IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE
AT JACKSON
Assigned on Briefs September 4, 2019

JASON WAYNE STAGGS v. STATE OF TENNESSEE

Appeal from the Circuit Court for Tipton County
No. 8521 Joe H. Walker, III, Judge

No. W2018-01688-CCA-R3-PC

Petitioner, Jason Wayne Staggs, pled guilty in the Tipton County Circuit Court as a persistent offender to (1) burglary of a building, (2) theft of property valued over $10,000 and less than $60,000, and (3) evading arrest. The trial court sentenced Petitioner pursuant to a plea agreement to an effective sentence of fifteen years' incarceration to be served at forty-five percent. Petitioner timely filed pro se petitions for post-conviction relief, and the post-conviction court appointed counsel, who filed an amended petition. After a hearing, the post-conviction court denied the post-conviction petition in a written order. On appeal, Petitioner argues that he received ineffective assistance of counsel and his guilty plea was unknowing. Following a thorough review, we affirm the judgment of the post-conviction court.

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

ROBERT L. HOLLOWAY, JR., J., delivered the opinion of the court, in which ALAN E. GLENN and TIMOTHY L. EASTER, JJ., joined.

Jeremy T. Armstrong, Covington, Tennessee, for the appellant, Jason Wayne Staggs.

Herbert H. Slatery III, Attorney General and Reporter; Renee W. Turner, Senior Assistant Attorney General; Mark. E. Davidson, District Attorney General; and Sean Hord, Assistant District Attorney General, for the appellee, State of Tennessee.

OPINION

Factual and Procedural History

Guilty Plea Submission Hearing

At Petitioner's guilty plea submission hearing on March 24, 2017, the State presented the following factual basis for the plea:

> [O]n May 31 of 2015, Deputy [Jeremy] Finney of the [Tipton County S]heriff's [O]ffice observed a black Chevrolet pickup truck, this was the antique truck, the 1959 Chevrolet pickup truck, as it turned out, southbound on Old Memphis Road with an inoperable taillight. Deputy [Finney] attempted to conduct a traffic stop. [He o]bserved the vehicle attempting to evade the deputy, [and] blue lights were activated. The vehicle proceeded south at a high rate of speed, and the deputy observed a second vehicle attempting to disrupt the deputy's direction of travel.
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> That second vehicle is going to be the . . . 1939 Chevrolet Coupe, which was driven by [Co-defendant] Hooper[1]. . . . Deputy Finney maneuvered around the vehicle, [and] continued the [pursuit] of the pickup truck on Old Memphis Road. Led to dispatch notifying all agencies of the pursuit. The pursuit continued through the county back onto Highway 51 in the northbound lane. Other deputies joined the pursuit[,] and officers from other agencies attempt[ed] to stop . . . Mr. Carlton Rose's vehicle, . . . driven by [Petitioner].
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> After passing Brighton High School, the testimony would be [that] the truck attempted to use a bystander's vehicle to shield the truck from officers[,] causing the vehicle to veer off the roadway. That's clearly the endangering the others.
>
> Deputy [James] Wicker[,] along with a K-9[,] attempted to out [sic] in front of the vehicle with Deputy Finney behind the vehicle attempting to box him in. The vehicle slammed into Deputy Wicker's patrol car. Deputies ordered the driver, who turned out to be [Petitioner,] onto the ground. And the testimony would be he refused to comply with officers' commands and resisted officers['] attempting to take him into custody. So

[1] According to the State's statement at Petitioner's guilty plea submission hearing, Co-defendant Nathan Hooper pled guilty in case 8737.

he was not charged in all this, frankly because there [was] some physical injury to [Petitioner], which was probably commensurate with the resistance that he put up, and it was basically a draw. He got the wors[t] of it, as would always happen with such antisocial conduct, and the several deputies being involved.

[S]pray was used but was unsuccessful. The dog was deployed, which bit [Petitioner] on the legs. Bottom line is he was finally subdued. He advised officers he was under the influence of methamphetamine, which caused him to evade police. And the officer testified that he performed poorly. He was not charged with driving under the influence, however, even though he performed poorly on field sobriety tests.

