

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE  
AT JACKSON

Assigned on Briefs October 2, 2018

FILED

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Clerk of the  
Appellate Courts

**YTOCKIE FULLER v. STATE OF TENNESSEE**

**Appeal from the Circuit Court for Madison County**

**No. C-17-311**

**Roy B. Morgan, Jr., Judge**

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**No. W2018-00518-CCA-R3-PC**

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The Petitioner, Ytockie Fuller, appeals the post-conviction court's denial of his petition for post-conviction relief, in which he challenged his convictions for first degree premeditated murder and possession of a firearm after a felony conviction and his effective sentence of life without the possibility of parole plus eight years. On appeal, the Petitioner contends that he received ineffective assistance of counsel at trial due to trial counsel's failure to: (1) request a limiting instruction regarding an audio recording of the murder; (2) object to the prosecutor's comments regarding the Petitioner's silence following his arrest; and (3) object to the prosecutor's statements regarding the forensic pathologist's testimony. Upon reviewing the record and the applicable law, we affirm the judgment of the post-conviction court.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Circuit Court Affirmed**

JOHN EVERETT WILLIAMS, P.J., delivered the opinion of the court, in which NORMA MCGEE OGLE and ALAN E. GLENN, JJ., joined.

Joseph T. Howell, Jackson, Tennessee, for the appellant, Ytockie Fuller.

Herbert H. Slatery III, Attorney General and Reporter; Caitlin Smith, Assistant Attorney General; Jody S. Pickens, District Attorney General; and Al Earls, Assistant District Attorney General, for the appellee, State of Tennessee.

**OPINION**

**FACTUAL AND PROCEDURAL BACKGROUND**

The Petitioner's convictions resulted from his shooting and killing the victim, Mr. Aljernon Lloyd, Jr., on March 11, 2014. The evidence presented at trial was summarized by this court on direct appeal:

On March 11, 2014, Aljernon Lloyd, Jr. died after being shot in the face by the defendant in Jackson, Tennessee. Prior to the shooting, the victim took his companion, Katherine Dickerson, and her daughter shopping in his car. The three ended the shopping trip at Ms. Dickerson's house in Jackson. Before arriving at the house, the victim received a telephone call from Steve McCorry. Because Mr. McCorry was an inmate with the Illinois Department of Corrections, the phone call was recorded.

Once at home, Ms. Dickerson began unloading the shopping bags while the victim continued his conversation with Mr. McCorry in the car. The defendant soon pulled up to Ms. Dickerson's house in a green Ford Explorer. The defendant briefly interacted with Ms. Dickerson's daughter before telling Ms. Dickerson to take her daughter inside so that he could "holler" at the victim. The defendant and Ms. Dickerson began to argue. She told the defendant that he did not need to speak with the victim. The defendant got angry and told her to "shut the f\*\*k up." Ms. Dickerson responded in kind, and the defendant yelled: "You think I'm something to play with?" By this time, the defendant had pulled out a gun that had been concealed on his hip and was standing by the driver's side door of the victim's car.

The victim was sitting in the driver's seat of his car, unarmed. As the defendant approached him, the victim stopped his conversation with Mr. McCorry. The victim said: "Hold up, this man's got a pistol." The victim tried to explain to the defendant that he was "giving the baby a ride." However, the defendant called the victim a "punk a\*\* n\*\*\*\*\*" and shot the victim in the face. Ms. Dickerson did not see the defendant pull the trigger, but she did hear the gunshot. The defendant dropped the gun and fled the scene in the green Ford Explorer.

After being shot, the victim drove in the direction to Jackson-Madison County General Hospital which was close to Ms. Dickerson's house. However, he lost control of his car and crashed into a house located less than a mile from the Dickerson residence. The bullet had pierced the victim's right external carotid artery.

The State provided testimony from officers who investigated the scene of the shooting and the scene of the subsequent car accident. At the accident scene, officers found the victim surrounded by blood and slumped over into the passenger's side of the car. However, neither the responding officers nor the paramedics saw any signs of life from the victim at the

scene. The victim was transported to Jackson-Madison County General Hospital where he was pronounced dead at 8:21 p.m. on March 11, 2014.

