DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

AMY BETH TRACZ,

Appellant

v.

STATE OF FLORIDA,

Appellee.

No. 2D2025-1443

October 28, 2026

Appeal from the County Court for Pinellas County; Cathy A. McKyton, Judge.

Brooke Elvington of Brooke Elvington Appellate Law, Dunedin, for Appellant.

James Uthmeier, Attorney General, Tallahassee, for Appellee.

LABRIT, Judge.

Amy Beth Tracz appeals the summary denial of her timely motion for postconviction relief under Florida Rule of Criminal Procedure 3.850. We affirm the postconviction court's order to the extent it denied Ms. Tracz's claim that she entered her plea without knowing that the disposition included a ten-year driver's license revocation or that she was pleading guilty to a third DUI. The transcript conclusively refutes those allegations. We also affirm to the extent the postconviction court rejected

a standalone claim that counsel was ineffective merely because he did not communicate with Ms. Tracz in person.

But we reverse as to the remaining claims and subclaims fairly presented in Ms. Tracz's pro se motion. The postconviction court narrowed Ms. Tracz's allegations into three simplified grounds and then denied those narrowed grounds. In doing so, it overlooked or too narrowly construed several distinct allegations that were at least recognizable and curable—albeit insufficient—ineffective assistance claims. Because the attached record excerpts do not conclusively refute those claims, Ms. Tracz was entitled to an opportunity to amend under *Spera v. State*, 971 So. 2d 754 (Fla. 2007), and rule 3.850(h).

We recently issued *Mejia v. State*, 434 So. 3d 131 (Fla. 2d DCA 2026), to provide a workable framework for determining when an inartfully drafted pro se postconviction motion fairly presents a claim or subclaim requiring adjudication or an opportunity to amend. This case presents the other side of that framework. Unlike the stray sentence at issue in *Mejia*, several of Ms. Tracz's allegations identified counsel's alleged acts or omissions, connected those omissions to recognizable ineffective assistance theories, and alleged facts sufficient to show an attempted claim. They were not fully pleaded claims warranting an evidentiary hearing, but they were enough to trigger the amendment procedure required by *Spera*.

I.

Ms. Tracz appeared on October 25, 2022, for what had been set as a trial in a misdemeanor DUI case. When the case was called, Ms. Tracz had not yet arrived. Defense counsel told the court that Ms. Tracz was en route and that she had "come to a plea agreement." The court expressed concern about accepting a negotiated plea on the day of trial

and advised counsel that if the court did not accept the proposed disposition, the case would proceed to trial.

After Ms. Tracz arrived, counsel told the court that she had been present "for a short while" and that he had gone over the plea form with her "in the hallway." The plea form listed, among other terms, fines and costs, "DL REV," probation, multiple offender school, a victim impact panel, thirty days in jail, a ninety-day impound, and a two-year ignition interlock device. The written plea form did not specify the length of the driver's license revocation, and it did not identify whether Ms. Tracz was entering a plea to a first, second, or third DUI.

The State then recited the factual basis. According to the State, law enforcement received a BOLO for a recklessly driven vehicle and then observed Ms. Tracz's vehicle failing to maintain a single lane, attempting a U-turn over a raised median, and making a right turn from the center lane. After the stop, the officer observed an odor of alcohol, mumbled and slurred speech, incoherence, stumbling, and refusals to perform a horizontal gaze nystagmus, field sobriety exercises, and a breath test.

The State also recited prior DUI history: a 2015 California DUI, a 2004 Illinois DUI, and a 2002 Illinois DUI that had been stricken. Based on the 2015 and 2004 priors, the State stated that the case would be treated as a third DUI. The State announced the proposed disposition, including adjudication, $2,558 in fines and costs, a ten-year driver's license revocation, thirty days in jail, a ninety-day impound, multiple offender school, alcohol evaluation and treatment, a victim impact panel, no alcohol, no bars or clubs, investigative costs, and a two-year ignition interlock device.

Before the plea was accepted, Ms. Tracz personally addressed the court. She disputed portions of the State's factual basis, stated that she

did not feel intoxicated, attributed her driving pattern to a passenger giving directions, and said she did not believe she refused testing. She told the court that she had "to think long and hard about going to trial" but that she wanted to "do the right thing" and ask for leniency. During that statement, she acknowledged that the consequences would stay with her "for the next [ten] years in the form of restricted driving ability."

The court then conducted a plea colloquy. Ms. Tracz confirmed that she had read the plea form, reviewed it with counsel, understood the rights she was giving up, had enough time to talk to counsel, was comfortable with what she was doing, and was not being threatened, forced, or coerced. The court accepted the no contest plea, adjudicated her guilty, and imposed the agreed disposition, including twelve months of probation, thirty days in jail, and a ten-year driver's license revocation.

Ms. Tracz later filed a sworn pro se motion for postconviction relief. Although the motion contained two numbered grounds, the substance of the motion raised several allegations. She alleged that counsel failed to properly and effectively communicate with her; failed to discuss case progress, negotiations, and strategy; relied on brief calls and emails; failed to challenge the alleged prior DUI convictions; failed to review the State's documentation concerning those priors; failed to explain or allow her to make an informed decision about an alleged diversion offer; failed to meaningfully review the plea form and plea questionnaire before the hearing; failed to make sure she understood "what # DUI" she was pleading to and the exact penalties; and failed to address video evidence that she believed showed she was not slurring or stumbling. She also alleged that she was rushed and panicked during the plea process and that she would never have entered the plea had she known she would lose her right to drive for ten years.

The State's response recognized multiple allegations: failure to communicate in person, failure to attack prior DUI convictions, lack of understanding of the charge, lack of understanding of the license revocation, lack of understanding of plea penalties, and failure to appreciate the video evidence and innocence position. The State also separately identified an involuntary plea claim based on the ten-year driver's license revocation.

The postconviction court summarily denied relief. It reorganized the motion into three grounds: "Ground I — Ineffective Assistance of Counsel for Failure to Communicate in Person"; "Ground II — Ineffective Assistance of Counsel for Failure to Challenge Prior Convictions"; and "Ground III — Involuntary Plea." As to the first ground, the postconviction court concluded that counsel was not ineffective merely because he communicated by telephone and email rather than in person. As to the second, the postconviction court found the prior conviction challenge conclusory and insufficient. As to the third, the postconviction court concluded that the plea transcript refuted Ms. Tracz's claim that she did not understand the plea, the penalties, or the ten-year driver's license revocation. The postconviction court also reasoned that, even if the video showed she was not slurring or stumbling, there was enough other evidence to convict her of DUI.

This appeal followed.

II.

We review de novo the summary denial of a rule 3.850 motion. *See Woodbury v. State*, 302 So. 3d 492, 493 (Fla. 2d DCA 2020) (quoting *Duncan v. State*, 232 So. 3d 450, 452 (Fla. 2d DCA 2017)). A postconviction court may summarily deny a claim only if the claim is legally insufficient or the motion and record conclusively show that the

defendant is entitled to no relief. *Foster v. State*, 810 So. 2d 910, 914 (Fla. 2002). In reviewing a summary denial, we accept the movant's factual allegations as true unless the record conclusively refutes them. *See Peede v. State*, 748 So. 2d 253, 257 (Fla. 1999). When a court denies a claim based on the record, the attached records must specifically and conclusively refute the claim. *See Nelson v. State*, 73 So. 3d 77, 84 (Fla. 2011).

If a timely rule 3.850 claim is facially insufficient but curable, the court must allow the defendant a reasonable opportunity to amend. *See Spera*, 971 So. 2d at 761. That requirement is now reflected in rule 3.850(h)(2) and (h)(3), which distinguish between insufficient motions and motions that state some claims while attempting but failing to state additional claims.

In *Mejia*, 434 So. 3d at 137–40, we explained how a postconviction court should decide whether an inartfully drafted pro se motion actually presents a distinct claim or subclaim. A postconviction court must read the motion liberally but fairly. *Id.* at 138. At a minimum, a claim or subclaim must identify the act or omission complained of, connect that act or omission to a recognizable legal theory, and allege facts showing entitlement to relief under that theory. *Id.* 138–39. A stray phrase or conclusory sentence embedded in a different claim does not require the court to create and adjudicate a separate claim. *Id.* at 139. But when the motion fairly attempts to state a recognizable claim, and the defect is curable, *Spera* requires an opportunity to amend. *Id.* at 138; *see also Spera*, 971 So. 2d at 761.

Mejia, 434 So. 3d at 141, also recognized that a postconviction court's failure to expressly address a fairly presented claim does not always require reversal. If the postconviction court's targeted

attachments permit meaningful appellate review and conclusively refute the omitted claim, the omission may be harmless. *Id.* But where the attachments do not clearly and specifically refute the claim, reversal remains required. *See Bilotti v. State*, 27 So. 3d 798, 799–800 (Fla. 2d DCA 2010); *Walker v. State*, 137 So. 3d 1, 1 (Fla. 2d DCA 2014); *Gore v. State*, 100 So. 3d 177, 178 (Fla. 2d DCA 2012).

III.

A.

The postconviction court characterized Ms. Tracz's first ground as a claim that counsel was ineffective for failing to communicate "in person." To the extent Ms. Tracz alleged only that counsel communicated by telephone and email rather than face-to-face, the postconviction court correctly denied relief. No rule or case requires counsel to communicate with a defendant exclusively, or even primarily, in person. On this record, where Ms. Tracz resided outside Pinellas County and was traveling between Illinois and Florida, the absence of in-person meetings alone does not state an ineffective assistance claim.

But Ms. Tracz's motion was not limited to that narrow theory. She alleged that counsel failed to properly and effectively communicate the case to her; failed to discuss case progress, negotiations, and legal strategy; failed to timely and properly explain negotiations; and failed to give her enough information to make "[her] decision" with "sound knowledge and reasoning." Those allegations identified a broader omission: failure to provide meaningful advice about strategy, negotiations, and plea decision making.

That broader theory was at least an attempted ineffective assistance claim. *See Grosvenor v. State*, 874 So. 2d 1176, 1179–82 (Fla. 2004). The claim was not fully pleaded because Ms. Tracz did not

identify with precision what counsel should have explained, when counsel should have explained it, how the advice was deficient, and why proper advice would have changed her decision to enter the plea. *See id.* at 1181. But the defect was curable. The necessary specificity concerns counsel's alleged omission and resulting prejudice. Timing matters insofar as it bears on her allegation that counsel did not provide advice in time for an informed decision.

Nor did the attachments conclusively refute the broader theory. The transcript shows some communication: counsel texted Ms. Tracz before she arrived, reviewed the plea form with her in the hallway, discussed the plea with the State, and briefly addressed the possibility of Ms. Tracz obtaining a business-purpose-only license. Those facts refute a claim of no communication. They do not conclusively refute a claim that counsel failed to provide constitutionally adequate advice regarding the case, negotiations, strategy, and plea alternatives. A general plea colloquy does not automatically refute a specific claim that deficient preplea advice induced the plea. *See State v. Leroux*, 689 So. 2d 235, 237–38 (Fla. 1996); *Jones v. State*, 846 So. 2d 1224, 1226 (Fla. 2d DCA 2003).