There were statements given by [Co-defendant] Hooper who stated that he and [Petitioner] had gotten together. [Co-defendant] Hooper . . . was at the Rose of Sharon, the local rehab center in the county. [I]nformation was obtained that the owner of the property, Mr. Carlton Rose[,] had some nice vehicles put away in a garage, but it was known that he had some. And [Co-defendant] Hooper would be available to testify . . . based on his prior testimony about the planning of this and the going into the garage, both of them, and the taking of the vehicles. In fact, there's a third person that's involved who is subject to being charged at a later date.

But there was a plan to go in, and it was executed by going in[,] and the vehicles were taken. [Co-defendant] Hooper took the 1938[2] Chevrolet Coupe of Mr. Carlton Rose. As far as the value on that one vehicle, Mr. Rose would be able to testify that he put approximately $59,000 into the restoration of the vehicle. So the State's theory would be it's worth more than what he put in. So in other words, it was a very valuable vehicle.

. . . .

[Petitioner] also gave a statement in this matter, which while it differs from [Co-defendant] Hooper's statement, . . . it clearly is an admission of guilt.

Trial counsel expressed to the trial court that Petitioner disagreed with the State's characterization of the events as being "planned" because Petitioner maintained that he

[2] At the guilty plea submission hearing, the State said the stolen vehicle was a 1939 Chevrolet Coupe three times, but here stated it was a 1938 Chevrolet Coupe.

did not know what would happen until he arrived at Mr. Rose's garage. Trial counsel also stated that he explained to Petitioner the theory of criminal responsibility and that Petitioner "could be held responsible for taking both vehicles, even though he didn't drive off in both vehicles[.]" Trial counsel said that he discussed with Petitioner how the fact that he was apprehended in the stolen vehicle might affect him at trial. Trial counsel stated that he advised Petitioner of his rights, including his right to have a trial, and that he explained to Petitioner that the State sought an enhancement for sentencing as a career offender in two of the three counts.

The trial court conducted a plea colloquy with Petitioner. The court advised Petitioner of his rights, including his right to a trial by jury, his right to confront the State's witnesses or to call witnesses, and his right to remain silent or to testify. The trial court also explained the State's burden of proof at trial and that there was no right to appeal from a guilty plea. The court detailed the charges against Petitioner and stated the maximum possible sentence for each charge. Petitioner stated he was "half way" satisfied with trial counsel's representation. Petitioner acknowledged that he understood his rights and that he was waiving his right to a jury trial. Petitioner agreed that on or about May 31, 2015, without the effective consent of the owner of a building, he entered a building other than a house, and not open to the public, with the intent to commit theft; that he participated in taking some property that did not belong to him; and that he intentionally fled from Tipton County deputies while operating a motor vehicle on the public streets, creating a substantial risk of death or injury to innocent bystanders or third parties. The trial court determined that Petitioner was competent to enter a plea, that Petitioner understood what he was doing, and that there was a factual basis for the pleas, and it accepted the pleas of guilty. The trial court then sentenced Petitioner to an effective fifteen-year sentence at forty-five percent, pursuant to the terms of the plea agreement.

Post-Conviction Hearing

Petitioner testified that, two or three months after trial counsel was appointed to represent him, he learned that trial counsel was from the Public Defender's Office. Petitioner said that another attorney from the Public Defender's Office had first been appointed to represent him, but prior counsel had withdrawn from the case because he had known the victim. Petitioner asserted that because prior counsel worked in the same office as trial counsel, trial counsel "had a personal and legal conflict" with Petitioner. Petitioner stated that he did not realize he could have requested different counsel.

Petitioner stated that trial counsel never went over the evidence in the case with him. He said that their first encounter was "argumentative" because Petitioner wanted trial counsel to investigate his career offender status, but trial counsel said, "I am not here

to do an investigation." Petitioner explained that he believed he was a Range II multiple offender rather than a Range III persistent offender because a Haywood County judge told him that his four 1997 convictions were a part of "one act or spree" for sentencing purposes. Petitioner asserted that trial counsel would not respond to this assertion.

