IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
Assigned on Briefs June 3, 2014

CHARLES HALL v. STATE OF TENNESSEE

Appeal from the Criminal Court for Shelby County
No. 04-00120 W. Mark Ward, Judge

No. W2013-01438-CCA-R3-PC - Filed October 31, 2014

The petitioner, Charles Hall, was convicted of aggravated robbery and sentenced, as a repeat violent offender, to life imprisonment without parole. This court affirmed the judgment of the trial court on direct appeal, and the Tennessee Supreme Court denied his application for permission to appeal. State v. Charles Hall, No. W2009-02569-CCA-R3-CD, 2010 WL 5271082, at *1 (Tenn. Crim. App. Dec. 10, 2010), perm. app. denied (Tenn. Apr. 12, 2011). Subsequently, he filed a timely petition for post-conviction relief, claiming that trial counsel was deficient in pursuing pretrial motions and making erroneous trial decisions. Following an evidentiary hearing, the post-conviction court determined both that the petitioner had failed to establish that trial counsel had been ineffective or that he had been prejudiced by counsel's alleged misdeeds. Following our review, we affirm the post-conviction court's denial of relief.

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

ALAN E. GLENN, J., delivered the opinion of the Court, in which CAMILLE R. MCMULLEN, J., joined. JEFFREY S. BIVINS, J., Not Participating.

Rosalind Elizabeth Brown, Memphis, Tennessee, for the appellant, Charles Hall.

Herbert H. Slatery, III, Attorney General and Reporter; Clarence E. Lutz, Senior Counsel; Amy P. Weirich, District Attorney General; and Stacy M. McEndree, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

FACTS

On direct appeal, this court set out the facts resulting in the petitioner's conviction:

State's Proof

The victim testified that she was working at the Wonder Bread store on Sunday, February 23, 2003. As she was stocking shelves in the back room in preparation of closing, the victim noticed that a man, identified as the [petitioner], had entered the store through the front door. As the [petitioner] entered, a young boy also entered the store, yelling to the victim that she had a customer. The victim called to the front that she would help him shortly, but the [petitioner] walked from the front and into the office that bisected the store. The [petitioner] brandished a "[l]ittle silver gun" in his right hand and told her to cooperate. Upon seeing the gun, the victim was frightened, afraid that the [petitioner] was going to kill her.

The [petitioner] told the victim to go to the front of the store, display the "closed" sign, and lock the door. When the victim complied with the [petitioner]'s demand, she noticed that the young boy, who appeared to be nine years old, was still in the store. She explained that it was normal for the neighborhood children to hang around the store and help with tasks in exchange "for a cake or something." The [petitioner] held the boy's hand in his left hand and the gun in his right hand as he told the victim to go to the cash register and not sound any alarms. The [petitioner] told her to remove only the cash from the register and put it in a plastic bag. The victim did as she was instructed, placing approximately $100 in a store bag. The victim handed the money to the [petitioner] "[b]ecause he had a gun, and [she] was afraid."

The victim testified that the [petitioner] then asked for the videotape from the store's surveillance camera. When the victim tried unsuccessfully to eject the tape from the VCR, the [petitioner] became agitated. The victim attempted to remove the VCR from the wall, and the [petitioner] "snatched it and stepped on it, and that's the only way we got the tape out of it." The [petitioner] had the victim show him a door in the stock room he could use as an exit and then placed the victim and young boy in the bathroom with instructions not to come out for fifteen minutes. The [petitioner] threatened to hurt them if they came out of the bathroom before he left.

The victim testified that after fifteen to twenty minutes, they exited the bathroom, and she called the nearby fire station. By the time the fire department personnel arrived, the young boy had left the store. Police officers

arrived in less than ten minutes after the fire department personnel, and she told them what had happened. However, she did not mention anything about the young boy being present because "[t]hey never asked [her] was anybody in the store. They just asked [her] about the robbery." The victim admitted that she later gave a statement to Sergeant Bell in which she again did not mention the young boy. She explained that she did not mention him because

> he was upset about [the robbery]. And I was upset. And I didn't want to put him through what I had to go through because his mom - during that time, his mom had said he was already having problems, so I didn't want to take him through it, so I never mentioned him.

