**UNITED STATES COURT OF APPEALS**

**FOR THE FIFTH CIRCUIT**

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No. 92-3963
Summary Calendar

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EDWARD OGLETREE,

Petitioner-Appellant,

versus

JOHN P. WHITLEY, Warden, Louisiana State Penitentiary, and RICHARD P. IEYOUB, Attorney General, State of Louisiana,

Respondents-Appellees.

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Appeals from the United States District Court
for the Eastern District of Louisiana
(CA 91-744 E & CA 92-654 E)

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(February 11, 1994)

Before POLITZ, Chief Judge, KING and WIENER, Circuit Judges.

PER CURIAM:*

Edward Ogletree, a prisoner in the Louisiana state penitentiary, appeals his request for habeas relief under 28 U.S.C. § 2254. We affirm.

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*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Ogletree is incarcerated for a 1988 cocaine-possession conviction. In May 1991 he sought federal habeas relief, complaining of flaws in an earlier conviction which was used to enhance his current sentence. That petition was dismissed by the district court for failure to exhaust state remedies but we vacated and remanded for consideration on the merits. Ogletree then filed a second petition which was consolidated with the remanded pleading. The district court dismissed the consolidated petitions with prejudice and granted Ogletree's request for a certificate of probable cause. He timely appealed.

Ogletree assigns several errors, the majority of which are based upon the state trial court's alleged failures to comply with state law.[1] None of these state law claims are cognizable in a federal habeas petition.[2]

Ogletree's first federally cognizable argument is that his guilty plea in his previous conviction for possession of phencyclidine was not intelligently and knowingly given.[3] In the subsequent conviction, Ogletree signed a plea agreement in which he waived all of his constitutional rights to counsel, trial, and appeal, admitted his guilty conduct, and acknowledged his awareness

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[1]Ogletree has alleged, for example, that the trial court failed to comply with state law by: not entering a signed written judgment; failing to sentence him in open court; presenting the bill of information in incorrect form; and sentencing him without benefit of parole or good time.

[2]**Dickerson v. Guste**, 932 F.2d 1142 (5th Cir.), cert. denied, 112 S.Ct. 214 (1991).

[3]**Hobbs v. Blackburn**, 752 F.2d 1079 (5th Cir.), cert. denied, 474 U.S. 838 (1985).

of the maximum sentence. The document provided that he would receive a suspended sentence of two years imprisonment with two years active probation, that he would participate in a drug rehabilitation program until discharged, and that he would pay $74 in costs. Ogletree admitted in the guilty plea colloquy that he understood the consequences of his guilty plea including waiver of his rights to jury trial, to appeal, to call witnesses, to remain silent, to self-incrimination, and to testify. The court explained the maximum sentence of five years "with or without hard labor" and received Ogletree's assurance that he had not been coerced into pleading guilty. The court then imposed a suspended sentence of two years at hard labor and two years of active probation along with the agreed conditions mentioned above and the proviso that if Ogletree defaulted on the $74 charge, he would serve 30 days in the parish jail.

The defendant's declarations in a signed waiver or in a plea colloquy carry a strong presumption of verity.[4] Ogletree nonetheless asserts that his plea was involuntary because the sentence he received varied in a minor respect from the sentence detailed in the waiver document. This argument is not persuasive. Admittedly Ogletree did not expressly agree to the possibility of a suspended hard labor sentence or to being imprisoned for 30 days if he defaulted on the fine. As to the hard labor provision, the plea agreement did not exclude this possibility and Ogletree acknowledged that he was aware of a potential hard labor component

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[4]**Blackledge v. Allison**, 431 U.S. 63 (1977).

during the plea colloquy. As to the possibility of 30 days in jail as a penalty for defaulting on the $74 charge, the fact that the plea agreement did not spell out this penalty cannot provide the basis for the contention that there could be no penalty for noncompliance with the terms of the agreement.

Finally, Ogletree asserts error because the trial court did not consider his ability to pay the $74 charge and did not give him 24 hours to consider his guilty plea. Ogletree cites no leagl authority for the proposition that these facts constitute reversible error. We are aware of none.

Ogletree's other cognizable federal claim posits that he was denied effective assistance of counsel. This contention lacks merit. To be successful in a claim of ineffective assistance of counsel one must show not only deficient performance of counsel but resulting prejudice.[5] Ogletree fails on both prongs. He testified during the plea colloquy that he was satisfied with his counsel. He now points to no compelling reason why that assessment was erroneous. In addition, to satisfy the prejudice prong he must demonstrate a reasonable probability that absent counsel's errors he would have insisted on going to trial.[6] Ogletree makes no such representation. It appears obvious that he cannot.

AFFIRMED.

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[5]**Young v. Lynaugh**, 821 F.2d 1133 (5th Cir.), cert. denied, 484 U.S. 986 (1987), and cert. denied, 484 U.S. 1071 (1988).

[6]**Hill v. Lockhart**, 474 U.S. 52 (1985).