We therefore affirm the denial of an in-person-only communication claim but reverse as to the broader communication-and-advice claim and remand for an opportunity to amend.

B.

Ms. Tracz alleged that counsel failed to collaterally attack her alleged prior DUI convictions, failed to review the State's documentation regarding those priors, and failed to suggest that the priors should be challenged. She further alleged that a successful challenge could have prevented the case from being treated as a third DUI.

The postconviction court found this claim conclusory because Ms. Tracz did not allege how counsel should have challenged the priors or what facts would have prevented their use. That conclusion was correct as far as it went. A defendant must allege specific facts showing deficient performance and prejudice; conclusory allegations are insufficient. *See Griffin v. State*, 866 So. 2d 1, 9 (Fla. 2003).

But the remedy was wrong. This was a recognizable ineffective assistance claim. It identified the alleged omission—failure to investigate or challenge prior convictions—and explained why the omission mattered—the priors affected the DUI classification and consequences. Because the motion was timely and the defect was curable, the postconviction court should have allowed amendment. *See Spera*, 971 So. 2d at 761; *Minix v. State*, 259 So. 3d 927, 928–29 (Fla. 5th DCA 2018); Fla. R. Crim. P. 3.850(h)(2), (3).

The attachments do not conclusively refute the claim. The transcript contains only the State's oral recitation of a 2015 California DUI, a 2004 Illinois DUI, and a stricken 2002 Illinois DUI. The record excerpts do not include certified convictions, plea documents from the prior cases, evidence of counsel's investigation, or any documentation conclusively establishing that no viable challenge existed. The State's oral proffer is not a conclusive record refutation of a claim that counsel failed to investigate or challenge the validity, usability, or legal effect of the prior convictions. *Cf. Parhm v. State*, 227 So. 3d 172, 174 (Fla. 2d DCA 2017).

Accordingly, we reverse as to this claim and remand for an opportunity to amend.

C.

Ms. Tracz's claim that her attorney rejected an offer for her to complete a diversion program is where the practical distinction between this case and *Mejia* is most apparent. In *Mejia*, 434 So. 3d at 137, 140, the appellant relied on a single generalized sentence that did not identify the omitted advice, did not allege that he lacked understanding of the relevant consequence, and did not allege that he would have rejected the plea had he known. We held that the postconviction court was not required to transform that sentence into a separate involuntary plea claim. *Id.* at 140.

Here, by contrast, Ms. Tracz did more than drop a stray phrase. She alleged that the State initially offered a diversion program to resolve the case, that counsel did not accept it "on [her] behalf," and that counsel failed to timely and properly explain negotiations so that she could make "[her] decision" with "sound knowledge and reasoning." Those allegations identified the act or omission complained of, connected it to counsel's duty during plea negotiations, and alleged enough facts to show an attempted claim.

The decision whether to accept a diversionary resolution or comparable plea offer belongs to the defendant, not counsel. Florida Rule of Criminal Procedure 3.171(c)(1) provides that defense counsel may not conclude a plea agreement on behalf of a defendant without the defendant's full and complete consent, and rule 3.171(c)(2) requires counsel to advise the defendant of all plea offers and all pertinent matters bearing on the choice of plea. Florida case law likewise recognizes that counsel may render ineffective assistance by failing to communicate or properly advise a defendant about a favorable offer. *See*

Alcorn v. State, 121 So. 3d 419, 430–32 (Fla. 2013); *Eristma v. State*, 766 So. 2d 1095, 1096 (Fla. 2d DCA 2000).

The claim was not fully sufficient as pleaded. Ms. Tracz did not allege the terms of the diversion offer, when it was made, whether she would have accepted it, whether the State would have kept it open, whether the court or program would have approved it, or how the result would have been more favorable. *See Alcorn*, 121 So. 3d at 430–32. But that is precisely the type of curable pleading defect for which *Spera* requires amendment. The prejudice allegations are assessed under *Alcorn*'s reasonable probability standard; the reference to timing concerns the availability of the alleged offer, not an independent requirement to plead an exact date.

The attachments do not conclusively refute the allegation. The transcript shows that the State held open the day-of-trial plea offer because counsel had been communicative with the prosecutor. It says nothing about whether there had been an earlier diversion offer, whether counsel communicated it, whether counsel advised Ms. Tracz about it, whether counsel failed to pursue it, or whether Ms. Tracz would have accepted it.

Accordingly, we reverse as to this claim and remand for an opportunity to amend.

D.

Ms. Tracz alleged that counsel placed the plea form in front of her without meaningful review, that the form did not identify what number DUI she was pleading to, and that it did not specify the length of the driver's license revocation.

To the extent Ms. Tracz alleged that she entered the plea unaware that the disposition carried a ten-year driver's license revocation, the

record conclusively refutes the claim. Before the plea was accepted, the State announced a ten-year driver's license revocation. More importantly, Ms. Tracz herself acknowledged in her statement to the court that the consequences would stay with her "for the next [ten] years in the form of restricted driving ability." The court later imposed the ten-year revocation and noted that it had no objection to Ms. Tracz applying for a business-purpose-only license when eligible. On this record, Ms. Tracz cannot maintain that she entered the plea without knowing about the ten-year driving consequence. *See Stano v. State*, 520 So. 2d 278, 279–80 (Fla. 1988).

The same is true to the extent Ms. Tracz alleged only that she did not hear the plea terms announced in court or that she did not understand that she was pleading guilty to a third DUI. The State recited the classification, prior history, and proposed disposition before the plea was accepted, and the court conducted a colloquy. *See id.*

But the broader allegation that counsel did not meaningfully review the plea form with her was not conclusively refuted. The transcript confirms only that the plea form was reviewed in the hallway shortly before the hearing, and the record excerpts do not conclusively show what counsel explained before the hearing or whether counsel adequately advised Ms. Tracz about the terms of the plea agreement. To be sure, a defendant's sworn assurance that she is satisfied with counsel's advice may, in some circumstances, foreclose a later ineffective assistance claim. *See, e.g.*, *Clift v. State*, 43 So. 3d 778, 779–80 (Fla. 1st DCA 2010). But that rule has no application here because Ms. Tracz was never asked whether she was satisfied with counsel's advice.[1]

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[1] We do not conclude, at this stage, that the claim is foreclosed by the language in the signed plea form stating, "If represented by counsel, I

We therefore affirm the denial of the specific ten-year revocation knowledge claim and any claim that Ms. Tracz did not hear the plea terms announced in court or did not understand that she was pleading to a third DUI but reverse to the extent Ms. Tracz attempted to allege a broader ineffective assistance claim based on inadequate preplea advice. On remand, Ms. Tracz shall be afforded an opportunity to amend this claim.

E.

Ms. Tracz alleged that she wanted to take the case to trial from the beginning, believed she was innocent, and believed that videos showed she was not slurring her words or stumbling as the police reports claimed. She alleged that she was "frightened away" from the goal of trial.

This allegation was not a model of clarity, but under *Mejia* it fairly attempted to state a claim. It identified the evidence at issue—the videos—identified the alleged defense significance—that they contradicted impairment observations in the reports—and connected the allegation to the decision to abandon trial and enter the plea.

The claim was insufficient but curable because Ms. Tracz did not sufficiently identify counsel's alleged error concerning the videos. Her allegations did not explain whether counsel reviewed them, what counsel advised about them, or otherwise how counsel's handling of that

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am satisfied with that representation." As framed, Ms. Tracz's allegations suggest that, at the time she executed the form, she may not yet have been aware of the allegedly deficient advice. *See, e.g.*, *Calhoun v. State*, 722 So. 2d 854, 855 (Fla. 2d DCA 1998). We emphasize, however, that we do not hold that this language is incapable of refuting the claim. Rather, because the claim is being remanded for amendment, we express no opinion as to what effect the plea form's language may have once the claim is more fully and properly pleaded.

evidence was deficient. Nor did she sufficiently allege a reasonable probability that, but for counsel's deficient performance, she would have rejected the plea and insisted on trial. *See Grosvenor*, 874 So. 2d at 1181–82. But the attempted claim was not so vague that the postconviction court could disregard it under *Mejia*.

Nor did the attachments conclusively refute the claim. The postconviction court reasoned that, even if the video showed Ms. Tracz was not slurring or stumbling, other evidence was sufficient to convict her of DUI. That analysis went too far at the summary denial stage. The postconviction court did not attach the videos, discovery, or police reports. The State's oral factual basis is not conclusive proof of what the videos showed or how competent counsel would have evaluated them. *Cf. Parhm*, 227 So. 3d at 174. A factual basis sufficient to support a plea does not necessarily refute a claim that counsel failed to investigate or advise about defense evidence before the plea. *Cf. id.*

We do not hold that Ms. Tracz has stated a facially sufficient claim warranting an evidentiary hearing. She has not. We hold only that the claim was recognizable, insufficient but curable, and not conclusively refuted by the record attachments. She is entitled to an opportunity to amend.

F.

Ms. Tracz also alleged that counsel did not schedule a face-to-face meeting to review the plea and plea questionnaire before the hearing and instead met her in the hallway on the day of the plea and sentencing hearing, put the plea form in front of her without meaningful review, and moved on to what he expected would happen at the hearing. She alleged that she was extremely nervous, that her nervousness escalated to panic after the court expressed concern about the negotiated disposition, and

that after reading her statement she remembered little beyond shaking her head.

Some aspects of this allegation are refuted or fatally insufficient. The transcript shows that Ms. Tracz did not merely shake her head. She answered the court's questions, asked about inpatient treatment, confirmed that she had reviewed the plea form with counsel, confirmed that she had enough time to speak with counsel, and denied that anyone threatened, forced, or coerced her. Anxiety, nervousness, or panic, standing alone, does not establish an involuntary plea. *See, e.g.*, *State v. Brest*, 421 So. 2d 638, 640–42 (Fla. 3d DCA 1982).

But the transcript also confirms part of Ms. Tracz's factual premise: counsel reviewed the plea form with her in the hallway shortly before the hearing. That fact does not by itself establish deficient performance. But it also does not conclusively refute an allegation that counsel's alleged hurried plea preparation, combined with inadequate preplea advice, impaired Ms. Tracz's ability to make an informed decision. As with the broader communication claim, Ms. Tracz must plead more if she can do so in good faith. She must identify what counsel failed to explain, why the omission mattered, and why she would have rejected the plea but for counsel's deficient performance. The applicable prejudice inquiry is whether there is a reasonable probability that, but for counsel's deficient performance, she would have rejected the plea and insisted on trial. *See Grosvenor*, 874 So. 2d at 1179–82.

Because this theory was insufficient but curable and not conclusively refuted in its entirety, we reverse for an opportunity to amend.

IV.

We appreciate the dissent's thoughtful critique, and we share many of the concerns that animate it. The dissent is correct that plea colloquies matter. A defendant may not use rule 3.850 to contradict sworn representations made during a plea proceeding or to relitigate a knowing, voluntary, and counseled plea merely because she later regrets the bargain she struck. *See Stano*, 520 So. 2d at 279–80. The dissent is also correct that conclusory allegations do not warrant relief, that some allegations are too vague or speculative even to require an opportunity to amend, and that any amended plea-based ineffective assistance claim challenging the decision to plead rather than proceed to trial must ultimately satisfy the prejudice standard described in *Grosvenor*, 874 So. 2d at 1181–82.