Dr. Erin Carney, an expert forensic pathologist, performed an autopsy of the victim. Dr. Carney testified that the victim died from a gunshot wound of the head and neck. The bullet entered through the left side of the victim's upper lip and exited on the right side of his neck. The trajectory of the bullet was consistent with someone standing over the victim from a distance.

The scene of the shooting, the scene of the car accident, and the victim's car were examined for evidence. Officers found a .40 caliber bullet near Ms. Dickerson's house. A spent shell casing and projectile fragments were found in the victim's car. Eric Warren, a ballistics and firearm identifications expert, testified that the .40 caliber bullet and the shell casing were cycled through the same semi-automatic gun. The defendant's fingerprints were not found on the victim's car.

Officers then turned their search towards the defendant and the green Ford Explorer. They found the Ford Explorer, which was owned by the defendant's girlfriend, in Jackson the day after the shooting. However, the defendant was not found until two days later when he turned himself in to a Jackson city police officer on March 13, 2014.

The defendant testified at trial. He acknowledged the dialogue captured on the McCorry phone call, but stated that he was acting in self-defense at the time of the shooting. The defendant admitted to illegally carrying a .40 caliber Smith & Wesson gun on the day of the shooting and that he knew the victim was unarmed. However, the defendant explained that he only pulled out the gun after the victim hit him with the car. The defendant stated that he feared for his safety and offered the following testimony:

Once I was struck by the vehicle, when I'm stumbling trying to keep my footing, I poured[—]I literally poured out the gun and cocked it. Once he grabbed it from me pointing it in his direction, I grabbed the top of the car and I'm running with the vehicle as he backing back and he panicking [be]cause the gun is on him. So he trying to get it out of my hand, I'm trying to put it back, and I understand that he's scared, but I

can't let the gun go now [be]cause he got it and he won't let it go, and we just heading on down the driveway.

According to the defendant, the gun went off when the victim's car hit the bottom of the driveway. The defendant stated he did not intentionally pull the trigger. He dropped the gun at the scene and left in the green Ford Explorer. The defendant further explained that he went home to watch the news to see if the victim had been hurt. He then fled to his sister's home in Nashville, despite knowing the police and U.S. Marshals were looking for him.

*State v. Ytockie Fuller*, No. W2015-00965-CCA-R3-CD, 2016 WL 6776346, at \*1-2 (Tenn. Crim. App. Nov. 15, 2016), *perm. app. denied* (Tenn. Jan. 20, 2017).

The jury convicted the Petitioner of first degree premeditated murder and possession of a firearm after a felony conviction. The Petitioner received consecutive sentences of life imprisonment without the possibility of parole and eight years, respectively. On direct appeal, the Petitioner asserted that the evidence was insufficient to support his first degree murder conviction and that the victim's statements in the recorded telephone call were inadmissible hearsay. *Id.* at \*2. This court affirmed the Petitioner's convictions, concluding that the evidence was sufficient to support the Petitioner's first degree murder conviction and that the trial court properly admitted the victim's statements under the excited utterance exception to the hearsay rule in Tennessee Rule of Evidence 803(2). *Id.* at \*4, 6.

### **Post-Conviction Proceedings**

The Petitioner filed a pro se petition for post-conviction relief alleging that he received ineffective assistance of counsel at trial. The post-conviction court appointed the Petitioner counsel, who filed multiple amended petitions.

During the evidentiary hearing, the Petitioner testified that he retained trial counsel to represent him on the charges. The Petitioner maintained that trial counsel should have sought to suppress the audio recording of the telephone call between the victim and Mr. McCorry prior to trial which was admitted as an excited utterance. The Petitioner gave testimony regarding his understanding of the legal concepts at issue by asserting that under the excited utterance hearsay exception, the audio recording was only relevant to show the victim's state of mind and was not admissible as substantive evidence of the Petitioner's guilt. He stated that as a result, trial counsel should have requested that the trial court issue a special jury instruction limiting the jury's consideration of the recording. The Petitioner stated that in the alternative, trial counsel should have

requested that the Petitioner's statements be redacted from the recording. The Petitioner testified that the victim could be heard dying in the recording and that, as a result, the recording was inflammatory. He recalled that when the recording was played at trial, "the air went out of the room." He stated that the recording was unnecessary in light of Dr. Carney's testimony at trial regarding how the victim died.