She elaborated that she spoke with the boy's mother about the incident because he had told his mother about what had happened. The victim said that the first time she mentioned the presence of the young boy was when she was asked a question by the [petitioner]'s attorney at another court proceeding.

The victim testified that she gave a brief description to the police that the [petitioner] was tall and light-skinned. At trial, she recalled that the [petitioner] was wearing blue jeans, a yellow-orange "bubble" jacket pulled up over the bottom of his face, a "skull hat," and rubber surgical gloves. She estimated that the entire ordeal, including the time they waited in the bathroom, lasted thirty minutes. She was within one to two feet of the [petitioner] the entire time, and nothing impaired her view. The victim explained that she had been instructed by her employer that in the event of a robbery, to look at the perpetrator's eyes in hopes of later making an identification. The victim said that she looked at the [petitioner]'s face but focused on his eyes as a way of letting him know that she was going to cooperate.

The victim testified that she viewed a photographic array on March 13, 2003, from which she identified the [petitioner] as the robber because "[she] recognized him through his eyes." She said that she also recognized the [petitioner]'s forehead, nose, cheeks, and mustache area. She recalled that the [petitioner]'s photograph "jumped out" at her, so she took a piece of paper to cover part of his forehead and mouth "to make sure [she] was picking the right guy." The victim said that in addition to the photographic array, she also identified the [petitioner] at a preliminary hearing, at a motion hearing, and at

another court proceeding.

On cross-examination, the victim admitted that it was untruthful for her to have previously testified that the first time she spoke with anyone about the young boy being present was when defense counsel asked her at a prior proceeding when she had actually spoken with the boy's mother. She also admitted that it was untruthful for her to have not mentioned the boy when asked to give a detailed description of the incident. The victim said that she never told Sergeant Bell prior to viewing the photographic array that the robber's eyes were the feature by which she would be able to identify him. When shown the photographic array, the victim admitted that she would not have picked two of the individuals because their eyes were closed but said that she still looked at their photographs. The victim acknowledged, in looking at a photograph of the [petitioner], that the [petitioner] had a scar in his left eye, but she did not include a scar in her description.

On redirect examination, the victim testified that she did not select the individuals in the array who had their eye or eyes closed because neither of them was the individual who robbed her.

Boris Owens testified that he and his mother were outside the Wonder Bread store on February 23, 2003, when they saw a light-skinned, African-American man who was approximately 6'1" exit out the seldom-used side door of the store. They went to the front door of the store and it was locked. They looked inside and saw that the cash register was lying on the counter. Owens never saw a young boy or a woman come out of the store.

The prior sworn testimony of Officer Sherman Bonds was read into evidence. In that testimony, Officer Bonds stated that he worked in the Memphis Police Department's Crime Scene Unit. On February 23, 2003, Officer Bonds was called to the scene at the Wonder Bread store on South Third Street. Officer Bonds dusted a VCR for prints but was unable to obtain any.

Lieutenant William Woodard with the Memphis Police Department testified that he was involved in the investigation of the Wonder Bread store robbery. Lieutenant Woodard made a follow-up call to the victim the day after the robbery to obtain any additional details. The victim never mentioned a young boy being present, nor did he ask if a young boy was there. Lieutenant Woodard typed a synopsis for the case file and waited for more

information to come in. At some point, the officer received a Crime Stoppers tip identifying the Wonder Bread store and the [petitioner] by name and giving a few details about the [petitioner]. Lieutenant Woodard obtained an old booking photograph of the [petitioner] based on the information gathered from the tip. Approximately five days later, Lieutenant Woodard received a call inquiring about the status of the prior Crime Stoppers tip and providing the same, plus some additional, information. Lieutenant Woodard did not take a formal, written statement from the victim, and he explained that it was not uncommon to wait for an arrest to be imminent before obtaining a written statement. The case was transferred to Sergeant J.B. Bell of the Memphis Police Department.

On cross-examination, Lieutenant Woodard acknowledged that the victim told him during their conversation the day after the robbery that she did not think she could identify the robber and such was noted in the report supplement. He also acknowledged that he was able to create a photographic array based on information received from the Crime Stoppers tip, not from any information given by the victim.