But those principles do not resolve this appeal. They define important limits on what may happen next; they do not eliminate the amendment procedure that rule 3.850(h) requires when a timely pro se motion fairly attempts to state a recognizable claim, pleads that claim insufficiently, and is not conclusively refuted by the record attachments. *See* Fla. R. Crim. P. 3.850(h)(2)–(5); *Spera*, 971 So. 2d at 761–62. Respectfully, the dissent's contrary approach conflates three distinct questions: whether a claim is presently sufficient, whether the existing record conclusively refutes it, and whether the movant should be afforded an opportunity to cure a pleading defect. Rule 3.850(h) treats those questions separately, and so must we.

The current rule is especially important here. Rule 3.850(h) reflects *Spera*'s amendment procedure. It is not in tension with *Stano* or *Grosvenor*; it supplies the procedural sequence by which their principles are applied. A postconviction court first determines whether a claim is

facially sufficient, legally insufficient but curable, legally insufficient and incurable, or conclusively refuted by the record. If a claim is conclusively refuted, *Stano* and rule 3.850(h) permit summary denial without amendment. If a plea-based ineffective assistance claim is later amended, *Grosvenor* supplies the standard for determining whether the movant has adequately alleged, and can ultimately prove, prejudice in a challenge to the decision to plead rather than proceed to trial. But neither *Stano* nor *Grosvenor* displaces rule 3.850(h)'s amendment procedure for a timely, recognizable, curably insufficient claim that the current record does not conclusively refute.

Nor does our decision permit Ms. Tracz to "go behind" her plea in the sense forbidden by *Stano*. We apply *Stano* where the plea record actually refutes her allegations. That is why we affirm the denial of any claim that Ms. Tracz entered the plea unaware of the ten-year driver's license revocation, unaware that the case was being resolved as a third DUI, or unaware of the terms announced in open court. Those allegations cannot survive the transcript. The State announced the ten-year revocation and third DUI classification before the plea was accepted, and Ms. Tracz herself acknowledged that the consequences would remain with her for "the next [ten] years in the form of restricted driving ability." Those record facts conclusively refute the corresponding postconviction allegations.

But the remaining claims do not necessarily depend on contradicting those acknowledgments. Properly understood, they concern counsel's alleged preplea omissions regarding advice, investigation, negotiation, and defense evidence. A general plea colloquy may refute such a claim when the colloquy specifically addresses the matter later alleged. It does not automatically refute every claim that

deficient preplea advice induced the plea. *See Leroux*, 689 So. 2d at 237–38; *Jones*, 846 So. 2d at 1226. That distinction is not an erosion of *Stano*. It is the ordinary distinction between a claim that contradicts the plea proceeding and a claim that the plea proceeding does not specifically and conclusively answer.

The dissent also faults our reliance on *Mejia*, but we do not read *Mejia* to alter the pleading rules or to relax a movant's burden. *Mejia* instructs that pro se postconviction motions must be read liberally but fairly: a court need not create claims from stray phrases, conclusory sentences, or mere hints of a theory, but neither may it narrow allegations that fairly attempt to state recognizable claims and then deny only the narrowed version. That is the limited use we make of *Mejia* here. Ms. Tracz's motion did not merely assert that counsel was "ineffective" or express generalized dissatisfaction with the result. It identified alleged omissions concerning plea negotiations, an alleged diversion offer, prior DUI convictions, plea form review, the DUI classification and penalties, and video evidence that she believed contradicted the State's impairment evidence. Those allegations were inartful and incomplete, but they were not so amorphous that the postconviction court and the State were left to guess at the theories being asserted. Indeed, the State's response recognized several of the allegations that the postconviction court later omitted or narrowed.

We also disagree with the dissent's suggestion that the postconviction court's order can be affirmed simply because it purported to rule on the merits. Labels do not control our review. The postconviction court reorganized Ms. Tracz's motion into three simplified grounds and denied those grounds. To the extent those simplified grounds captured the allegations actually presented, we affirm. But

where the order either failed to address a fairly presented attempted claim or resolved only a narrowed version of it, the question remains whether the omitted or narrowed claim was conclusively refuted by the attached record. If it was, the omission is harmless. If it was not, and if the pleading defect was curable, rule 3.850(h) requires an opportunity to amend.

Nor are we disregarding *Grosvenor*. Quite the opposite. *Grosvenor* explains what Ms. Tracz must ultimately plead and prove in connection with a claim that counsel's deficient performance caused her to plead rather than proceed to trial: a reasonable probability that, but for counsel's deficient performance, she would not have entered the plea and would have insisted on trial. *See Grosvenor*, 874 So. 2d at 1181–82. The plea colloquy, the strength of the State's evidence, the likely viability of any defense, and the difference between the sentence imposed and the sentence Ms. Tracz faced after trial will all bear on that inquiry. But *Grosvenor* does not require us to conduct a final prejudice analysis before the claim has been adequately pleaded, unless the existing record conclusively demonstrates that no good faith amendment could matter. On this record, it does not do so for the claims we remand. The alleged lost diversion offer remains subject to the distinct prejudice standard discussed above under *Alcorn*.

The dissent's concerns are strongest with respect to the prior DUI allegation. We agree that Ms. Tracz's current allegation is conclusory. She has not alleged facts identifying a basis for challenging the use of the prior convictions or explaining the resulting prejudice. A bare allegation that counsel should have "challenged" prior convictions, without more, would remain insufficient. But the question before us is not whether the present allegation entitles her to relief; it plainly does not. The question

is whether it attempted to state a recognizable claim and whether the current attachments conclusively establish that no viable amendment is possible. The attached transcript reflects the State's oral recitation of the prior DUI history. It does not include the prior judgments, plea documents, enhancement documentation, or other records that would conclusively answer whether counsel had any arguable basis to challenge the validity, usability, or legal effect of the priors. We do not shift the burden to the State to disprove speculation. We hold only that, having identified the attorney omission and the consequence to which it allegedly related, Ms. Tracz must be given one opportunity to allege concrete facts if she can do so in good faith. If she cannot, the claim may be denied.

The same is true of the video evidence allegation. The postconviction court reasoned that, even if the videos showed Ms. Tracz was not slurring or stumbling, other evidence was sufficient to convict her of DUI. But sufficiency of the State's factual basis is not the same as a conclusive refutation of a claim that counsel failed to investigate or advise about defense evidence before a plea. The court did not attach the videos, the reports, or discovery materials. We therefore cannot know from these attachments what the videos showed, what counsel reviewed, what counsel advised, or whether competent advice concerning the videos would have affected the plea decision under *Grosvenor*. Again, Ms. Tracz has not pleaded enough to obtain an evidentiary hearing. But the current attachments do not conclusively refute the attempted claim.

Nor does this analysis shift the burden to the State. Ms. Tracz remains the movant, and she bears the burden to plead, and ultimately to prove, deficient performance and prejudice. We do not require the State to disprove every conceivable theory that an amended motion might

assert, nor do we require the postconviction court to attach records negating possibilities that Ms. Tracz has not yet pleaded. Our point is narrower. When a timely pro se motion fairly attempts to state a recognizable ineffective assistance claim, the defect is one of pleading, and the existing attachments do not conclusively refute the attempted claim, rule 3.850(h) requires one opportunity to amend. If Ms. Tracz's amended claims remain speculative, fail to identify a specific attorney omission, fail to allege a concrete factual or legal basis for prejudice, or are conclusively refuted by the record, the postconviction court may summarily deny them. Requiring that procedural step does not alter the burden of proof; it simply enforces the rule's distinction between curably insufficient claims and claims that are conclusively refuted or incurably deficient.

We also do not intend to create a freestanding "hurried plea preparation" claim divorced from Ms. Tracz's allegations. The phrase describes one aspect of the broader theory she attempted to plead: that counsel's alleged failure to meaningfully review the plea form and plea questionnaire, combined with inadequate preplea advice, impaired her ability to make an informed plea decision. To the extent that allegation simply contradicts her sworn acknowledgment that she reviewed the plea form with counsel, had enough time to speak with counsel, and was comfortable proceeding, it is refuted. But the transcript establishes only that some review occurred; it does not conclusively establish what counsel explained, what counsel omitted, or whether any specific preplea advice claim can be pleaded in good faith. The point of remand is to require Ms. Tracz to say precisely what she means. If she cannot allege facts supporting deficient performance and prejudice under *Grosvenor*, the claim should be denied.

Indeed, the dissent's own analysis confirms the limited nature of our disagreement. The dissent acknowledges that Ms. Tracz's allegation that counsel placed the plea form before her without any review would, if not conclusively refuted and if amended in good faith, present an insufficient-but-curable ineffective assistance claim. We agree. Where we part company is not over whether such an allegation can ever trigger rule 3.850(h)'s amendment procedure; it can. The disagreement is whether the plea transcript conclusively refutes any such claim at this stage. In our view, it does not. The transcript establishes that counsel reviewed the plea form with Ms. Tracz in the hallway shortly before the hearing and that fact refutes any allegation that no review occurred at all. But it does not conclusively establish what counsel explained, what counsel omitted, or whether counsel's review was constitutionally adequate when considered together with Ms. Tracz's broader allegations of inadequate preplea advice. Thus, the dissent's analysis reinforces the point we make throughout: the appropriate next step is not an evidentiary hearing or relief on the merits, but one opportunity to amend so that the postconviction court can determine exactly what claim Ms. Tracz can plead, whether she can plead it in good faith, and whether the record then conclusively refutes it.

Nor do we overlook the plea form's statement that Ms. Tracz was satisfied with counsel's representation. That language may prove important after amendment, and we do not hold that it is incapable of refuting a properly pleaded claim. But at this stage, the question is narrower. The form's general satisfaction language does not, by itself, conclusively answer every possible claim that counsel failed to provide constitutionally adequate advice about a specific plea alternative, defense, investigation, or consequence before Ms. Tracz entered the plea.

If an amended claim merely repackages dissatisfaction with counsel, contradicts matters Ms. Tracz already acknowledged, or concerns information that was known to her when she entered the plea, the postconviction court may deny it. But until the claim is pleaded with the specificity rule 3.850 requires, we cannot determine the precise effect of the plea form's language on the claims we remand.

Finally, we recognize the finality concerns the dissent identifies. Pleas are solemn proceedings, and postconviction courts need not indulge after-the-fact regret dressed up as ineffective assistance. But finality and rule 3.850(h)'s amendment procedure are not opposing commands. The rule protects finality by allowing claims to be summarily denied when they are legally insufficient and incurable, conclusively refuted, or still insufficient after amendment. At the same time, it requires one opportunity to amend when a timely pro se motion fairly attempts to plead a cognizable claim but fails to include the necessary details. Our decision stays within that limited procedural lane. We do not hold that Ms. Tracz has established deficient performance, prejudice, or entitlement to an evidentiary hearing. We hold only that several of her attempted claims were insufficient but curable and were not conclusively refuted by the record attachments. That is the procedure rule 3.850(h) requires.

