movant testified that he agreed with the government’s factual basis and that he was, in fact, guilty of Count 2 of the indictment. (See id. at 20-21.)

The District Court conducted a thorough colloquy to ensure that movant was aware of the rights that he was waiving by pleading guilty, the maximum and mandatory-minimum penalties to which he was subject, the collateral consequences of his guilty plea, and the operation of the advisory Sentencing

Guidelines. (Id. at 7-11, 20-29.) In every instance, movant testified that he understood. (See id.) As a result, the District Court accepted movant's guilty plea, finding that the plea was knowingly, voluntarily, and intelligently made, and supported by a factual basis corresponding to each of the essential elements of the offense. (Id. at 29-30.)

Prior to sentencing, the U.S. Probation Office prepared a presentence investigation report ("PSR") which calculated that movant was subject to an advisory guideline range of 151-188 months imprisonment based on a total offense level of 34 and criminal history category I. (See Tr. [17] at 3-4.) At sentencing, the District Court adopted the PSR's guidelines calculations without objection. (Id. at 3.) Movant's counsel argued for a mandatory-minimum five-year sentence, and the government recommended an 87-month sentence as provided in the plea agreement. (See id. at 9, 15.) After allocution and consideration of the 18 U.S.C. § 3553(a) factors, the District Court sentenced movant to 87 months' imprisonment to be followed by supervised release for life. (See J. [16] at 2-3.)

The instant § 2255 Motion followed. (Mot. [32].)

## **II. 28 U.S.C. § 2255 MOTION**

In his § 2255 Motion, movant raises five claims of ineffective assistance of counsel. (See Mot. [32] at 4-8, 13-16.) Specifically, movant alleges that his

counsel rendered constitutionally ineffective assistance by (1) failing to investigate “credible witnesses” and arrange a psychosexual evaluation of movant prior to his guilty plea and sentencing; (2) failing to review his discovery with him; (3) failing to review his PSR with him; (4) failing to develop a defense strategy; and (5) failing to timely arrange the satisfaction of his restitution judgment. (See id.)

The government responds that movant’s claims are belied by his testimony during his plea colloquy, are conclusory, and that movant cannot show prejudice. (See Resp. [41] at 9-15.) The government emphasizes that movant has not proffered any favorable witness testimony or shown that a psychosexual evaluation would have produced favorable results, that movant does not identify any issues that counsel should have raised based on his discovery or PSR, that movant cannot show prejudice where movant received a plea deal far below the minimum guideline range, and that movant was not prejudiced by counsel’s actions with respect to his restitution judgment. (See id.)

The Sixth Amendment right to counsel includes the right to the effective assistance of competent counsel. McMann v. Richardson, 397 U.S. 759, 771 & n.14 (1970). To make a successful claim of ineffective assistance of counsel, a petitioner must show that (1) his counsel’s performance was deficient, and (2) the deficient performance prejudiced his defense. Strickland v. Washington, 466 U.S.

668, 687 (1984). Counsel’s performance is deficient only if it falls below the wide range of competence demanded of attorneys in criminal cases. Strickland, 466 U.S. at 687-88. Prejudice occurs when there is a “reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Id. at 694.

Strickland’s two-part test applies in the context of guilty pleas. Lafler v. Cooper, 566 U.S. 156, 162-64 (2012). Because a voluntary, unconditional guilty plea generally waives all nonjurisdictional defects in the proceedings, a defendant who enters a guilty plea can attack only “the voluntary and knowing nature of the plea.” Wilson v. United States, 962 F.2d 996, 997 (11th Cir. 1992). A defendant can overcome the otherwise voluntary and intelligent character of his guilty plea only if he can establish that the advice that he received from counsel in relation to the plea was not within the range of competence demanded of attorneys in criminal cases, in violation of Strickland. Premo v. Moore, 562 U.S. 115, 121, 126 (2011). In order to establish prejudice in the context of a guilty plea, a 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. at 129 (quotations omitted). This means that “a petitioner must convince the court that a

decision to reject the plea bargain would have been rational under the circumstances.” Diveroli v. United States, 803 F.3d 1258, 1263 (11th Cir. 2015).

In evaluating the knowingness and voluntariness of a plea, the representations of the defendant at the plea hearing, as well as any findings made by the judge accepting the plea, “constitute a formidable barrier in any subsequent collateral proceedings.” Blackledge v. Allison, 431 U.S. 63, 74 (1977). Courts apply a “strong presumption” that statements made by a defendant during the plea colloquy are true. United States v. Medlock, 12 F.3d 185, 187 (11th Cir. 1994).

Here, the District Court conducted a lengthy and thorough plea colloquy to ensure that movant’s guilty plea was voluntary and free from coercion and that he understood the nature of the charges and the consequences of his plea. (See generally Tr. [34].) Movant testified repeatedly that he had discussed his case with his attorney, that he had sufficient time to consider his options, and that he was “absolutely” satisfied with his attorney’s representation. (See id. at 17-18.) Movant’s unsupported assertions in his § 2255 motion are insufficient to rebut the strong presumption of truth accorded to his plea colloquy testimony. See Medlock, 12 F.3d at 187; Wilcox v. United States, No. 8:10-CV-1917-T-27EAJ, 2011 WL 5975683, at \*10 (M.D. Fla. Nov. 29, 2011) (Rejecting § 2255 challenge to voluntariness of guilty plea where the petitioner “present[ed] no credible evidence,

other than his own self-serving, after-the-fact contentions”). As a result, movant’s claims of pre-plea ineffective assistance of counsel in Grounds 1, 2, and 4 are waived by his voluntary guilty plea. See Wilson, 962 F.2d at 997.