The Petitioner testified that trial counsel failed to object to the prosecutor's statement at trial that Dr. Carney said the Petitioner was standing three feet away when he shot the victim. The Petitioner asserted that the prosecutor had misrepresented Dr. Carney's testimony and that Dr. Carney did not state that the Petitioner was standing three feet away but only testified that the victim could not shoot himself from three feet away.

The Petitioner recalled that while cross-examining him at trial, the prosecutor implied that the Petitioner fabricated a story after reviewing discovery. According to the Petitioner, the prosecutor asked him whether this was the first time that he told the truth about what had occurred and asked him why he waited until the trial to relay his version of the events. The Petitioner stated that the prosecutor improperly commented on his pretrial silence and that trial counsel was ineffective in failing to object.

On cross-examination, the Petitioner acknowledged that his voice could be heard in the recording, but he disagreed that the recording was admissible to show the identity of the shooter. He noted that at trial, he admitted to shooting the victim and maintained that the shooting was accidental. He acknowledged that he could be heard in the recording cursing the victim and that the recording was proof of his mental state and attitude toward the victim.

The Petitioner stated that the prosecutor questioned him on cross-examination regarding his failure to turn himself in to the police immediately following the shooting. The Petitioner acknowledged that he did not report his version of the events to the police but instead fled to Nashville. He explained that he did not initially speak to the police because he was a convicted felon and did not think anyone would believe him.

The Petitioner agreed that the prosecutor questioned him on cross-examination regarding his conversations with his girlfriend about the case while incarcerated pending trial. He acknowledged he called his girlfriend on several occasions from the jail using another inmate's personal identification number ("PIN") because he was aware that the calls were being recorded and he did not want anyone to hear their conversations. He also acknowledged that while he discussed the case with his girlfriend prior to trial, their conversations did not include any of the information to which he testified at trial.

Trial counsel testified that he had been practicing law since 1982, that approximately one-half of his practice involved criminal defense, and that he had tried hundreds of cases. He was retained to represent the Petitioner. Trial counsel stated that he had multiple meetings with the Petitioner at the jail and spent “a considerable amount of time” with him. Trial counsel obtained discovery, reviewed it with the Petitioner, and prepared the Petitioner to testify at trial. Trial counsel recalled that Petitioner’s defense was that he and the victim both were holding the gun and that he accidentally shot the victim when the victim was driving out of the driveway.

Trial counsel believed that the audio recording of the shooting was “devastating” and agreed with the Petitioner about “the air going out of the room” when the recording was played at trial. Trial counsel recalled that once the recording was played, the jurors’ attitudes changed and that some of the jurors turned their backs on the Petitioner when he testified at trial. While trial counsel could not recall whether he filed a motion seeking to exclude the recording prior to trial, he said he objected to its admission at trial, but the trial court admitted the recording as evidence. Trial counsel believed that a recording of a defendant’s statements during the commission of a crime was admissible.

Trial counsel agreed that the State could inquire into a defendant’s silence prior to being advised of his rights. He believed that the prosecutor could properly question the Petitioner regarding his statements to others about the events that were not consistent with his testimony at trial.

On cross-examination, trial counsel testified that he believed he objected to the admission of the audio recording on the basis that the recording was inflammatory and that its prejudicial effect greatly outweighed its probative value. The trial court overruled his objection.

Trial counsel stated that because Ms. Dickerson did not see the shooting, the Petitioner was the only person who could tell the jury what had occurred. Trial counsel advised the Petitioner that he needed to testify regardless of his substantial criminal history, and the Petitioner agreed. Trial counsel believed the fact that the casing was in the backseat of the victim’s car supported the Petitioner’s claim that he accidentally discharged his gun while close to the victim. Trial counsel noted that the Petitioner was involved with another woman and, thus, jealousy was not a motive. Trial counsel stated that because the Petitioner had an emotional attachment to Ms. Dickerson’s child, the Petitioner’s claim that he only went to Ms. Dickerson’s home to see her child was plausible.

At the conclusion of the post-conviction hearing, the post-conviction court made oral and written findings crediting trial counsel's testimony and denying the Petitioner post-conviction relief. The Petitioner filed a timely notice of appeal.