Petitioner claimed that, at his guilty plea submission hearing, he did not know to what he was pleading guilty. Petitioner said, "I didn't know all these facts about what I was doing, what I was stealing, theft over [$]60,000. No, I didn't know those facts." He stated that trial counsel kept "pushing the [forty-five] percent" when Petitioner believed he should be sentenced at thirty-five percent. Petitioner stated that Co-defendant Hooper received a plea agreement for ten years at forty-five percent, and he "figured that was a pretty fair offer," but the State would not offer Petitioner the same agreement because he "wasn't a snitch . . . wasn't a rat."

The State showed Petitioner the plea agreement his prior counsel had negotiated, with "refused by Defendant" written across the bottom. Petitioner stated that he never refused that offer but instead refused prior counsel as his lawyer.

Petitioner then explained that, on the night of the burglary, he "met up with some guy" who wanted to "steal something" but that Petitioner "didn't want to steal nothing [sic]." He stated that he went to the garage, that he was high on methamphetamine, and that he took a truck. Petitioner explained that he did not stop for police because he was on parole and was high.

Prior counsel testified that he worked with the Public Defender's Office. He stated that he and two other members of the office decided not to be involved in this case because they had personal relationships with the victim. Prior counsel explained his conflict to Petitioner at the same time he presented Petitioner with a plea agreement. Prior counsel believed that Petitioner and Co-defendant Hooper received disparate treatment, but he testified that he investigated the enhancement in the case properly. Prior counsel did not remember Petitioner explaining that four of his 1997 convictions should count as "one spree" for purposes of sentencing but could not rule out that Petitioner mentioned it. Prior counsel explained that, even if a Haywood County judge told Petitioner that the four convictions would count as one, that was an incorrect statement of the law, and Petitioner was properly classified as a career offender. However, prior counsel was sure he made clear that Petitioner was facing thirty years at sixty percent if convicted by a jury. Prior counsel explained that Petitioner rejected the offer of twelve years at forty-five percent because he "thought they might come down lower than that," even when prior counsel assured him that was unlikely because the State had a very strong case against him. Prior counsel did not recall that the reason

Petitioner rejected the offer was that Petitioner was firing him. Prior counsel did not recall Petitioner ever firing him, but he did feel that Petitioner did not trust him.

Prior counsel testified that, when he withdrew from the case, he wrote to Petitioner to explain his personal relationship with the victim and to send Petitioner his file of discovery. On prior counsel's letterhead from the Public Defender's Office, which he used to communicate with Petitioner, trial counsel was listed as an Assistant Public Defender.

Trial counsel testified that he went to see Petitioner in prison and that Petitioner was "combative from the start." When trial counsel explained to Petitioner that he was Petitioner's new public defender, Petitioner "had some reservations about it" because he had "some issues with [prior counsel's] representation." Trial counsel stated that he and Petitioner discussed Petitioner's concerns and that the issue was resolved to Petitioner's satisfaction at their first meeting.

Trial counsel stated that, when he took over Petitioner's representation, the offer which prior counsel had procured from the State was revoked. Trial counsel explained that Petitioner could not understand that whether he was beaten when he was apprehended was not indicative of his innocence or guilt. Trial counsel stated that Petitioner wanted him to procure a DVD of Petitioner's arrest. Trial counsel said that he knew Petitioner wanted to pursue a civil action in regards to excessive use of force, but he explained that, as a public defender, it was not his job to procure evidence for a civil matter. Trial counsel also testified that Petitioner could not understand why four of his prior convictions, which a Haywood County judge told him were a part of "one spree," would be counted as separate offenses in the present case for the purposes of sentencing.

Trial counsel agreed with prior counsel's assessment that the State had a very strong case against Petitioner. Trial counsel testified that he explained to Petitioner that, once Petitioner rejected the plea for twelve years, the State had the right not to present that offer again. Trial counsel stated that he believed Petitioner understood the plea agreement and that Petitioner's decision was not the result of pressure from trial counsel, the State, or the trial court. Trial counsel said that he was aware of prior counsel's conflict in this case but did not feel it was imputed to the entire Public Defender's Office. Trial counsel testified that he did not recall Petitioner's asking him to investigate any particular exculpatory material. Trial counsel stated that he explained to Petitioner why his four 1997 convictions would count separately for the purposes of sentencing.