Sergeant J.B. Bell, Jr. testified that he was transferred to the Wonder Bread store robbery case after the Crime Stoppers tip came in because he was working on a similar case. Upon receiving the case, Sergeant Bell contacted the victim who gave him a general description of the robber, including the robber's hair and eyes and that he had "a little mustache" and was light-complected. Based on the information given by the victim, along with the information from the Crime Stoppers tip, Sergeant Bell assembled a photographic array depicting the [petitioner] and five other individuals similar to the [petitioner] and matching the victim's general description. He first attempted to assemble the array with the help of a computer system. However, the computer kept suggesting "real old men" and men with "gray hair and afros," so Sergeant Bell had to create the array manually to ensure that the [petitioner] did not stand out in the array.

Sergeant Bell testified that he had the victim read and sign an advice form prior to viewing the array on March 13, 2003, and the victim appeared to understand the instructions. The victim looked at all the individuals and used paper to cover up their faces even though she "seemed kind of startled," as if she recognized someone, upon initially seeing the array. The victim pointed out the [petitioner] and said that she was absolutely sure of her identification. The victim gave a formal statement within a day or two of

making the identification.

Sergeant Bell testified that the victim never told him about a young boy being present during the robbery, and he never asked her if one was present. The victim never affirmatively told him that she was alone. Sometime after the victim made the identification, Sergeant Bell spoke with the [petitioner] at the robbery office and noticed nothing unusual about the [petitioner]'s appearance. At an earlier court proceeding, Sergeant Bell was asked to look at the [petitioner] from a distance of two to three feet, during which time he eventually noticed that one of the [petitioner]'s eyes was smaller than the other. He was also able to see, after the [petitioner] pointed it out, that the [petitioner] had a small scar on his eye.

On cross-examination, Sergeant Bell recalled that the victim mentioned the [petitioner]'s eyes when she selected him from the array, but she had never given a description of the robber's eyes. Asked why he included photographs of two individuals in the array in which the view of the individuals' eyes was impeded, Sergeant Bell explained that they had similar features to the [petitioner] and he "didn't have information about the [importance of the] eyes when [he] [created the array]." Sergeant Bell clarified that the victim made the identification and then began mentioning the robber's eyes. Sergeant Bell admitted that in the statement given by the victim the day after the photographic identification, she did not mention anything about the robber's eyes or mustache in her description.

On redirect examination, Sergeant Bell stated that he would not have changed the course of his investigation in any way had he known that a young boy was present except that he probably would have charged the [petitioner] with an additional offense.

[The Petitioner]'s Proof

Georgia Johnson, the [petitioner]'s first cousin, testified that the [petitioner] had a noticeable dark spot in one of his eyes since childhood. She said that the [petitioner] would have been in his early to mid-fifties in 2003.

Robert Lively, owner of Courtesy Consultants, a security company, employed the [petitioner] as a security guard for an apartment complex in 2003. Lively never received any complaints from the apartment complex about the [petitioner] not showing up for work, and Lively characterized the

[petitioner] as a good employee. He recalled that the [petitioner] filled out a time sheet that indicated he was working from 1:00 to 9:00 p.m. on February 23, 2003. However, Lively could neither confirm nor deny that the [petitioner] actually worked the hours he claimed to have worked on the day of the robbery. Lively acknowledged that regarding one of the other days reported on the time sheet, the [petitioner] was docked three hours from what he reported due to his not responding when the base radioed him. Lively acknowledged that he never got the radio belonging to Courtesy Consultants back from the [petitioner] after his employment ceased. If he were informed that the [petitioner] had pawned the radio on twenty occasions, he would not have considered him a good employee. Lively said that in the approximately nine months that the [petitioner] worked for him, the [petitioner] asked for an advance on his paycheck on more than one occasion.

After the conclusion of the proof, the jury convicted the [petitioner] as charged of two counts of aggravated robbery.

Id. at *1-5.

The post-conviction court set out a summary of the proceedings against the petitioner:

The Shelby County Grand Jury returned two indictments (No. 04-00119 and No. 04-00120) charging the [p]etitioner with two different aggravated robberies. Each indictment contained two counts charging alternative theories for each robbery. The two indictments were consolidated for trial over the [p]etitioner's objection. A Shelby County Criminal Court jury convicted the [p]etitioner on both robberies and the trial judge sentenced [the] [p]etitioner to consecutive life sentences without parol[e] as a repeat violent offender. Petitioner perfected a direct appeal to the Court of Criminal Appeals.