## ANALYSIS

The Petitioner contends that he received ineffective assistance of counsel at trial due to trial counsel's failure to: (1) request a limiting instruction regarding an audio recording of the murder; (2) object to the prosecutor's comments regarding the Petitioner's silence following his arrest; and (3) object to the prosecutor's statements regarding Dr. Carney's testimony. The State responds that the Petitioner failed to establish that trial counsel was deficient or that any deficiency resulted in prejudice. We agree with the State.

The Post-Conviction Procedure Act provides for relief when a petitioner's conviction or sentence is void or voidable due to the abridgment of a right guaranteed by the United States Constitution or by the Tennessee Constitution. T.C.A. § 40-30-103. A claim that the Petitioner was denied effective assistance of counsel constitutes a mixed question of law and fact. *Moore v. State*, 485 S.W.3d 411, 419 (Tenn. 2016). An appellate court reviews de novo with no presumption of correctness the post-conviction court's conclusions of law, its determinations of mixed questions of law and fact, and its application of law to factual findings. *Kendrick v. State*, 454 S.W.3d 450, 457 (Tenn. 2015). The post-conviction court's factual findings are conclusive on appeal unless the record preponderates otherwise. *Nesbit v. State*, 452 S.W.3d 779, 786 (Tenn. 2014). An appellate court does not reweigh or reevaluate the evidence or substitute its own inferences for those of the fact-finder. *Kendrick*, 454 S.W.3d at 457. On appeal, we defer to the post-conviction court's findings regarding witness credibility, the weight and value of witness testimony, and the resolution of factual issues presented by the evidence. *Id.* The petitioner bears the burden of demonstrating the allegations of fact entitling him to relief by clear and convincing evidence. T.C.A. § 40-30-110(f).

A person accused of a crime is entitled to the assistance of counsel in criminal proceedings under the Sixth Amendment to the United States Constitution and under article I, section 9 of the Tennessee Constitution. These provisions guarantee the reasonably effective assistance of counsel. *Nesbit*, 452 S.W.3d at 786. The deprivation of this right is a cognizable claim under the Post-Conviction Procedure Act. *Moore*, 485 S.W.3d at 418. To prevail on a claim, the petitioner must show that trial counsel's representation "so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." *Felts v. State*, 354 S.W.3d 266, 276 (Tenn. 2011) (quoting *Strickland v. Washington*, 466 U.S. 668, 686 (1984)).

In order to demonstrate that he received ineffective assistance of counsel, a petitioner must show both that trial counsel performed deficiently and that the deficient performance prejudiced the defense. *Nesbit*, 452 S.W.3d at 786 (citing *Strickland*, 466 U.S. at 687). Failure to prove either deficiency or prejudice precludes relief, and the court need not address both components if the petitioner has failed to make a showing on one. *Calvert v. State*, 342 S.W.3d 477, 486 (Tenn. 2011).

To show deficient performance, a petitioner must demonstrate that “‘counsel’s representation fell below an objective standard of reasonableness’ guided by ‘professional norms’ prevailing at the time of trial.” *Felts*, 354 S.W.3d at 276 (Tenn. 2011) (quoting *Strickland*, 466 U.S. at 688). In other words, the petitioner must demonstrate that counsel’s errors were “‘so serious that counsel was not functioning as the ‘counsel’ guaranteed the defendant by the Sixth Amendment.’” *Id.* (quoting *Strickland*, 466 U.S. at 687). Counsel’s performance is not measured by “‘20-20 hindsight.’” *Id.* at 277 (quoting *Hellard v. State*, 629 S.W.2d 4, 9 (Tenn. 1982)). Instead, the court applies a strong presumption that counsel’s performance was within the bounds of reasonable professional assistance. *Dellinger v. State*, 279 S.W.3d 282, 293 (Tenn. 2009). “[S]trategic choices made after thorough investigation of law and facts relevant to plausible options are virtually unchallengeable; and strategic choices made after less than complete investigation are reasonable precisely to the extent that reasonable professional judgments support the limitations on investigation.” *Kendrick*, 454 S.W.3d at 458 (quoting *Strickland*, 466 U.S. at 690-91).

To show prejudice, a petitioner must establish that there is “‘a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome.’” *Felts*, 354 S.W.3d at 277 (quoting *Strickland*, 466 U.S. at 694). The question at its core is “‘whether counsel’s deficient performance renders the result of the trial unreliable or the proceeding fundamentally unfair.’” *Kendrick*, 454 S.W.3d at 458 (quoting *Lockhart v. Fretwell*, 506 U.S. 364, 372 (1993)).

