

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Lagasse v. State of Florida

No. 2D2024-1144 (Fla. 2d DCA June 25, 2025) · No. 2D2024-1144 · Decided June 25, 2025

SUMMARY

The Florida Second District Court of Appeal affirmed Melissa Anne Lagasse's sentence, which exceeded an agreed-upon sentencing cap after she failed to appear at sentencing. The court held that her unpreserved challenge to the trial court's failure to make findings that her absence was willful could not be raised as ineffective assistance of counsel on direct appeal absent fundamental error. The affirmance was without prejudice to pursuing ineffective assistance through a motion under Florida Rule of Criminal Procedure 3.850.

CASE DETAILS

COURT	District Court of Appeal of Florida, Second District
WRITING FOR THE COURT	Smith, J.; Labrit, J.; Atkinson, J.
JURISDICTION	District Court of Appeal of Florida, Second District
DECIDED	June 25, 2025
DOCKET	2D2024-1144
DISPOSITION	affirmed
PROCEDURAL POSTURE	Direct appeal from a sentence imposed after the appellant failed to appear at sentencing and did not object to the absence of findings that her failure to appear was willful.
STANDARD OF REVIEW	The court applied preservation principles and considered whether the asserted error was fundamental; it did not state a separate standard of review.
PRECEDENTIAL VALUE	Published Florida Second District Court of Appeal opinion
PARTIES	Melissa Anne Lagasse v. State of Florida

TOPICS

[sentencing](#)[preservation of error](#)[ineffective assistance](#)[appellate procedure](#)[post-conviction relief](#)

PRACTICE AREAS

Criminal procedure

Appellate procedure

Post-conviction relief

Sentencing

Ineffective assistance of counsel

QUESTIONS PRESENTED

1. Whether Lagasse could obtain direct appellate review of the trial court's failure to make willfulness findings when she did not object below.
2. Whether the lack of an objection could be treated on direct appeal as ineffective assistance of counsel apparent on the face of the record.
3. Whether the sentence should be affirmed despite the unpreserved challenge.

HOLDINGS

1. An unpreserved claim of ineffective assistance of counsel cannot be raised or result in reversal on direct appeal absent a showing of fundamental error.
2. A defendant must object during the sentencing proceedings to the trial court's failure to make willfulness findings in order to preserve that challenge for appeal.
3. The sentence is affirmed because Lagasse failed to preserve her challenge and did not establish fundamental error.

KEY QUOTATIONS

“unpreserved claims of ineffective assistance of counsel cannot be raised or result in reversal on direct appeal” absent a showing of fundamental error.” (at 2)

“Affirmance is without prejudice to any right Ms. Lagasse may have to raise her claim of ineffective assistance of counsel pursuant to Florida Rule of Criminal Procedure 3.850.” (at 2)

FACTUAL BACKGROUND

Lagasse entered a Quaterman agreement permitting the trial court to impose a greater lawful sentence if she failed to appear at sentencing. She failed to appear, and the trial court imposed a sentence above the agreed-upon cap without making findings that her failure to appear was willful. Lagasse did not move to withdraw her plea and her counsel did not make a formal objection to the increased sentence.

PROCEDURAL HISTORY

Lagasse entered a Quaterman agreement under which the trial court could impose a greater lawful sentence if she failed to appear at sentencing. She failed to appear, and the circuit court imposed a sentence above the agreed-upon cap. On direct appeal, she challenged the sentence and argued that the lack of a contemporaneous objection should be treated as ineffective assistance of counsel apparent on the face of the record.