In short, we respectfully disagree with the dissent's central premise. Our decision does not put *Mejia* in tension with rule 3.850, *Strickland*, *Stano*, or *Grosvenor*. It applies those authorities in sequence. *Stano* forecloses claims contradicted by the plea record. For claims that counsel's deficient performance caused the defendant to plead rather than proceed to trial, *Grosvenor* governs whether any amended plea-based ineffective assistance claim is sufficiently pleaded and, if

necessary, ultimately proven. *Alcorn* supplies the distinct prejudice standard for the alleged lost diversion offer. *Mejia* helps identify which inartfully pleaded allegations fairly present attempted claims. And rule 3.850(h), as informed by *Spera*, requires an opportunity to amend timely, recognizable, insufficient-but-curable claims that the current record does not conclusively refute. That limited procedural ruling is all this appeal presents and all we decide.

V.

This case illustrates the practical application of *Mejia*. A postconviction court need not create claims from isolated phrases. But *Mejia* does not permit a postconviction court to narrow fairly presented allegations and then deny only the narrowed version. Most of Ms. Tracz's allegations, although facially insufficient, were recognizable and curable. The attachments do not conclusively refute them. Under *Spera* and rule 3.850(h), Ms. Tracz was entitled to an opportunity to amend.

Accordingly, we affirm the denial of Ms. Tracz's claim that she entered the plea unaware of the ten-year driver's license revocation. We also affirm the denial of any claim based solely on counsel's failure to communicate in person. We reverse the order in all other respects and remand for the postconviction court to permit Ms. Tracz a reasonable opportunity to amend the insufficient-but-curable claims identified in this opinion. We express no opinion on whether any amended claim will be facially sufficient, conclusively refuted by the record, or ultimately meritorious.

Affirmed in part, reversed in part, and remanded.

VILLANTI, J., Concurs.
ATKINSON, J., Concurs in part and dissents in part with opinion.

ATKINSON, Judge, Concurring in part and dissenting in part.

Amy Beth Tracz appeals the summary denial of her motion for postconviction relief under Florida Rule of Criminal Procedure 3.850. The majority holds that the postconviction court narrowed Ms. Tracz's allegations into three simplified grounds and then denied those narrowed grounds, thus overlooking or too narrowly construing several distinct insufficient-but-curable ineffective assistance claims. According to the majority, the record excerpts do not conclusively refute those claims, so Ms. Tracz is entitled to an opportunity to amend pursuant to *Spera v. State*, 971 So. 2d 754 (Fla. 2007), and rule 3.850(h).

I agree with the majority's conclusion that the postconviction court properly denied Ms. Tracz's claim that she entered her plea without knowing that the disposition included a ten-year driver's license revocation or that she was pleading guilty to a third DUI, as well as her claim that trial counsel was ineffective because he did not communicate with her in person. I also agree with the majority that Ms. Tracz was entitled to an opportunity to amend her claim that trial counsel rejected an offer for her to complete a diversion program. But I would otherwise affirm the summary denial of her motion for postconviction relief under rule 3.850(h) and respectfully dissent from the remainder of the majority opinion.

The majority contends that "[t]his case illustrates the practical application" of *Mejia v. State*, 434 So. 3d 131 (Fla. 2d DCA 2026), in which this court recently postulated a framework to determine when an inartfully-worded allegation crosses the line from a stray statement into a postconviction claim that must be addressed on the merits or afforded an opportunity to amend under *Spera*, 971 So. 2d 754. That may well be so. However, I would contend that, even under the rubric of *Mejia*, the

trial court properly denied most of Ms. Tracz's postconviction claims. If the majority opinion constitutes a proper application of the framework described in *Mejia*, then that framework is in tension with the broader framework described in the language of rule 3.850 and applied in the decisional authority regarding ineffective assistance claims under *Strickland v. Washington*, 466 U.S. 668 (1984). Alternatively, it may be that the majority's focus on *Mejia*'s application overlooks the longstanding proposition that postconviction defendants are not entitled to amend conclusory claims and neglects *Mejia*'s admonishment that "sworn assurances matter . . . [and] Florida courts routinely hold that a defendant may not later 'go behind the plea' by contradicting sworn representations made during a plea colloquy." *Mejia*, 434 So. 3d at 140 (citing *Stano v. State*, 520 So. 2d 278, 279–80 (Fla. 1988)).

Generally, "when a defendant's initial rule 3.850 motion for postconviction relief is determined to be legally insufficient for failure to meet either the rule's or other pleading requirements, the trial court abuses its discretion when it fails to allow the defendant at least one opportunity to amend the motion." *Spera*, 971 So. 2d at 761; *see also Pressley v. State*, 241 So. 3d 960, 961–62 (Fla. 2d DCA 2018) (instructing the postconviction court to allow a pro se defendant the opportunity to amend arguments that were "hardly . . . models of clarity . . . [t]o the extent the postconviction court determine[d] that the pleadings [were] facially insufficient" because the defendant was attempting to advance an illegal sentence argument but "[t]he postconviction court plainly—and understandably—missed that aspect of [the] claim"); *Garrett v. State*, 111 So. 3d 952, 953 (Fla. 5th DCA 2013) (allowing a pro se defendant who "fail[ed] to articulate which plea . . . counsel should have sought to withdraw [or] . . . identify any specific basis upon which defense counsel

might have advanced such a motion" to amend a claim that trial counsel was ineffective for failing to file a motion to withdraw a plea); *Burke v. State*, 40 So. 3d 867, 867 (Fla. 5th DCA 2010) (allowing a pro se defendant the opportunity to amend an "imprecise" claim that was "not a model of clarity but seem[ed] to allege that trial counsel was ineffective for failing to challenge the State's . . . [exclusion of] an allegedly exculpatory surveillance video tape" after the trial court misinterpreted the claim as relating to a different theory).

However, the requirement to allow amendment is "limited to motions deemed facially insufficient to support relief—that is, claims that fail to contain required allegations." *Spera*, 971 So. 2d at 762. Thus, while a postconviction defendant is entitled to an opportunity to amend a legally insufficient claim based on the claim's *pleading deficiency*, a defendant is not entitled to an opportunity to amend a claim that the postconviction court rejected on its *merits*. *See, e.g.*, *Ross v. State*, 26 So. 3d 83, 85 (Fla. 3d DCA 2010) (determining that the postconviction court "ruled on the merits [of the defendant's postconviction claims], but mischaracterized the claims as legally insufficient [and a]s such, the defendant [was] not entitled to amend his postconviction motion"); *Brown v. State*, 270 So. 3d 530, 532 (Fla. 1st DCA 2019) ("The defendant is entitled to an evidentiary hearing unless the motion and record conclusively show he is not entitled to relief or the motion or claim is legally insufficient." (citing *Valentine v. State*, 98 So. 3d 44, 54 (Fla. 2012))). And "[w]hen trial courts deny relief because the record conclusively refutes the allegations, they need not permit the amendment of pleadings." *Spera*, 971 So. 2d at 762.

Additionally, "*Spera* did not expressly disturb the long line of precedent permitting summary denial of conclusory claims." *Oquendo v.*

State, 2 So. 3d 1001, 1004 (Fla. 4th DCA 2008). A postconviction "court is not required to provide an opportunity to amend a claim that simply fails to establish a basis for relief[,] [o]therwise . . . nearly every meritless claim would be subject to an opportunity to amend." *Cortes v. State*, 85 So. 3d 1135, 1138–39 (Fla. 4th DCA 2012) (concluding that a pro se defendant who could not establish *Strickland* prejudice was not entitled to amend his "convoluted" claims). Some claims are "so conclusory and vague as to not warrant amendment." *Mayes v. State*, 53 So. 3d 1212, 1213 (Fla. 2d DCA 2011) (providing "a bare assertion that 'my counsel was ineffective for not objecting at trial' " as a hypothetical example of a claim not justifying leave to amend). It is only when a postconviction defendant asserts with sufficient specificity a claim that, while insufficient, is cognizable, that a postconviction court is required to allow amendment. *See id.* (ruling that the postconviction court improperly denied a claim as "conclusory" when the claim "specifically alleged that counsel was ineffective for failing to impeach the credibility of the victim with her deposition and prior statement to the police") (citing *Mohr v. State*, 17 So. 3d 1249, 1249 (Fla. 2d DCA 2009)); *see also Solorzano v. State*, 25 So. 3d 19, 22–24 (Fla. 2d DCA 2009) (differentiating between a sufficiently pled postconviction claim—that trial counsel "wholly failed to question [a prospective juror] during voir dire" and thus "had no basis for determining whether [the individual] was competent to sit as an unbiased juror"—and an insufficient claim that the defendant was not entitled to amend—that trial counsel was ineffective for failing to "follow-up" and question a juror who stated that she "would want to hear 'everything from everybody' before she made a decision"—which was "based on nothing more than conjecture").

Here, the postconviction court concluded that Ms. Tracz "raised facially sufficient claims and directed the State to respond" before "analyz[ing] each of [Ms. Tracz's] claims . . . according to . . . caselaw." In other words, the postconviction court ruled on the *merits* of Ms. Tracz's allegations, rejecting her claims related to trial counsel's failure to communicate in person (which was not a meritorious basis for relief); failure to challenge prior DUI convictions (which was conclusory because Ms. Tracz did not explain how counsel should have attacked the convictions, allege anything about the convictions that could have prevented them from being considered priors, or allege any basis whatsoever for challenging the prior convictions); and failure to communicate resulting in an involuntary plea (which was refuted by the record). *See* Fla. R. Crim. P. 3.850(h)(5) (allowing denial without a hearing when "all grounds in the motion can be conclusively resolved either as a matter of law *or* by reliance upon the records in the case" (emphasis added)). Contrary to the majority opinion, Ms. Tracz is not entitled to amend many of her claims, whether insufficiently pleaded or not, because the postconviction court correctly denied them on their merits. *See, e.g.*, *Ross*, 26 So. 3d at 85 (explaining that a defendant "should be granted leave to amend . . . 'legally insufficient' claims pursuant to *Spera* . . . only . . . if the legal insufficiency is based on a pleading deficiency" but not if "the trial court ruled on the merits of the defendant's postconviction claims").

The majority reads several of Ms. Tracz's allegations to identify trial counsel's alleged acts or omissions, connect those omissions to recognizable ineffective assistance theories, and allege facts sufficient to show an attempted claim, thus "present[ing] the other side of [*Mejia*'s] framework." However, *Mejia*'s recently postulated framework is not the

only consideration when reviewing a postconviction court's denial of an ineffective assistance claim. In *Grosvenor v. State*, 874 So. 2d 1176, 1181–82 (Fla. 2004), the Florida Supreme Court provided the following explanation regarding ineffective assistance of counsel claims in the context of a plea:

> A defendant who has pleaded guilty who claims that defense counsel was ineffective for failing to advise of an available defense establishes *Strickland*'s prejudice prong by demonstrating a reasonable probability that, but for counsel's errors, the defendant would not have pleaded guilty and would have insisted on going to trial. Counsel's effectiveness is determined according to the totality of the circumstances. Therefore, in determining whether a reasonable probability exists that the defendant would have insisted on going to trial, a court should consider the totality of the circumstances surrounding the plea, including such factors as whether a particular defense was likely to succeed at trial, the colloquy between the defendant and the trial court at the time of the plea, and the difference between the sentence imposed under the plea and the maximum possible sentence the defendant faced at a trial.