In any event, the Court agrees that none of the grounds presented in the § 2255 Motion state a viable claim for relief. A movant is not entitled to federal habeas relief “when his claims are merely conclusory allegations unsupported by specifics.” Tejada v. Dugger, 941 F.2d 1551, 1559 (11th Cir. 1991). Similarly, bare, conclusory allegations of ineffective assistance of counsel are insufficient to satisfy the Strickland test. Wilson, 962 F.2d at 998.

Here, movant’s contention in Ground 1 that his counsel was ineffective for failing to investigate “credible witnesses” is wholly conclusory as movant has not identified what witnesses counsel failed to investigate or proffered what testimony they would have given. See, e.g., Alexander v. Duggar, 841 F.2d 371, 375 (11th Cir. 1988) (holding that counsel was not ineffective for failing to call certain witnesses where the petitioner did not proffer any evidence to suggest that the witnesses would have given favorable testimony); Buckelew v. United States, 575 F.2d 515, 521 (5th Cir. 1978) (stating that “complaints of uncalled witnesses are not favored ... because allegations of what a witness would have testified are largely speculative”). Similarly, to the extent that movant argues that counsel was



ineffective for failing to arrange a psychosexual evaluation, he has not proffered evidence of what any such evaluation would have showed, and his bare assertions that an evaluation could have produced mitigating evidence are speculative. See Brownlee v. Haley, 306 F.3d 1043, 1060 (11th Cir. 2002) (“[S]peculation is insufficient to carry the burden of a habeas corpus petitioner as to what evidence could have been revealed by further investigation.”) (quoting Aldrich v. Wainwright, 777 F.2d 630, 636 (11th Cir. 1985)).

Further, movant does not identify what, if any, issues counsel should have raised based on his discovery, or what, if any, objections counsel should have raised to the PSR. (See Mot. [32] at 5-6, 14.) As a result, movant’s Grounds 2 and 3 are conclusory, and movant has not carried his burden of showing that his attorney’s performance fell below an objective standard of reasonableness or that he was prejudiced thereby. See Tejada, 941 F.2d at 1559; Wilson, 962 F.3d at 998; see also Blankenship v. Hall, 542 F.3d 1253, 1270 (11th Cir. 2008) (“It is the petitioner’s burden to establish his right to habeas relief and he must prove all facts necessary to show a constitutional violation.”). With respect to counsel’s alleged failure to develop a defense strategy in Ground 4, movant has not shown that counsel’s performance was objectively unreasonable where counsel negotiated a plea agreement for, and movant in fact received, a significant downward variance

from the low-end guideline range. See United States v. Marsh, 548 F.Supp.2d 1295, 1302 (N.D. Fla. 2008) (explaining that, to establish prejudice in the sentencing context, a movant must show a reasonable probability that “but for” counsel’s deficient performance he would likely have received a lesser sentence).

Indeed, for that reason, movant cannot show prejudice with respect to any of the claims presented in Grounds 1-4. As noted above, movant’s 87-month sentence represented a significant downward variance from the 151-188 month guideline range. Cf. Daniels v. United States, No. 16-17495-C, 2017 WL 6550592 at \*8 (11th Cir. 2017) (noting that § 2255 petitioner could not show prejudice where she received a substantial downward variance). Ultimately, movant has not shown that it would have been rational under the circumstances to reject the plea agreement where two additional felony counts were dismissed under the plea agreement and he received a below-guidelines sentence. See Diveroli, 803 F.3d at 1263.

Finally, with respect to movant’s claim in Ground 5 that his counsel rendered ineffective assistance by failing to arrange the timely satisfaction of his restitution judgment, the monetary portion of movant’s judgment has been satisfied, (see ECF [30]), and movant cannot show prejudice. Moreover, claims regarding restitution orders do not seek “release from custody” and are not cognizable in a § 2255 motion. Mamone v. United States, 559 F.3d 1209, 1210-11 (11th Cir. 2009).

Accordingly, because none of the grounds presented warrant relief, **IT IS RECOMMENDED** that the § 2255 motion be **DENIED**.

### **III. CERTIFICATE OF APPEALABILITY**

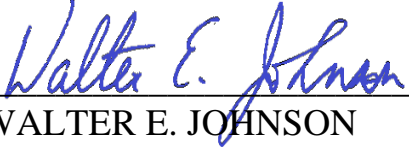
Pursuant to Rule 11(a) of the Rules Governing Section 2255 Proceedings, “[t]he district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant. . . . If the court issues a certificate, the court must state the specific issue or issues that satisfy the showing required by 28 U.S.C. § 2253(c)(2).” Section 2253(c)(2) states that a certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” A substantial showing of the denial of a constitutional right “includes showing that reasonable jurists could debate whether . . . the [motion to vacate] should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further.” Slack v. McDaniel, 529 U.S. 473, 484 (2000) (internal quotation marks omitted). Because reasonable jurists would not debate the resolution of the issues presented, **IT IS FURTHER RECOMMENDED** that a COA be **DENIED**. See id. If the District Court adopts this recommendation and denies a COA, movant is advised that he “may not appeal the denial but may seek a certificate from the court of appeals under Federal Rule of Appellate Procedure 22.” 28 U.S.C. foll. § 2255, Rule 11(a).

**IV. CONCLUSION**

For the reasons stated above, **IT IS RECOMMENDED** that the 28 U.S.C. § 2255 Motion [32] be **DENIED** and that **no certificate of appealability issue**.

The Clerk of Court is **DIRECTED** to terminate the referral to the undersigned United States magistrate judge.

**SO RECOMMENDED**, this 15th day of May, 2025.

  
\_\_\_\_\_  
WALTER E. JOHNSON  
UNITED STATES MAGISTRATE JUDGE