Trial counsel acknowledged that he never viewed the video of Petitioner's arrest which contained evidence concerning the charge of evading arrest, but he explained that Petitioner conceded to him that he was the person in the video, so "that did away with

any defense." Trial counsel testified, "I don't know a defense to a charge of a felony evading arrest when the vehicle is reported stolen, you lead the police on a high speed chase. When stopped, ultimately you are the person in the vehicle." Thus, trial counsel concluded that there was nothing exculpatory about the video and that he had no reason to procure it.

Analysis

On appeal, Petitioner asserts that he received ineffective assistance of counsel because trial counsel failed to consult with Petitioner regarding the State's evidence against him and failed to discuss possible defenses and weaknesses in the State's case. Petitioner asserts that his plea was unknowing because he did not understand why he was a career offender and because trial counsel failed to explain the repercussions of his plea. The State responds that the post-conviction court properly denied Petitioner's claims that he received ineffective assistance of counsel and that his plea was unknowing and involuntary.

Standard of Review

In order to prevail on a petition for post-conviction relief, a petitioner must prove all factual allegations by clear and convincing evidence. *Jaco v. State*, 120 S.W.3d 828, 830 (Tenn. 2003). Post-conviction relief cases often present mixed questions of law and fact. *See Fields v. State*, 40 S.W.3d 450, 458 (Tenn. 2001). Appellate courts are bound by the post-conviction court's factual findings unless the evidence preponderates against such findings. *Kendrick v. State*, 454 S.W.3d 450, 457 (Tenn. 2015). When reviewing the post-conviction court's factual findings, this court does not reweigh the evidence or substitute its own inferences for those drawn by the post-conviction court. *Id.*; *Fields*, 40 S.W.3d at 456 (citing *Henley v. State*, 960 S.W.2d 572, 578 (Tenn. 1997)). Additionally, "questions concerning the credibility of the witnesses, the weight and value to be given their testimony, and the factual issues raised by the evidence are to be resolved by the [post-conviction court]." *Fields*, 40 S.W.3d at 456 (citing *Henley*, 960 S.W.2d at 579); *see also Kendrick*, 454 S.W.3d at 457. The post-conviction court's conclusions of law and application of the law to factual findings are reviewed de novo with no presumption of correctness. *Kendrick*, 454 S.W.3d at 457.

Ineffective Assistance of Counsel

Petitioner asserts that he received ineffective assistance of counsel because trial counsel failed to consult with Petitioner regarding the State's evidence against him and failed to investigate possible defenses and weaknesses in the State's case. The State

responds that trial counsel explained the overwhelming evidence, the enhancements, and the possible sentence if Petitioner went to trial.

The right to effective assistance of counsel is safeguarded by the Constitutions of both the United States and the State of Tennessee. U.S. Const. amend. VI; Tenn. Const. art. I, § 9. In order to receive post-conviction relief for ineffective assistance of counsel, a petitioner must prove: (1) that counsel's performance was deficient; and (2) that the deficiency prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984); *see State v. Taylor*, 968 S.W.2d 900, 905 (Tenn. Crim. App. 1997) (stating that the same standard for ineffective assistance of counsel applies in both federal and Tennessee cases). Both factors must be proven in order for the court to grant post-conviction relief. *Strickland*, 466 U.S. at 687; *Henley*, 960 S.W.2d at 580; *Goad v. State*, 938 S.W.2d 363, 370 (Tenn. 1996). Accordingly, if we determine that either factor is not satisfied, there is no need to consider the other factor. *Finch v. State*, 226 S.W.3d 307, 316 (Tenn. 2007) (citing *Carpenter v. State*, 126 S.W.3d 879, 886 (Tenn. 2004)). Additionally, review of counsel's performance "requires that every effort be made to eliminate the distorting effects of hindsight, to reconstruct the circumstances of counsel's challenged conduct, and to evaluate the conduct from counsel's perspective at the time." *Strickland*, 466 U.S. at 689; *see also Henley*, 960 S.W.2d at 579. We will not second-guess a reasonable trial strategy, and we will not grant relief based on a sound, yet ultimately unsuccessful, tactical decision. *Granderson v. State*, 197 S.W.3d 782, 790 (Tenn. Crim. App. 2006).