On August 11, 2006, the Court of Criminal Appeals reversed the convictions because the two indictments were improperly consolidated for trial and the matter was remanded to the trial court for separate trials as to each indictment. See State v. Charles Hall, No. W2005-01338-CCA-R3-CD, 2006 WL 2334850 (Tenn. Crim. App. Aug. 11, 2006), perm. to appeal denied (Tenn. December 18, 2006). After a second trial on Indictment No. 00120, a Shelby County Criminal Court jury once again found the [petitioner] guilty on both counts of the indictment charging different theories of aggravated robbery. The trial court merged the two counts and sentenced the [p]etitioner to life imprisonment without parole as a repeat violent offender. Petitioner

> once again perfected an appeal to the Court of Criminal Appeals. . . . On December 10, 2010, the Court of Criminal Appeals affirmed the judgments of the trial court.

It is somewhat difficult to follow the petitioner's evidentiary hearing testimony because several of the issues appear to be closely related and he moves back and forth among his various complaints. Additionally, his testimony is peppered with citations to various legal opinions and arguments. His first issue, as we understand, was that the victim had been shown two photospreads, and one was an "illegal, contaminated duplicate photospread," which, in his view, trial counsel should have sought to suppress by filing an appropriate motion. He contended that the first was suggestive in the manner in which his photograph was presented and the victim picked his photograph in the second spread only after she had been shown the first suggestive spread. Related to this complaint is the petitioner's claim that counsel should have pursued a motion to suppress the identification by the victim.

The petitioner testified that his "second issue" was that trial counsel did not object "when [the] prosecutor elicited testimony from Sergeant J.B. Bell about a bank robbery. Counsel failed to file a motion to suppress the Crime Stopper[s] tip that contained prejudicial hearsay statements." As to this claim, trial counsel testified that he did not object to this testimony because his defense was based partly on an inadequate investigation by the police of the robbery for which the petitioner was being tried.

Further, the petitioner complained that counsel failed to seek hearings on twenty-two pretrial motions which were filed. Among these motions was one for the State to identify all persons at the crime scene. The petitioner said that a young boy was present and speculated that this particular witness "could have been brought to court and possibly exonerated [the petitioner] from being, you know, not being the one that committed the crime."

The petitioner argued that counsel was ineffective for failing to object to "old booking photos" of the petitioner, thus "[i]nferring to the jury that [he] had been arrested before."

Trial counsel testified that he had been an attorney for thirteen years, practicing both civil and criminal law, and had participated in approximately fifty jury trials. He said that he met with the petitioner during the times he was brought to court. The petitioner called trial counsel "quite a bit" at both his office and on his cell phone. He described the petitioner as a "jailhouse lawyer":

> And what I mean by that is [the petitioner] is, I don't know if this is the proper term, but at times can act very much as if he's some kind of jailhouse lawyer and he was constantly sending me things to review and case law to read. And

> I would spend a lot of the time . . . having to explain to [the petitioner] that those issues were really not relevant to his case. And that my job was essentially to attack . . . the State's case and put on the best trial possible.
>
> And as far as the strategy, [the petitioner] was constantly kind of straying from what I thought was the road map which we were going to follow and that was going to essentially attack the credibility of the eyewitness, Sharron Jefferson. And one of the what I though[t] was going to be a bonus, which actually maybe turned into a little bit more of a problem, was that this case had already been tried once. . . .
>
> And so a lot of the things that [the petitioner] was trying to focus on I kept telling him those are really appellate issues, it didn't have anything to really do with challenging the evidence and preparing a good opening and cross-examination of the State's witnesses. But if I had to summarize and say what was our defense, what was our tactic, it was to challenge the mistakes, the errors that were going to come out in the proof. And to be honest, we were very successful at that.

Trial counsel said the petitioner was never in "full agreement" with what he was doing, and they spent a "considerable time" in "debates." During the trial, the petitioner "was constantly tapping [counsel] on the shoulder, handing [him] things, telling [him] to jump up." Counsel said that "for three years" he spent the "majority" of his afternoons "researching, kind of essentially responding to [the petitioner's] letters." Although the petitioner gave counsel the impression that he wanted to testify during the trial, he did not provide a list of "alibi witnesses or anything like that." They discussed the impact of the petitioner's prior criminal record. During the trial, the petitioner told counsel that he was "just trying to get the judge tripped up so we'll have something for appeal."