Id. (citation omitted). *Grosvenor* also reaffirmed that "[i]n many ineffective assistance of counsel claims—and perhaps more often when the claim concerns a guilty plea—the deficient performance prong and the prejudice prong are related and can involve similar issues." *Id.* at 1182; *see also, e.g.*, *Guzman-Aviles v. State*, 226 So. 3d 339, 343 (Fla. 5th DCA 2017) ("There is a similar two-prong test for ineffective assistance of counsel claims relating to cases resolved by a guilty or no-contest plea. The first prong is the same as in *Strickland*, while the second 'prejudice' prong requires that a defendant demonstrate 'a reasonable probability that, but for counsel's errors, the defendant would not have pleaded guilty and would have insisted on going to trial.' " (first citing *Hill v. Lockhart*, 474 U.S. 52, 57–59 (1985); and then citing

Grosvenor, 874 So. 2d at 1179)); *McCorvey v. State*, 384 So. 3d 314, 316 (Fla. 5th DCA 2024) (holding that the defendant's allegation "that his trial counsel was ineffective for advising him to enter the plea when he had a defense to the charge," while "dubious," was "governed by *Grosvenor*" and "may well have constituted deficient performance").

As regarding most of the claims at issue, the majority (although citing *Grosvenor*) does not recognize the record's conclusive refutations of Ms. Tracz's postconviction claims and fails to apply *Grosvenor*'s totality of the circumstances analysis of trial counsel's effectiveness under *Strickland*, 466 U.S. at 690. The majority also appears to inaccurately suggest that *Grosvenor* does not apply unless and until "a plea-based ineffective assistance claim is later amended." While acknowledging that "*Grosvenor* does not require us to conduct a final prejudice analysis before the claim has been adequately pleaded, *unless the existing record conclusively demonstrates that no good faith amendment could matter*," the majority cabins *Grosvenor*'s applicability to the question of "whether any *amended* plea-based ineffective assistance claim is sufficiently pleaded and, if necessary, ultimately proven." (Emphasis added.) But contrary to the majority's contention, the question of "whether the movant should be afforded an opportunity to cure a pleading defect" cannot be considered "separately" from the question of whether "the existing record conclusively refutes it" if the latter question is answered in the affirmative. If the record conclusively refutes what the majority describes as a "recognizable claim" that a postconviction movant has "fairly attempted to state," then the postconviction court can summarily deny it because nothing in rule 3.850 affords a movant the right to "cure a pleading defect" if the resulting claim would be refuted by the record. The majority's formulation rewards a postconviction movant's failure to

successfully state a recognizable claim with an opportunity to amend that would not be afforded to a movant who had adequately stated a recognizable claim that was legally non-meritorious or refuted by the record.

In other words, if the court *recognizes* the claim the postconviction defendant was attempting to assert (a possibility that is acknowledged by the majority to the extent that it is a necessary premise of its analysis), then the court is permitted to assess whether that claim has legal merit and whether that claim is conclusively refuted by the record. In defiance of the postconviction rule, the rationale of the majority opinion denies a postconviction court's ability to do so, eliding the distinction between a ruling based on a pleading deficiency and a ruling on the merits, dismissing the latter as an unimportant "[l]abel[]." *See* Fla. R. Crim. P. rule 3.850(h)(5) (permitting summary denial of those claims that "can be conclusively resolved either as a matter of law or by reliance upon the records in the case"). Again, to require a court to allow amendment under such circumstances would be to preference postconviction defendants who unsuccessfully attempt to describe recognizable claims that, if adequately stated, would be legally non-meritorious or conclusively refuted by the record.

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The majority's conclusion that the record attachments do not conclusively refute Ms. Tracz's claim that trial counsel rejected an offer for her to complete a diversion program—and she is thus entitled to an opportunity to amend if she can do so in good faith—is well taken. *See Spera*, 971 So. 2d at 762. Ms. Tracz's allegation that the State offered diversion but that trial counsel failed to accept it on her behalf is directly connected to a plausible ineffective assistance claim, in contrast to the

defendant's "inartfully-worded allegation" in *Mejia*, 434 So. 3d at 135–37, that trial counsel misadvised him about the applicability of a minimum mandatory sentence. Ms. Tracz specifically alleged that "[i]nitially the State offered a diversion program to resolve the case, which [trial counsel] did not accept on my behalf." Although this is the only mention of such an offer in the record, nothing in the record refutes that the State made it. A reader would have no difficulty in understanding the substance of Ms. Tracz's claim that the State extended her a better offer and communicated it to her lawyer and that her lawyer never conveyed the offer to her or accepted it even though she would have wanted to accept it. Unlike the single sentence in *Mejia*, 434 So. 3d at 136–37, which did not even identify the twenty-five-year minimum mandatory sentence as trial counsel's omitted advice, here the single sentence clearly alleged a diversion offer that counsel failed to communicate and could be a meritorious claim if Ms. Tracz's bald allegations are taken as true. As the majority explains, she could cure her insufficient pleading if she clarifies when the State offered diversion and under what terms, whether she would have accepted diversion, whether the State would have continued to offer diversion, and whether the court would have approved diversion. *Cf. Alcorn v. State*, 121 So. 3d 419, 431–32 (Fla. 2013) ("[C]ourts are entitled to accept the defendant's undisputed, yet self-serving, allegation that he would have taken the plea offer but for being misadvised on the proper statutory maximum as a basis for finding prejudice, but courts are not precluded from rejecting such a statement either.").

By contrast, Ms. Tracz's remaining claims collapse even under the framework described in *Mejia*. The majority reverses as to Ms. Tracz's broader communication-and-advice claim because, under the majority's

framing, her motion was not limited to the narrowly stated but unmeritorious theory that trial counsel did not communicate with her in person, and her allegations that counsel failed to properly and effectively communicate the case to her, discuss case progress, negotiations, and legal strategy, timely and properly explain negotiations, and give her enough information to make a sound decision identified a broader omission of failing to provide meaningful advice about strategy, negotiations, and plea decision making. The majority cites *Grosvenor*, 874 So. 2d at 1181, and holds that Ms. Tracz can cure this claim if she can identify with precision what counsel should have explained, when counsel should have explained it, how the advice was deficient, and why proper advice would have changed her decision to enter the plea.

Yet, the majority's determination that Ms. Tracz can cure her broader communication-and-advice claim is irreconcilable with *Grosvenor*'s totality of the circumstances rubric for analyzing both deficient performance and prejudice in the context of a plea, which "includ[es] . . . whether a particular defense was likely to succeed at trial, the [plea] colloquy between the defendant and the trial court . . . , and the difference between the sentence imposed under the plea and the maximum possible sentence the defendant faced." *Grosvenor*, 874 So. 2d at 1181–82.

Here, the totality of the circumstances refutes Ms. Tracz's broader communication-and-advice claim. The "defenses" she alluded to in her written statement to the court included not believing she refused field sobriety exercises or a breath test (she initially refused and only offered to perform them after being handcuffed); not being familiar with the area while a passenger who "tried to do something to get [her] in trouble" "was barking directions at [her]," which was apparently why she attempted a

U-turn over a raised median; and not feeling intoxicated. She also indicated during her plea colloquy that she was aware of the rights she was giving up by entering a plea, had enough time to speak with trial counsel, was comfortable entering a plea, and was not forced or coerced to resolve her case. Additionally, the trial court sentenced her to the lowest possible amount of jail time and explained, "You could get up to a year in jail on this and I can tell you that on a third time DUI even with everything that you've said to me . . . [thirty] days, the minimum, is very rare . . . ." Taken together, no reasonable probability exists that Ms. Tracz would have insisted on going to trial but for trial counsel's purported errors in failing to communicate with and advise her.

Ms. Tracz's claim that trial counsel failed to collaterally attack her alleged prior DUI convictions, failed to review the State's documentation regarding those priors, and failed to suggest that the priors should be challenged, fails to demonstrate ineffectiveness or prejudice under *Grosvenor*, 874 So. 2d at 1181–82, and *Strickland*, 466 U.S. at 690. *Cf. Parson v. State*, 913 So. 2d 1270, 1271 (Fla. 4th DCA 2005); *Andres v. State*, 898 So. 2d 256, 257 (Fla. 4th DCA 2005) (explaining that a defendant stated a valid postconviction claim regarding a DUI plea when he alleged that trial counsel failed to object to prior *uncounseled* DUI convictions).

Despite a detailed factual basis evidencing Ms. Tracz's guilt (including her statements to the court), the trial court sentencing her to the lowest permissible sentence, and a lack of evidence or even a suggestion of why her prior convictions could be successfully attacked, the majority concludes that "[t]he State's oral proffer is not a conclusive record refutation of a claim that counsel failed to investigate or challenge the validity, usability, or legal effect of the prior convictions" because

"[t]he record excerpts do not include certified convictions, plea documents from the prior cases, evidence of counsel's investigation, or any documentation conclusively establishing that no viable challenge existed." Adopting this standard for reviewing a postconviction motion not only upends *Mejia*'s framework but also defies prior decisional authority of the Florida Supreme Court and admonitions from prior district court opinions cautioning against allowing amendment of conclusory claims or going behind a plea colloquy that refutes a claim. *See Stano*, 520 So. 2d at 279–80.

A postconviction claim can be conclusively refuted by the record when it is irreconcilable with a defendant's representations during his or her plea colloquy. "Where a defendant enters a plea and swears that [she] is satisfied with [her] counsel's advice, [she] may not later attack counsel's effectiveness for failure to investigate or defend the charge." *Clift v. State*, 43 So. 3d 778, 779 (Fla. 1st DCA 2010). *Compare Aguila v. State*, 423 So. 3d 595, 595 (Fla. 3d DCA 2025) (explaining that the defendant's "assert[ion] that his first defense counsel—who represented him before he voluntarily pled guilty while represented by court-appointed counsel—was ineffective for various reasons" was an impermissible attempt to "go behind the plea" because the "plea is a break in the chain of events that came before it" (citations omitted)), *with Coursey v. State*, 164 So. 3d 119, 120 (Fla. 2d DCA 2015) ("[A]n allegation that trial counsel provided ineffective assistance by failing to file a motion to suppress is a legally sufficient claim, which is not waived by entry of a plea." (quoting *Campbell v. State*, 139 So. 3d 490, 497 (Fla. 2d DCA 2014))), and *Garrett*, 62 So. 3d at 1276 ("While a defendant may not go behind a plea when the record indicates that the plea was freely and voluntarily entered, a defendant may have a claim of ineffective

assistance of counsel when counsel's failure to investigate [a potentially exonerating witness] resulted in the entry of an ill-advised plea." (first citing *Stano*, 528 So. 2d at 379–80; and then citing *Nelson v. State*, 996 So. 2d 950, 952 (Fla. 2d DCA 2008))).