DISPOSITION

affirmed

CASES CITED

- *Quarterman v. State*, 527 So. 2d 1380 (Fla. 1988)
- *Norman v. State*, 43 So. 3d 771, 773 (Fla. 2d DCA 2010)
- *Neeld v. State*, 977 So. 2d 740, 743 (Fla. 2d DCA 2008)
- *Lowery v. State*, 22 So. 3d 745, 747 (Fla. 2d DCA 2009)
- *Smith v. State*, 988 So. 2d 1258, 1260 (Fla. 5th DCA 2008)
- *Steiger v. State*, 328 So. 3d 926, 929 (Fla. 2021)
- *Melendez v. State*, 339 So. 3d 498, 501 (Fla. 2d DCA 2022)
- *Cruz v. State*, 303 So. 3d 285, 286 (Fla. 5th DCA 2020)

OPINION

Lagasse v. State of Florida

PER CURIAM.

DISTRICT COURT OF APPEAL OF FLORIDA

SECOND DISTRICT

MELISSA ANNE LAGASSE,

Appellant, v.

STATE OF FLORIDA,

Appellee. No. 2D2024-1144 June 25, 2025 Appeal from the Circuit Court for Manatee County; Frederick P. Mercurio, Judge. Blair Allen, Public Defender, and Kevin Briggs, Assistant Public Defender, Bartow, for Appellant. James Uthmeier, Attorney General, Tallahassee, and Nicole Rochelle Smith, Assistant Attorney General, Tampa, for Appellee. SMITH, Judge. Appellant Melissa Anne Lagasse failed to appear at sentencing and was sentenced above the agreed-upon cap in accordance with her *Quarterman*¹ agreement. She challenges her sentence, arguing that the 1 *Quarterman v. State*, 527 So. 2d 1380 (Fla. 1988); see also *Norman v. State*, 43 So. 3d 771, 773 (Fla. 2d DCA 2010) ("A classic trial court erred in imposing the harsher sentence because it failed to make findings that her failure to appear was willful. Ms. Lagasse does not dispute that she did not file a motion to withdraw her plea and concedes that her counsel "did not make a formal objection to the increased sentence." Instead, Ms. Lagasse argues that this court should treat the lack of objection as ineffective assistance of counsel on the face of the record and entertain her challenge on direct appeal, citing *Lowery v. State*, 22 So. 3d 745, 747 (Fla. 2d DCA 2009) (stating, where the appellant argued on direct appeal that the trial court erred revoking an agreed-upon sentencing cap based on his failure to appear at sentencing without making findings that the failure to appear was willful, but where appellant did not move to withdraw his plea, that "the appellate court can consider a direct appeal such as *Lowery's* 'where the record on its face establishes ineffective assistance of trial counsel' " (quoting *Smith v. State*, 988 So. 2d 1258, 1260 (Fla. 5th DCA 2008))). We disagree and affirm the sentence. Several years after *Lowery*, the Florida Supreme Court, in *Steiger v. State*, 328 So. 3d 926, 929 (Fla. 2021), held that "unpreserved claims

of ineffective assistance of counsel cannot be raised or result in reversal on direct appeal" absent a showing of fundamental error. Our court in *Melendez v. State*, 339 So. 3d 498, 501 (Fla. 2d DCA 2022), acknowledged that Steiger foreclosed the avenue used in prior cases such as *Lowery* to challenge violations of plea agreements without filing a motion to withdraw the plea. Because Ms. Lagasse did not lodge any Quarterman agreement is made when a defendant agrees to a 'specific sentence with the caveat that the trial court could impose any greater lawful sentence if he or she' does not appear at sentencing." (quoting *Neeld v. State*, 977 So. 2d 740, 743 (Fla. 2d DCA 2008))). 2 objection in the proceedings below regarding the trial court's lack of willfulness findings, see *Cruz v. State*, 303 So. 3d 285, 286 (Fla. 5th DCA 2020) (holding that the defendant was required to object to the lack of willfulness findings at the sentencing proceedings below in order to preserve the challenge for appeal), and in the absence of any claim of fundamental error, we affirm the sentence. Affirmance is without prejudice to any right Ms. Lagasse may have to raise her claim of ineffective assistance of counsel pursuant to Florida Rule of Criminal Procedure 3.850. Affirmed. LABRIT, J., Concurr. ATKINSON, J., Concurr. in result only. Opinion subject to revision prior to official publication. 3