As for the petitioner's claims about the photospread, counsel said he did not remember seeing one with the numbers missing, as the petitioner had presented during his evidentiary hearing testimony. Rather, the copy of the photospread in counsel's file bore a notation that the petitioner had been identified by the victim. As for a motion to suppress the identification, counsel said that such a motion was unsuccessful in the first trial, and the petitioner then wanted to raise objections about "either typos or graphical or procedural things, not the actual substance of the lineup." However, at the second trial, there were "no additional reasons" to seek suppression of the victim's identification.

Regarding the "twenty-two some odd motions" the petitioner complained that counsel had not pressed, counsel said he had a "good rapport" with the State and open-file discovery

had been made. He explained that the petitioner had a "considerable amount" of robbery convictions, some in other states, and it was the petitioner's decision not to testify. He said that it had been trial strategy to allow testimony regarding the Crime Stoppers tip:

> And . . . I made the decision that based on the testimony of the officers who agreed with me that there were errors to the Crime Stopper[s] tip, dates were left off, things like that. And so we made the decision to allow it to be entered so that it would go along with the theme of look at all these errors. Look at all these. How can this stuff be reliable if they don't even – if they have dates that I believe the date on the sheet of paper was a date that wasn't even in time, so it was an impossibility.

Counsel concluded by saying that the petitioner was complaining about matters that would not have resulted in a different verdict.

At the conclusion of the hearing, the post-conviction court took the matter under advisement and subsequently entered a written order denying relief.

ANALYSIS

I. Ineffective Assistance of Counsel

The post-conviction petitioner bears the burden of proving his allegations by clear and convincing evidence. See Tenn. Code Ann. § 40-30-110(f). When an evidentiary hearing is held in the post-conviction setting, the findings of fact made by the court are conclusive on appeal unless the evidence preponderates against them. See Tidwell v. State, 922 S.W.2d 497, 500 (Tenn. 1996). Where appellate review involves purely factual issues, the appellate court should not reweigh or reevaluate the evidence. See Henley v. State, 960 S.W.2d 572, 578 (Tenn. 1997). However, review of a trial court's application of the law to the facts of the case is *de novo*, with no presumption of correctness. See Ruff v. State, 978 S.W.2d 95, 96 (Tenn. 1998). The issue of ineffective assistance of counsel, which presents mixed questions of fact and law, is reviewed *de novo*, with a presumption of correctness given only to the post-conviction court's findings of fact. See Fields v. State, 40 S.W.3d 450, 458 (Tenn. 2001); Burns v. State, 6 S.W.3d 453, 461 (Tenn. 1999).

To establish a claim of ineffective assistance of counsel, the petitioner has the burden to show both that trial counsel's performance was deficient and that counsel's deficient performance prejudiced the outcome of the proceeding. Strickland v. Washington, 466 U.S. 668, 687(1984); see State v. Taylor, 968 S.W.2d 900, 905 (Tenn. Crim. App. 1997) (noting that same standard for determining ineffective assistance of counsel that is applied in federal

cases also applies in Tennessee). The Strickland standard is a two-prong test:

> First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable.

466 U.S. at 687.

The deficient performance prong of the test is satisfied by showing that "counsel's acts or omissions were so serious as to fall below an objective standard of reasonableness under prevailing professional norms." Goad v. State, 938 S.W.2d 363, 369 (Tenn. 1996) (citing Strickland, 466 U.S. at 688; Baxter v. Rose, 523 S.W.2d 930, 936 (Tenn. 1975)). Moreover, the reviewing court must indulge a strong presumption that the conduct of counsel falls within the range of reasonable professional assistance, see Strickland, 466 U.S. at 690, and may not second-guess the tactical and strategic choices made by trial counsel unless those choices were uninformed because of inadequate preparation. See Hellard v. State, 629 S.W.2d 4, 9 (Tenn. 1982). The prejudice prong of the test is satisfied by showing a reasonable probability, i.e., a "probability sufficient to undermine confidence in the outcome," that "but for counsel's unprofessional errors, the result of the proceeding would have been different." Strickland, 466 U.S. at 694.