This court has held that allegations of ineffective assistance alleged with specificity—e.g., failing to file a potentially meritorious motion to suppress and failing to investigate an exonerating witness, *see Coursey*, 164 So. 3d at 120; *Garrett*, 62 So. 3d at 1276—may allow a postconviction court to go behind the plea because trial counsel's alleged deficient performance resulted in a defendant's *misadvised plea*. However, the facts in Ms. Tracz's case do not present similarly specific examples of misadvice or factually articulated omissions to warrant going behind her plea and entertaining her postconviction claims based on general allegations of deficient performance. The State announced before the plea that the case was being treated as a third DUI, identified Ms. Tracz's prior DUI history, and listed her ten-year driver's license revocation and other terms of the agreement. The court referred to the case as a "third time DUI" and told Ms. Tracz she could receive up to one year in jail. Ms. Tracz indicated that she was aware of the rights she was giving up by entering a plea, had enough time to speak with trial counsel, was comfortable entering a plea, and was not forced or coerced to resolve her case. And Ms. Tracz does not claim that her prior DUIs suffered from a legal insufficiency such as the uncounseled prior convictions in *Parson*, 913 So. 2d at 1271, or *Andres*, 898 So. 2d at 257.

By entertaining Ms. Tracz's allegation that trial counsel failed to collaterally attack her prior DUI convictions, the majority impermissibly goes "behind the plea," *Stano*, 520 So. 2d at 279–80, despite *Mejia*'s admonishment against doing so. *See Mejia*, 434 So. 3d at 140. The

majority's reasoning absolves a pleading defendant such as Ms. Tracz of responsibility to consider her situation critically, even after she knowingly waived her rights. *Cf. Vito v. State*, 270 So. 3d 1287, 1289 (Fla. 1st DCA 2019) (determining that the defendant must prove that he entered his plea involuntarily following his post-sentencing motion to withdraw his plea, when the record otherwise indicated that the defendant "simply regretted entering the plea after the trial court imposed a substantial prison sentence"); *see also, e.g.*, *Gidney v. State*, 925 So. 2d 1076, 1076–77 (Fla. 4th DCA 2006) (holding that the defendant's "alleg[ations] that his confession was coerced, that a phone conversation with his wife regarding the victim . . . was illegally recorded, and that his arrest was illegal . . . were possible defenses that he abandoned when he entered his plea" (first citing *Stano*, 520 So. 2d at 280; and then citing *Dean v. State*, 580 So. 2d 808 (Fla. 3d DCA 1991))).

The majority references "alleged pre-plea omissions" of counsel in support of Ms. Tracz's entitlement to amend, despite the allegations' damning lack of specificity. By logic, *general* allegations of insufficient advice or inadequate pre-plea investigation are refuted by a plea colloquy in which a defendant has assured the court of his or her satisfaction with counsel's performance—regardless of whether that colloquy could itself be categorized as "general." And without even identifying an articulated link to deficient performance, the majority relies on Ms. Tracz's identification of "video evidence that she believed contradicted the State's impairment evidence" despite acknowledging that her allegations failed to indicate "whether counsel reviewed" the videos or not and "what counsel advised about them." The mere existence of such evidence does not entitle Ms. Tracz to the right to amend her nebulous and speculative claims. Ms. Tracz was aware of the evidence against her, and she

entered a plea. This court need not permit a defendant to later allege ineffective assistance of counsel based on evidence that she contends is exculpatory. The cases in which defendants enter pleas despite the existence of exculpatory evidence are likely legion. A plea is entered after contemplation not only of the *inculpatory* evidence anticipated to be adduced by the State at trial but also of any exculpatory evidence or potentially meritorious defenses.

To allow Ms. Tracz to assert these claims after plea-entry proceedings under the circumstances of this case would deprive pleading defendants of personal agency and undermine a judicial process that goes to great lengths to uphold that agency—dismissing defendants like Ms. Tracz as helpless gulls who can then relitigate their knowing, intelligent, and voluntary plea decisions by shifting blame to their lawyers after the fact. Decisional authority does not support such a regime. *See, e.g.*, *Kelley v. State*, 109 So. 3d 811, 813 (Fla. 1st DCA 2013) (explaining that the restriction against using a rule 3.850 motion "to go behind representations the defendant made to the trial court . . . applie[s] in the context of sworn representations made by the defendant during a plea colloquy . . . [and] also . . . to unsworn representations made by the defendant during the course of the trial"); *see also United States v. Timmreck*, 441 U.S. 780, 799 (1979) ("Every inroad on the concept of finality undermines confidence in the integrity of our procedures; and, by increasing the volume of judicial work, inevitably delays and impairs the orderly administration of justice." (quoting *United States v. Smith*, 440 F.2d 521, 528–29 (7th Cir. 1971) (Stevens, J., dissenting))). Accordingly, appellate courts are instructed explicitly to factor the plea colloquy into their totality-of-the-circumstances analysis of postconviction claims. *See Grosvenor*, 874 So. 2d at 1181–82; *see also*

Henry v. State, 305 So. 3d 803, 806 (Fla. 5th DCA 2020) (holding that the documents attached to an order summarily denying postconviction relief did not conclusively refute the defendant's allegations of ineffective assistance of counsel because, "[n]otably, a copy of the transcript from the plea colloquy . . . was not attached to the denial order"). "A plea conference is not a meaningless charade to be manipulated willy-nilly after the fact; it is a formal ceremony, under oath, memorializing a crossroads in the case. What is said and done at a plea conference carries consequences." *Scheele v. State*, 953 So. 2d 782, 785 (Fla. 4th DCA 2007).

The majority asserts that "[t]he State's oral proffer is not a conclusive record refutation of a claim that counsel failed to investigate or challenge the validity, usability, or legal effect of the prior convictions[,]" and references *Parhm v. State*, 227 So. 3d 172, 174 (Fla. 2d DCA 2017). However, *Parhm*'s postconviction claim alleged that trial counsel affirmatively *misadvised* the defendant about the elements and possible defenses of a RICO offense—cases "whose hallmark is their complexity." *Id.* at 173–74. ("Mr. Parhm alleged that his trial counsel failed to inform him that a conviction for racketeering required that the predicate incidents in which he was engaged must have 'the same or similar intents, results, accomplices, victims, methods of commission, or were interrelated by distinguishing characteristics, rather than being isolated incidents.' "). Although Parhm answered "No" when asked if he had any objection to the prosecutor's factual basis, this court concluded that the plea colloquy did not refute his specifically articulated claim that he would not have entered a plea had he been "been properly advised." *Id.*

Parhm's specific claim of misadvice does not inform our analysis of Ms. Tracz's speculative claim of counsel's purported failure to investigate or challenge prior DUI convictions. Ms. Tracz acknowledged that she was pleading no contest to a third DUI. She does not claim that trial counsel affirmatively misadvised her about how many prior DUIs she had or incorrectly explained the elements of a DUI to her. Her conclusory claim was bereft of any detail that could be assessed against the contents of the plea colloquy to determine whether "it specifically and correctly addressed the issue upon which the misadvice was given." *See Morales v. State*, 69 So. 3d 1086, 1087 (Fla. 2d DCA 2011) (reversing the denial of a postconviction claim that "his plea was involuntary due to his counsel's affirmative *misadvice* regarding the probable length of his sentence" (emphasis added)). In *Parhm* and other cases, plea colloquies have been found not to refute postconviction claims that were specific and articulable and not based on speculative conjecture. By contrast, in this case Ms. Tracz is merely surmising—postulating without any factual explanation—that it was *possible* that the prior DUIs were subject to challenge, asserting a claim based on the unstated premise that there is a *possibility* that the documentation of the prior convictions was deficient. *Cf. Garrett*, 62 So. 3d at 1275–77 ("The postconviction court did not attach the record of the plea colloquy; therefore, it is not clear whether this specific issue was addressed with Garrett and his counsel before he entered his plea. . . . [T]he plea colloquy record may not be sufficient to refute this claim if this specific issue was not addressed."); *Nelson*, 996 So. 2d at 952 (concluding that "*[b]ased on the nature of*" the postconviction defendant's "claims . . . and the circumstances as a whole, . . . that the postconviction court erred" in determining that the "claims were improper attempts to go behind the plea," "noting that a

generalized plea colloquy confirming satisfaction with counsel" can be "insufficient to refute a claim based on counsel's failure to advise of a *specific defense*" (emphasis added) (citing *Jones v. State*, 846 So. 2d 1224, 1226 (Fla. 2d DCA 2003))); *Jones*, 846 So. 2d at 1226 ("[T]he trial court neither asked Jones specifically whether his attorney had discussed consent as a defense, nor asked him generally whether his attorney had discussed possible defenses with him. Because the matter at issue was not discussed when the plea was taken, the plea colloquy does not refute the claim, and an evidentiary hearing is necessary."); *Guzman-Aviles*, 226 So. 3d at 342 ("A trial attorney's failure to investigate a factual defense . . . which results in the entry of an ill-advised plea of guilty, has long been held to constitute a facially sufficient attack upon the conviction." (quoting *MacKinnon v. State*, 39 So. 3d 537, 538 (Fla. 5th DCA 2010))).

Arguably, to go around a plea colloquy, even more is required than the above-cited cases suggest. A postconviction defendant ought to be required to establish that the claim was one that had not "already come to the defendant's attention at the time the plea was entered." *Scott v. State*, 779 So. 2d 284, 284–85 (Fla. 2d DCA 1998) ("[I]n circumstances such as these where Scott alleges that counsel never advised him of the availability of a legal defense that he has *only subsequently become aware of himself*, it would be illogical and unfair to foreclose analysis of that claim based upon what he asserts was an uninformed conclusion that counsel had been adequate in his criminal representation.") (emphasis added); *see also Montero v. State*, 996 So. 2d 888, 890 (Fla. 4th DCA 2008) ("A postconviction movant is prohibited from going behind a plea to raise issues that were known at the time the plea was entered." (first citing *Stano*, 520 So. 2d at 279–80; and then citing *Gidney*, 925 So.

2d at 1076–77)). However, even taking cases that omit such a requirement at face value, Ms. Tracz's generalized and conjectural claims are not of the type that appellate courts have concluded justifies "go[ing] behind the plea." *See Coursey*, 164 So. 3d at 119–20; *Slade v. State*, 129 So. 3d 461, 464–65 (Fla. 2d DCA 2014) ("This court has held that a defendant's awareness of the maximum possible sentence he faces does not vitiate a claim that his attorney assured him that his actual sentence would be much less than the maximum. Rather, to defeat a claim that a defendant entered a plea based on erroneous advice of trial counsel concerning the length of the prison sentence that will be imposed, the court must have addressed this *specific* issue with the defendant." (emphasis added) (citation modified)).

The majority opinion's dismissive treatment of the State's oral proffer regarding Ms. Tracz's prior DUIs and the majority's tacit demand that the postconviction court attach "certified convictions, plea documents from the prior cases, evidence of counsel's investigation, or any documentation conclusively establishing that no viable challenge existed" to its order risk transforming postconviction motions into post-plea minitrials. *Cf. Woodbury v. State*, 320 So. 3d 631, 650 (Fla. 2021) (explaining that the inquiry to determine if a plea has a factual basis "need not be a 'mini-trial' " and that a court may be satisfied from "statements and admissions made by the defendant, or by his counsel, or by the prosecutor" (quoting *Farr v. State*, 124 So. 3d 766, 778 (Fla. 2012))). The majority's rationale allows a postconviction defendant to assert speculative claims and then place the burden on the State to prove the negative—to counter the defendant's conjecture with a factually supported explanation that what the defendant says might have happened did not.