### **A. Audio Recording**

At trial, the State played the audio recording of the telephone conversation between the victim and Mr. McCorry at the time of the murder. The Petitioner and Ms. Dickerson were arguing in the background, and the Petitioner could be heard saying, “You think I’m something to play with?” The victim told Mr. McCorry, “Hold up, this man’s got a pistol.” The victim tried to explain that he was “giving the baby a ride.” However, the Petitioner called the victim a “punk a\*\* n\*\*\*\*\*” and shot him. The victim is heard in the recording gasping while Mr. McCorry remains on the line repeating, “Hello.”



Prior to trial, trial counsel filed a motion in which he sought to exclude the victim's statements in the recording as inadmissible hearsay. Following an evidentiary hearing, the trial court denied the motion upon finding that the victim's statements fell within the excited utterance exception to the hearsay rule in Tennessee Rule of Evidence 803(2). This court upheld the trial court's finding on direct appeal. *See Ytockie Fuller*, 2016 WL 6776346, at \*3-4.

The Petitioner contends that trial counsel was ineffective in failing to request that the trial court provide the jury with a limiting instruction that the audio recording "only went to the weight of the [victim's] emotional state of mind and not to [the Petitioner's] culpability, his actions, intentions and state of mind." The Petitioner cites no authority in his brief to support his claim that such a limiting instruction would be appropriate. *See* Tenn. R. App. P. 27(a)(7) (providing that a brief shall contain "[a]n argument ... setting forth ... the contentions of the appellant with respect to the issues presented, and the reasons therefor, including the reasons why the contentions require appellate relief, with citations to the authorities and appropriate references to the record"); Tenn. Ct. Crim. App. R. 10(b) (stating that "[i]ssues which are not supported by argument, citation to authorities, or appropriate references to the record will be treated as waived in this court"). While the Petitioner states that he "relies on those authorities cited in his original Petition to further support those contentions and incorporates them by reference herein," such a statement does not excuse the Petitioner's failure to meet the requirements of Tennessee Rule of Appellate Procedure 27(a)(7) or Rule 10(b) of the Rules of the Tennessee Court of Criminal Appeals. *See Christopher A. Davis v. State*, No. M2010-01045-CCA-R3-PD, 2012 WL 3679571, at \*43 (Tenn. Crim. App. Aug. 24, 2012) (holding that the petitioner's statement in his brief incorporating by reference all of his claims asserted in his original post-conviction petition does not save the waiver of those issue not specifically raised and argued by the petitioner in his appellate brief).

The Petitioner contends that the portion of the recording of the victim's dying moments was inflammatory and cumulative and should have been excluded. However, trial counsel testified that he objected to the admission of the recording on the basis that it was inflammatory and overly prejudicial and that the trial court rejected his argument. Accordingly, trial counsel was not deficient in this regard.

### **B. Comments Regarding the Petitioner's Silence**

The Petitioner maintains that the prosecutor's questioning of him on cross-examination amounted to improper comments on his silence following his arrest. The Petitioner argues that trial counsel was ineffective in failing to object to the prosecutor's line of questioning.

The Petitioner had the right to remain silent. U.S. Const. amend. V; *Miranda v. Arizona*, 384 U.S. 436 (1966). Generally, a defendant may not be impeached based on his silence after he was given *Miranda* warnings. See *Doyle v. Ohio*, 426 U.S. 619, 619-20 (1976). The Petitioner has failed to specify in his brief the allegedly improper line of questioning by the prosecutor. Nevertheless, upon reviewing the transcript of the trial, we conclude that the prosecutor's line of questioning did not amount to an improper comment on the Petitioner's exercise of his right to remain silent.

Rather than turning himself in to the police immediately after the shooting, the Petitioner fled to Nashville. Following the Petitioner's arrest, he did not remain silent after he was advised of his rights. He told the officers that Ms. Dickerson's daughter called him on the day of the offense, that he went to Ms. Dickerson's home to see her daughter, that he was aware that Ms. Dickerson and the victim had been in a relationship for some time, and that he did not go to the home "looking for trouble." The Petitioner declined to give a formal statement. On direct examination at trial, the Petitioner denied telling the police officers that he was aware that Ms. Dickerson and the victim were in a relationship and maintained that he did not learn of the relationship until Ms. Dickerson testified at the preliminary hearing. While incarcerated on the charges, the Petitioner also discussed the events with his girlfriend and called her on multiple occasions using the PIN number of other inmates because he was aware that the jail recorded all calls and he wished to avoid detection.