Courts need not approach the Strickland test in a specific order or even "address both components of the inquiry if the defendant makes an insufficient showing on one." 466 U.S. at 697; see also Goad, 938 S.W.2d at 370 (stating that "failure to prove either deficiency or prejudice provides a sufficient basis to deny relief on the ineffective assistance claim").

Although the petitioner made a number of allegations in seeking post-conviction relief, we will review only those for which, as best we can understand, he presented evidence at the evidentiary hearing.

A. Motion to Suppress Identification

Following the evidentiary hearing, the post-conviction court found that the trial court, before the first trial, had denied the defense motion to suppress the identification of the petitioner. At the second trial, counsel relied upon this earlier ruling but, in the direct appeal, assigned this ruling as error. On appeal, this court concluded that the photographic procedure used by the investigating officer was not unnecessarily suggestive and, even if this had been

the case, the victim's identification was reliable:

> Moreover, even if the identification procedure was suggestive, a review of the five Biggers factors indicates that the victim's identification of the [petitioner] was nonetheless reliable. First, the victim was within one to two feet of the robber during the incident, in a well-lit store with nothing impairing her view. Second, it is apparent that the victim's degree of attention was high as she had been instructed by her employer that in the event of a robbery, to look at the perpetrator's eyes in hopes of later making an identification, and she said that she looked at the robber's face and focused on his eyes also as a way of letting him know that she was going to cooperate. Third, the victim's initial description of the robber as tall and light-skinned, although very general, was accurate. Fourth, the victim "seemed kind of startled," as if she recognized someone, upon initially seeing the array, and then pointed out the [petitioner] and said that she was absolutely sure of her identification. The victim affirmed at trial that she was certain of her identification. Fifth, the victim was shown the photographic array only two and a half weeks after the robbery. Upon consideration of the Biggers factors and the totality of the circumstances, we conclude that the photographic identification of the [petitioner] was reliable.

Charles Hall, 2010 WL 5271082, at *7.

We note that, at the evidentiary hearing, the petitioner did not present testimony from the victim or the officer who prepared the photospread. Thus, the complaint of the petitioner regarding the identification procedure is without merit.

In this regard, the petitioner also complains that, because his prior arrest photographs were used in the photographic show-up, the jury could infer that he had a prior arrest. As to this claim, the post-conviction court found that he had failed to show that he had been prejudiced, and the record supports this determination.

B. Crime Stoppers Tip

The petitioner complains that trial counsel should have objected to testimony regarding a Crime Stoppers tip that he was a possible suspect in another robbery. Trial counsel testified that he made a tactical decision to introduce this evidence because it further proved mistakes and errors in the investigation of the matter for which the petitioner was being tried. The post-conviction court concluded that this "was a tactical decision which is within the realm of reason" and that prejudice had not been shown regarding it. The record

supports this determination.

C. Pretrial Motions

The petitioner complains that trial counsel was ineffective by not seeking orders on various motions. Counsel testified at the hearing that the State had provided open-file discovery, that most of these motions had been for discovery purposes, and that the complaints in this regard were about matters that would have made no difference in the outcome of the trial. The post-conviction court found that the petitioner had failed to show either that any of these motions would have been granted or that he was prejudiced as a result. The record supports this determination.

D. Rule 609 Prior Convictions

The petitioner complains that trial counsel should have sought a pretrial ruling before the second trial as to which of his prior convictions could be used for impeachment purposes. Trial counsel testified that, in this regard, he relied upon the court's ruling before the first trial, and the post-conviction court noted that this matter was taken up during the second trial when the petitioner was being questioned as to whether he wished to testify. The post-conviction court found that the petitioner had failed to show what his trial testimony would have been and failed to show that he was prejudiced in this regard. The record supports these determinations.

E. Failure to Cite Authorities on Appeal

The petitioner complains that trial counsel should have cited authorities on appeal that the trial court erred in refusing to reopen the motion to suppress. The post-conviction court found that the petitioner failed to cite any relevant authorities in this regard or to show prejudice. The record supports this determination.

F. Other Issues

The post-conviction court determined that the petitioner had raised, in a "shotgun" fashion, a number of other issues, for which he failed to show either deficient performance or prejudice. We, likewise, have reviewed these issues and conclude that the record supports the determination of the post-conviction court.

CONCLUSION

Based upon the foregoing authorities and reasoning, we affirm the denial of the petition for post-conviction relief.

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ALAN E. GLENN, JUDGE