Despite acknowledging that Ms. Tracz's description of "attorney omission" lacked "concrete facts," the majority insists that the postconviction court's order denying her motion should have "include[d] the prior judgments, plea documents, enhancement documentation, or other records that would conclusively answer whether counsel had any arguable basis to challenge the validity, usability, or legal effect of the priors." Yet, it is a *movant's* burden to identify with specificity if any basis for postconviction relief exists. *See, e.g.*, *Ellingburg v. State*, 313 So. 3d 927, 928 (Fla. 1st DCA 2021) ("It is the petitioner's burden to allege specific, serious omissions by appellate counsel about an issue 'which is error affecting the outcome, not simply harmless error.' " (quoting *Knight v. State*, 394 So. 2d 997, 1001 (Fla. 1981))); *Davidson v. State*, 278 So. 3d 741, 743 (Fla. 5th DCA 2019) (ruling that because "it is Appellant's burden to prove ineffective assistance of counsel, the burden also falls on him to sufficiently identify any uncalled witness so that the court can properly consider what his testimony might have been, his availability, and any reasons that trial counsel chose not to call him"); *Smallwood v. State*, 809 So. 2d 56, 57 (Fla. 5th DCA 2002) ("The burden of establishing a prima facie case based upon a legally valid claim lies with the defendant." (citing *Atwater v. State,* 788 So. 2d 223, 229 (Fla. 2001))); *Coleman v. State*, 718 So. 2d 827, 829–30 (Fla. 4th DCA 1998) ("A claimant seeking post-conviction relief based on ineffective assistance of counsel faces a heavy burden, which requires, as a first prong, that the movant . . . identify the specific omission and show that counsel's performance falls outside the wide range of reasonable professional assistance." (citing *Blanco v. Wainwright,* 507 So. 2d 1377, 1381 (Fla. 1987))). A bare-bones, speculative assertion of what would be a claim entitling a postconviction defendant to relief if supported and connected

to actual "concrete" facts regarding the case or counsel's assistance does not entitle the movant to add meat to the bones by way of amendment. *See, e.g.*, *Connor v. State*, 979 So. 2d 852, 863 (Fla. 2007) ("Relief on ineffective assistance of counsel claims must be based on more than speculation and conjecture.")

The record offers no support that Ms. Tracz's prior DUI convictions influenced her decision to enter a plea. *Grosvenor*, 874 So. 2d at 1181–82 (requiring postconviction defendants to establish that "a reasonable probability exists that the defendant would have insisted on going to trial" but for trial counsel's alleged ineffectiveness). The State's factual basis noted that law enforcement received a communication to be on the lookout (BOLO) for a recklessly driven vehicle and that law enforcement personnel observed Ms. Tracz's vehicle failing to maintain a single lane, attempting a U-turn over a raised median, and making a right turn from the center lane. After stopping Ms. Tracz, the officer smelled an odor of alcohol, perceived her speech to be mumbled and slurred and her demeanor incoherent, and observed her stumbling. According to the officer, Ms. Tracz refused to perform a horizontal gaze nystagmus, field sobriety exercises, or a breath test. In Ms. Tracz's prepared statement to the court, she took some responsibility for her conduct by indicating she wanted to do the right thing, asking for leniency, and apologizing to the court, the officers involved, and the community. She explained that she learned a hard lesson that would stay with her even after her jail sentence and driver's license revocation. Ms. Tracz received the *lowest* permissible jail sentence for a third DUI, and the majority correctly holds that the postconviction court properly denied Ms. Tracz's claim that she entered her plea without knowing that she was pleading guilty to a third DUI. *See Grosvenor*, 874 So. 2d at 1181–82 ("[I]n determining whether a

reasonable probability exists that the defendant would have insisted on going to trial, a court should consider the totality of the circumstances surrounding the plea, including such factors as whether a particular defense was likely to succeed at trial, the colloquy between the defendant and the trial court at the time of the plea, and the difference between the sentence imposed under the plea and the maximum possible sentence the defendant faced at a trial.").

The majority also reverses as to Ms. Tracz's broader allegation that trial counsel did not meaningfully review the plea form with her, noting that case law provides support that a general plea colloquy does not automatically refute a specific claim that deficient pre-plea advice induced the plea. *See, e.g.*, *State v. Leroux*, 689 So. 2d 235, 237–38 (Fla. 1996); *Jones*, 846 So. 2d at 1226. However, again these cases involved detailed allegations of trial counsel's *misadvice*. If a specific postconviction claim—such as "[m]isrepresentations by counsel as to the length of a sentence or eligibility for gain time," *see Leroux*, 689 So. 2d at 236—is not addressed during a plea colloquy, then a reviewing court does not "go behind" anything in the plea colloquy by allowing a defendant to attack his or her plea under that basis, *see id.* at 237. By contrast, *Ms. Tracz's* claims largely consist of generalized, conclusory complaints about her attorney's performance that were couched in maintaining her innocence without any supporting evidence, including, for example, allegations that trial counsel "did not properly and effectively communicate the case to [her]"; did not offer any " 'in person' meetings to discuss" case progress or legal strategy; "did not collaterally attack any of the alleged 'prior [DUI] convictions' "; "repeatedly 'delayed' the case, apparently hoping that the prosecution would get tired of its continuance and reduce or dismiss the charges"; and did not "timely and

properly explain[]" "[a]ny negotiations [he] *may have had* with the prosecutor." (Emphasis added.) Ms. Tracz is left with a plea colloquy that defeats her relevant postconviction claims—none of which even alleged that trial counsel gave her erroneous advice—because there is nothing specific to those claims that her plea colloquy and plea form failed to address. Her election to address the court with a prepared, written statement reviewed by trial counsel further weakened her argument that she only pleaded because of ineffective assistance. *Cf. Stano*, 520 So. 2d at 280 ("By insisting on pleading guilty and by telling counsel that he had confessed freely and voluntarily, [the defendant] rendered any further investigation pointless. . . . We cannot see how acceding to the wishes of a competent client could or should be construed as ineffectiveness years after the fact and only when execution of sentence is imminent."). The only argument that Ms. Tracz advances that touches upon the notion that deficient pre-plea advice induced her plea was, "If I had known that I would lose my right to drive, for a period of the next ten years, I would have NEVER ENTERED THE PLEA." But she clearly knew about this consequence because she referenced it in her written statement to the court, and the majority correctly affirms the postconviction court's denial of her claim that she did know that her plea included a ten-year driver's license revocation. *Cf. Vito*, 270 So. 3d at 1289.

Ms. Tracz communicated to the court that she went through her plea form with trial counsel. She answered "yes" when the court asked whether she understood all the rights she was giving up by entering a plea. When the court asked Ms. Tracz whether she "had enough time to talk to [trial counsel] and" if she was "comfortable with what [she was] doing," she answered "yes." Ms. Tracz answered "no" when the court

asked, "Anybody threatening you, forcing you or coercing you to get you to do this today?" The court ultimately accepted Ms. Tracz's plea "as being knowingly, intelligently, and voluntarily entered," and Ms. Tracz pleaded no contest after the court explained to her, "It means [you are] resolving this case in this way because [you] believe it's in [your] best interests to do so, not because [you're] admitting guilt. Okay?" Ms. Tracz also told the court, "In the end I wanted to do the right thing and, therefore, asked for the leniency of the Court," insisted she "[had not] drank for half a year now on my own terms" following the incident, and stated, "Again I apologize to this Court, the officers involved, and the community for my actions. I have learned a hard lesson which even after jail or homebound detention is served will stay with me for the next 10 years in the form of restricted driving ability." While Ms. Tracz's effusiveness before the trial court further undermines her postconviction claim, her statements during the plea colloquy itself—that she understood the rights she was waiving, had enough time to speak with trial counsel, was comfortable entering a plea, was not forced or coerced to resolve her case, and was resolving her case in her best interests—are sufficient to affirm the postconviction court's summary denial of her relevant claims because they undercut any argument that she was prejudiced by ineffective counsel. *See, e.g.*, *Hill*, 474 U.S. at 58 ("[R]equiring a showing of 'prejudice' from defendants who seek to challenge the validity of their guilty pleas on the ground of ineffective assistance of counsel will serve the fundamental interest in the finality of guilty pleas . . . ."); *Blackledge v. Allison*, 431 U.S. 63, 73–74 (1977) ("[T]he representations of the defendant, his lawyer, and the prosecutor at . . . a [plea] hearing, as well as any findings made by the judge accepting the plea, constitute a formidable barrier in any subsequent

collateral proceedings. Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible.").

The majority opinion includes the following overgenerous recapitulation of Ms. Tracz's postconviction theory:

> [T]he transcript . . . confirms . . . counsel reviewed the plea form with [Ms. Tracz] in the hallway shortly before the hearing. That fact does not by itself establish deficient performance. But it also does not conclusively refute an allegation that counsel's alleged hurried plea preparation, combined with inadequate pre-plea advice, impaired Ms. Tracz's ability to make an informed decision. As with the broader communication claim, Ms. Tracz must plead more if she can do so in good faith. She must identify what counsel failed to explain, why the omission mattered, and why she would have rejected the plea but for counsel's deficient performance.

This reasoning contravenes *Mejia*'s admonition that "the court is not required to invent (and address) claims that the motion never fairly articulated in the first place[,]" and "[l]iberal construction of a pro se motion does not relieve the movant of the obligation to present a claim clearly enough to place the postconviction court and the State on notice of the issue to be litigated." *Mejia*, 434 So. 3d at 138. The claims in Ms. Tracz's postconviction motion included that trial counsel's negotiations with the prosecutor "were never timely and properly explained to [her,]" preventing her from "properly mak[ing] '[her] decision' in the case, with sound knowledge and reasoning." She also claimed that on the day of her plea, she met trial counsel in the courtroom hallway and was "extremely nervous." Ms. Tracz claimed that trial counsel "merely moved on to what he envisioned would happen at the plea/sentencing hearing" and that she had wanted to go to trial from the very beginning, and she

explained that her "state of nervousness escalated to a 'state of panic' " when the trial court indicated that it was disinclined to accept the parties' stipulated plea agreement including the minimum required jail sentence for a third DUI.

Under the auspices of *Mejia*'s framework, the majority cobbles together these statements and the remainder of Ms. Tracz's postconviction motion to amalgamate a claim that it pronounces insufficiently but curably asserts that counsel's alleged hurried plea preparation, combined with inadequate pre-plea advice, impaired Ms. Tracz's ability to make an informed decision. But the majority's legwork on behalf of Ms. Tracz is at odds with *Mejia*, which emphasized that a "motion that merely hints at a theory, labels a ruling in generalized terms, or leaves the postconviction court to infer the operative facts, legal basis, and prejudice component has not fairly presented a claim for adjudication." *Mejia*, 434 So. 3d at 139–40 (explaining that rule 3.850(l)'s rehearing provision is the proper mechanism to challenge if the defendant believes the postconviction court has misunderstood or overlooked a theory that was actually argued).

