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IN THE SUPREME COURT OF THE STATE OF IDAHO

MARTIN REFUGIO MERAZ,)	
)	NO. 47581-2019
Petitioner-Appellant,)	
)	ADA COUNTY
v.)	NO. CV01-19-9472
)	
STATE OF IDAHO,)	
)	
Respondent.)	

REPLY BRIEF OF APPELLANT

**APPEAL FROM THE DISTRICT COURT OF THE FOURTH JUDICIAL
DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE
COUNTY OF ADA**

HONORABLE JASON D. SCOTT
District Judge

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TABLE OF CONTENTS

	<u>PAGE</u>
TABLE OF AUTHORITIES	ii
STATEMENT OF THE CASE	1
Nature of the Case	1
Statement of Facts and Course of Proceedings	1
ISSUES PRESENTED ON APPEAL	2
ARGUMENT	3
I. The District Court Erred In Summarily Dismissing Mr. Meraz’s Petition For Post-Conviction Relief.....	3
CONCLUSION.....	4
CERTIFICATE OF SERVICE	5

TABLE OF AUTHORITIES

Cases

Campos v. State, 165 Idaho 90 (Ct. App. 2019).....1, 3

Goodwin v. State, 138 Idaho 269 (Ct. App. 2002).....3

Vavold v. State, 148 Idaho 44 (2009).....4

STATEMENT OF THE CASE

Nature of the Case

Mr. Meraz appeals from the dismissal of his petition for post-conviction relief, arguing the district court erred in summarily dismissing his claim that his guilty plea was not knowing, intelligent, and voluntary, because he pled guilty based on his attorney's promise that he would be placed on probation, and was not placed on probation. (Appellant's Br., pp.5-7.) The State argues the district court did not err in summarily dismissing Mr. Meraz's petition because this claim "was clearly disproved by the record," relying on *Campos v. State*, 165 Idaho 90 (Ct. App. 2019). (Respondent's Br., pp.4-7.) Mr. Meraz submits this Reply Brief to respond to the State's legal argument on this issue, and to distinguish this case from *Campos*.

Statement of Facts and Course of Proceedings

Mr. Meraz included a statement of facts and course of proceedings in his Appellant's Brief, which he relies on and incorporates herein. (*See* Appellant's Br., pp.1-3.)

ISSUE

Did the district court err in summarily dismissing Mr. Meraz's petition for post-conviction relief?

ARGUMENT

The District Court Erred In Summarily Dismissing Mr. Meraz's Petition For Post-Conviction Relief

The district court summarily dismissed Mr. Meraz's claim that his guilty plea was not knowing, intelligent, and voluntary, after stating his claim was based not on a promise, but a prediction. (R., p.78.) The district court is correct that Mr. Meraz would not be entitled to post-conviction relief if his claim was only that his trial counsel *predicted* he would be placed on probation. But that is not what Mr. Meraz claims. Instead, he asserts his trial counsel *promised* he would be placed on probation. This is a cognizable post-conviction claim, which should have proceeded to an evidentiary hearing because it presented a disputed issue of material fact. *See Goodwin v. State*, 138 Idaho 269, 272 (Ct. App. 2002).

In its Respondent's Brief, the State relies principally on *Campos v. State*, 165 Idaho 90 (Ct. App. 2019), and asserts that Mr. Meraz's case is "the same as *Campos* in every meaningful way." (Respondent's Br., p.5.) The State is incorrect. In *Campos*, the Court of Appeals affirmed the district court's summary dismissal of Mr. Campos's post-conviction claim that his guilty plea was not knowing, intelligent, and voluntary, where he argued his trial counsel told him his sentence would be concurrent, but the plea agreement actually called for open sentencing. 165 Idaho at 93. The Court of Appeals held the district court was not required to hold an evidentiary hearing because the statements Mr. Campos made in his post-conviction petition were contrary to the statements he made incident to his guilty plea, and the latter statements indicate he understood the plea agreement called for open sentencing. *See id.* at 94. Significantly, the *Campos* Court limited its holding to cases where the post-conviction claim is supported only by a petitioner's contradictory statements. *Id.* at 95, n.1. This is not such a case.

Here, unlike in *Campos*, Mr. Meraz's claim that his guilty plea was not knowing, intelligent, and voluntary, is supported not only by his statements in post-conviction, but also by the guilty plea advisory form. In support of his post-conviction claim, Mr. Meraz submitted an affidavit in which he stated, under oath, that his trial counsel told him he would be placed on probation if he pled guilty. (R., p.10.) Significantly, Mr. Meraz stated on the guilty plea advisory form that he believed his attorney should have filed a motion or otherwise requested that he be permitted to "go to the victory outreach mens [sic] home in Nampa instead of prison." (R., p.32.) This statement supports his claim that he understood he would be placed on probation, and the only outstanding issue concerned where he would be permitted to live on probation.

At the summary dismissal stage, the district court must construe all reasonable facts and reasonable inferences in favor of the non-moving party. *See Vavold v. State*, 148 Idaho 44, 45 (2009). This is not a particularly high bar. Where, as here, a petitioner's claim is supported by a reasonable inference that can be drawn from the record in the underlying criminal case, it should not be summarily dismissed. This case is distinguishable from *Campos* and the district court erred in summarily dismissing Mr. Meraz's petition.

CONCLUSION

For the reasons stated above, as well as those set forth in his Appellant's Brief, Mr. Meraz respectfully requests that this Court vacate the judgment dismissing his post-conviction petition with prejudice, reverse the district court's order granting the State's motion for summary dismissal, and remand this case to the district court for further proceedings.

DATED this 1st day of December, 2020.

/s/ Andrea W. Reynolds
ANDREA W. REYNOLDS
Deputy State Appellate Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of December, 2020, I caused a true and correct copy of the foregoing APPELLANT'S REPLY BRIEF, to be served as follows:

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