The prosecutor questioned the Petitioner on cross-examination regarding his decision to flee to Nashville rather than tell the police what occurred after the shooting. While a defendant, generally, may not be impeached based on his silence after given *Miranda* warnings, the Fifth Amendment permits a defendant to be impeached "by use of prearrest silence." *Jenkins v. Anderson*, 447 U.S. 231, 240 (1980). The prosecutor also questioned the Petitioner regarding his trial testimony denying that he had told officers that he was aware of the relationship between Ms. Dickerson and the victim and the Petitioner's omission from his statement that the shooting was unintentional and occurred only after the victim drove toward him. We conclude that such line of questioning did not constitute improper impeachment based on the Petitioner's exercise of his right to remain silent but that the purpose of the questioning was to highlight the discrepancies between the Petitioner's post-arrest statement and his testimony at trial. See *State v. Dotson*, 450 S.W.3d 1, 63 (Tenn. 2014) (concluding that the purpose of a prosecutor's statement that "[w]hen [the defendant] was brought down to the police department, he could have cleared it all up[,] [b]ut he didn't" was not an improper comment on the defendant's exercise of his right to remain silent but highlighted "the discrepancies between the defendant's post-arrest confession and admissions and his testimony at trial"); *Edward Thomas Kendrick, III v. State*, No. E2011-02367-CCA-R3-PC, 2015 WL 6755004, at \*38 (Tenn. Crim. App. Nov. 5, 2015) (holding that trial counsel was not

ineffective in failing to object to a detective's testimony that the defendant never told him that the shooting occurred when the defendant accidentally discharged his gun because the detective's testimony was not a comment on the defendant's right to remain silent but on the defendant's "omission from a voluntary statement").

Because the prosecutor's line of questioning was not improper, trial counsel was not deficient in failing to object to it. Furthermore, we conclude that any deficiency did not result in prejudice in light of the strong evidence of guilt. Accordingly, the Petitioner is not entitled to relief regarding this issue.

### **C. The Prosecutor's Statements Regarding Dr. Carney's Testimony**

The Petitioner asserts that trial counsel was ineffective in failing to object to the prosecutor's statement that Dr. Carney testified that the Petitioner was standing three feet from the victim at the time of the shooting. The Petitioner maintains that the prosecutor's statement was not consistent with Dr. Carney's testimony at trial. The Petitioner fails to cite to the portion of the trial transcript where the prosecutor made the statement or the circumstances under which the prosecutor made the statement. Moreover, the Petitioner did not question trial counsel during the post-conviction hearing about his failure to object to the statement. "The decisions of a trial attorney as to whether to object to opposing counsel's arguments are often primarily tactical decisions." *Derek T. Payne v. State*, No. W2008-02784-CCA-R3-PC, 2010 WL 161493, at \*15 (Tenn. Crim. App. Jan. 15, 2010). For example, attorneys may choose not to object to avoid emphasizing the unfavorable statements. *Id.* (citing *Gregory Paul Lance v. State*, No. M2005-01765-CCA-R3-PC, 2006 WL 2380619, at \*6 (Tenn. Crim. App. Aug. 15, 2006)). Thus, trial counsel must be given the opportunity to explain why he did not object to the prosecutor's comments. *Richard Lloyd Odom v. State*, No. W2015-01742-CCA-R3-PD, 2017 WL 4764908, at \*36 (Tenn. Crim. App. Oct. 20, 2017), *perm. app. denied* (Tenn. Apr. 23, 2018). Accordingly, the Petitioner has failed to present evidence establishing that trial counsel was deficient. Furthermore, we conclude that any deficiency did not result in prejudice in light of the substantial evidence presented at trial supporting the Petitioner's convictions.

### **CONCLUSION**

We conclude that the Petitioner is not entitled to post-conviction relief, and we, therefore, affirm the judgment of the post-conviction court.

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JOHN EVERETT WILLIAMS, PRESIDING JUDGE