At best, Ms. Tracz's postconviction motion ambiguously suggested the possibility of additional theories related to why she was unable to make an informed decision, but the majority's stated goal of "illustrat[ing] the practical application of *Mejia*" does not require reworking her motion to state an otherwise legally insufficient claim. *See, e.g.*, *Jennings v. State*, 123 So. 3d 1101, 1122–23 (Fla. 2013) (affirming the postconviction court's summary denial of the defendant's "legally insufficient" ineffective assistance claims when the defendant did not establish convincing evidence to support his assertions regarding trial counsel's failure to object to improper comments, call expert

witnesses, or fully investigate and effectively cross-examine a key witness).

While an "inartfully-worded allegation," *Mejia*, 434 So. 3d at 135, will naturally not be phrased as eloquently as a reviewing court is able to present it, the majority imbues Ms. Tracz's motion with allegations that are not there, characterizing her description of trial counsel's plea preparation as "hurried" (a word Ms. Tracz herself did not employ). The insinuation behind a "hurried plea preparation" is that the defendant wished he or she had more time to think about the plea because he or she *would not have pleaded* but for the rush—that is, for example, that a hurried, later-regretted plea indicates trial counsel's desire to resolve the case at any cost instead of the defendant's desire to resolve the case in his or her best interests. The majority combines this unjustifiable interpretation of Ms. Tracz's postconviction motion with trial counsel's allegedly inadequate pre-plea advice to create an insufficient but curable claim premised on Ms. Tracz's overall impaired ability to make an informed decision. Unlike Ms. Tracz's other ineffective assistance claims, which at least relate back to inartful allegations she made in her postconviction motion (regardless of whether they are conclusively refuted by the record), here the majority extracts the claim involving hurried plea preparation from Ms. Tracz's broader communication-and-advice claim despite *Mejia*'s admonition that "[a] stray phrase or conclusory sentence embedded in an otherwise different claim does not, by itself, require the postconviction court to treat that language as a separate claim." *Mejia*, 434 So. 3d at 139.

By contrast, it is arguable that Ms. Tracz's unambiguous assertion (unmentioned by the majority) that trial counsel "plopped [the plea form] in front of [her] to sign, *without any review of it*" (emphasis added), *would*

present an insufficient-but-curable ineffective assistance claim. Similar to Ms. Tracz's claim that counsel failed to communicate a plea offer of diversion, a reader would have no difficulty understanding the substance of her argument that her lawyer placed a piece of paper in front of her to sign but never explained its contents. *See, e.g.*, *Pikwrah v. State*, 829 So. 2d 402, 404 (Fla. 2d DCA 2002) (holding that a defendant was permitted to withdraw his plea and proceed to trial despite signing a waiver of rights form because of his uncontradicted testimony that, in pertinent part, "his attorney at the plea hearing was in a hurry to get to another hearing and did not explain the plea form to him"). Such conduct could "f[a]ll below an objective standard of reasonableness" when evaluating trial counsel's effectiveness. *See Strickland*, 466 U.S. at 688; *see also Padilla v. Kentucky*, 559 U.S. 356, 370–71 (2010) (explaining "the critical obligation of counsel to advise the client of 'the advantages and disadvantages of a plea agreement' " (quoting *Libretti v. United States,* 516 U.S. 29, 50–51 (1995))); Fla. R. Crim. P. 3.171(c)(2)(B) ("Defense counsel shall advise defendant of . . . all pertinent matters bearing on the choice of which plea to enter and the particulars attendant upon each plea and the likely results thereof, as well as any possible alternatives that may be open to the defendant."). If Ms. Tracz could amend such a claim in good faith, detailing how trial counsel did not provide "any review" of the plea form, why this lack of review mattered, and why she would have rejected the plea had trial counsel reviewed the plea form with her, *Spera* and rule 3.850(h) might have entitled her to do so—*if the claim was not refuted by the record*.

The plea colloquy alone refutes Ms. Tracz's allegation that she was afforded no time to review the plea from. Thus, even presuming arguendo that the majority's imputation of an insufficient-but-curable

postconviction claim to Ms. Tracz is proper, the allegation that trial counsel's alleged hurried plea preparation, combined with inadequate pre-plea advice, impaired her ability to make an informed decision (or that trial counsel did not review her plea form with her) is conclusively refuted by the record. The majority itself notes that "[t]he transcript shows that Ms. Tracz did not merely shake her head" but also "answered the court's questions, asked about inpatient treatment, *confirmed that she had reviewed the plea form with counsel*, confirmed that she had enough time to speak with counsel, and denied that anyone threatened, forced, or coerced her." (Emphasis added.) According to the majority, Ms. Tracz's broader allegation that counsel did not meaningfully review the plea form with her was not conclusively refuted because the transcript suggests that the plea form was only reviewed in the hallway shortly before the hearing and the record excerpts do not conclusively show what counsel explained before the hearing or whether counsel adequately advised Ms. Tracz about the terms of the plea agreement. However, this ignores the effect of Ms. Tracz's plea colloquy, during which she expressly affirmed that she understood the rights she was giving up, had enough time to talk to trial counsel, was comfortable with what she was doing, and responded, "Yay. I appreciate that," when the court informed her that it would only impose the minimum required incarceration for a third DUI (thirty days in county jail). Holding otherwise ignores *Mejia*'s caution that courts "treat such sworn acknowledgments, when coupled with an adequate advisement of sentencing consequences, as conclusively refuting later allegations that a plea was induced by misunderstanding or undisclosed sentencing exposure." *Mejia*, 434 So. 3d at 140–41 (first citing *Simmons v. State*, 611 So. 2d 1250, 1253 (Fla. 2d DCA 1992); and then citing *Colon v.*

State, 595 So. 2d 271, 272 (Fla. 2d DCA 1992)). A short plea colloquy is not necessarily a deficient plea colloquy. *See* Fla. R. Crim. P. 3.172 (setting forth minimum requirements for acceptance of pleas). And the majority's rationale fails to account for Ms. Tracz's sufficient attestations to the court, instead "go[ing] behind the plea," *Stano*, 520 So. 2d at 279–80, and effectively bolstering her claims.

The majority acknowledges that "a defendant's sworn assurance that she is satisfied with counsel's advice may, in some circumstances, foreclose a later ineffective assistance claim" but concludes this concept "has no application here because Ms. Tracz was never asked whether she was satisfied with counsel's advice." The majority discusses Ms. Tracz's plea form in a footnote, explaining that "[w]e do not conclude, at this stage, that the claim is foreclosed by the language in the signed plea form stating, 'If represented by counsel, I am satisfied with that representation.' " The majority then "emphasize[s] . . . that [it does] not hold that this language is incapable of refuting [Ms. Tracz's allegedly deficient advice] claim." The majority's treatment of Ms. Tracz's acknowledgment of satisfaction with trial counsel ignores her answer during her plea colloquy that she had an opportunity to read through her plea form with trial counsel (undermining her *post hoc* claims of dissatisfaction with her representation), had enough time to talk to trial counsel, and was comfortable with what she was doing. It also overlooks the importance of her certification in the plea form itself that she was satisfied with her representation. *See, e.g.*, *Scott*, 779 So. 2d at 284 ("We do not question that . . . an expression of contentment with counsel [in a plea form and during a plea colloquy] at the time a plea is entered will refute later claims that had already come to the defendant's attention at the time the plea was entered."). Ms. Tracz does not allege any new

information that she was unaware of at the time she entered her plea; the closest she comes to such an assertion is her conclusory complaint that trial counsel did not suggest challenging her prior DUI convictions, which "may have meant the difference in the actual OWI/DUI charge not having been elevated to a [third], but perhaps a [second] or having remained as the [first] it was originally charged as." However, as previously mentioned, Ms. Tracz acknowledged that she was pleading no contest to a third DUI. She does not claim that trial counsel affirmatively misadvised her about how many prior DUIs she had or explained incorrect elements of a DUI to her, which could be cognizable grounds for a postconviction claim. *See, e.g.*, *Parhm*, 227 So. 3d at 174.

In addition to the evidence already discussed, trial counsel told the court that Ms. Tracz was en route and had "come to a plea agreement," but "need[ed] to make some arrangements because . . . part of the . . . plea agreement[] [is thirty] days [in jail]." Thus, the record indicates that trial counsel already discussed Ms. Tracz's plea agreement with her and outlined its consequences beforehand—not abruptly in the hallway as she alleged—after *she* arrived late to court on the day of trial. The State noted that it was deviating from its usual policy of revoking offers once a case was set for trial because trial counsel "was being so communicative." Trial counsel also withdrew a motion to suppress and motion in limine in exchange for the negotiated plea, further demonstrating case preparation and strategic focus. When Ms. Tracz read her prepared statement, she mentioned that she "learned a hard lesson" that would "stay with [her] for the next 10 years in the form of restricted driving ability," indicating that her decision was not rushed and that she was adequately informed before entering a plea because she knew the consequences enough to memorialize them in writing. And

again, Ms. Tracz asserted that she knew all the rights that she was giving up, had enough time to speak with trial counsel, was comfortable entering a plea, and was not forced or coerced to resolve her case.

The majority holds that on remand, Ms. Tracz must plead more if she can do so in good faith, such as identifying what counsel failed to explain, why whatever trial counsel may have failed to explain mattered, and why she would have rejected the plea but for counsel's deficient performance. But even presuming arguendo that such a conclusory claim could entitle a postconviction defendant to an opportunity to amend, summary denial was appropriate here because the record conclusively demonstrates that Ms. Tracz was informed about the consequences of her plea and pleaded no contest because it was in her best interest. *See Iacono v. State*, 930 So. 2d 829, 831 (Fla. 4th DCA 2006) (explaining that defendants "are bound by their sworn answers during the [plea] colloquy"). Neither *Mejia* nor any other authority requires this court to read ambiguity into Ms. Tracz's postconviction motion and then resolve that ambiguity in her favor. "A plea of guilty is both a confession and a conviction," *Williams v. State*, 316 So. 2d 267, 270 (Fla. 1975), and "[i]f every omission in the presentation of an inartfully suggested theory required reversal, postconviction courts would be driven to read vague allegations as broadly as possible and rule expressly on matters not fairly presented simply to guard against remand. The rules do not compel that kind of prophylactic adjudication," *Mejia*, 434 So. 3d at 135. *See Saffold v. State*, 429 So. 3d 424, 428 (Fla. 2026) ("[F]inality interests are essential to the criminal justice system.").

I respectfully dissent from the portions of the judgment reversing the postconviction court's summary denial related to Ms. Tracz's broad

communication-and-advice claim; her broad allegation that counsel did not meaningfully review the plea form with her; her claim that counsel failed to collaterally attack prior DUI convictions, review the State's documentation regarding those priors, or challenge them; and her allegation that trial counsel's allegedly hurried plea preparation and inadequate pre-plea advice impaired her ability to make an informed decision.

Opinion subject to revision prior to official publication.