As to the first prong of the *Strickland* analysis, "counsel's performance is effective if the advice given or the services rendered are within the range of competence demanded of attorneys in criminal cases." *Henley*, 960 S.W.2d at 579 (citing *Baxter v. Rose*, 523 S.W.2d 930, 936 (Tenn. 1975)); *see also Goad*, 938 S.W.2d at 369. In order to prove that counsel was deficient, the petitioner must demonstrate "that counsel's acts or omissions were so serious as to fall below an objective standard of reasonableness under prevailing professional norms." *Goad*, 938 S.W.2d at 369 (citing *Strickland*, 466 U.S. at 688); *see also Baxter*, 523 S.W.2d at 936.

Even if counsel's performance is deficient, the deficiency must have resulted in prejudice to the defense. *Goad*, 938 S.W.2d at 370. Therefore, under the second prong of the *Strickland* analysis, the petitioner "must show 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." *Id.* (quoting *Strickland*, 466 U.S. at 694) (internal quotation marks omitted).

A substantially similar two-prong standard applies when the petitioner challenges counsel's performance in the context of a guilty plea. *Hill v. Lockhart*, 474 U.S. 52, 58

(1985); *Don Allen Rodgers v. State*, No. W2011-00632-CCA-R3-PC, 2012 WL 1478764, at *4 (Tenn. Ct. Crim. App. April 26, 2012). First, the petitioner must show that his counsel's performance fell below the objective standards of reasonableness and professional norms. *See Hill*, 474 U.S. at 58. Second, "in order to satisfy the 'prejudice' requirement, the [petitioner] must show that there is a reasonable probability that, but for counsel's errors, he would have not have pleaded guilty and would have insisted on going to trial." *Id.* at 59.

In its written order denying the petition, the post-conviction court concluded that Petitioner did not establish ineffective assistance of counsel or prejudice. The post-conviction court reiterated prior counsel's testimony that Petitioner "had no real defense" because the proof against Petitioner was "overwhelming." The court noted that

> [Trial counsel] explained that a video would not help in the defense of the criminal charges, since [P]etitioner was found to be in possession of the stolen vehicle, [C]o-defendant [Hooper] had entered a plea of guilty and implicated him in the stealing, and [P]etitioner was the sole occupant and driver of the vehicle which did not stop when officers attempted to stop the vehicle and was involved in a long chase endangering others. . . . [Trial] [c]ounsel was not ineffective by attempting to concentrate on the defense of the criminal charges. [Trial] [c]ounsel was appointed to represent [P]etitioner in the criminal case, and was not involved in any civil proceedings of [P]etitioner.
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> . . . .
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> The court finds that [P]etitioner understood the plea and sentence. He accepted the plea deal, but now maintains he did not understand. He can not [sic] show how he did not understand. He has failed to show counsel was deficient.
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> . . . .
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> Petitioner was originally offered a [twelve-]year sentence, which he rejected. After [trial counsel] represented [P]etitioner[,] the best offer was [fifteen] years. Counsel is not ineffective just because he could not work out the original offer again. The [S]tate took a different position which was beyond [trial] counsel's control.

We agree with the post-conviction court.

Petitioner has not shown that trial counsel's performance was deficient. Petitioner asserts that trial counsel failed to consult with Petitioner regarding the State's evidence against him. Trial counsel testified that he explained to Petitioner that the State's case was overwhelming because he was in sole possession of a stolen vehicle when he was apprehended after a high-speed chase. The post-conviction court credited trial counsel's testimony, and we will not reweigh this evidence. Petitioner also claims that trial counsel failed to investigate possible defenses and weaknesses in the State's case. However, Petitioner does not explain what possible defenses or weaknesses he thought trial counsel should have investigated. Trial counsel and the post-conviction court noted that the evidence against Petitioner was overwhelming, which limited any possible defense. Prior counsel testified that Petitioner "had no real defense." Petitioner has not shown how trial counsel failed to investigate a defense or explore weaknesses in the State's case, nor has he shown that counsel's performance dropped below prevailing professional norms.

Further, Petitioner has not shown trial counsel's performance was prejudicial. Quite the contrary. The State had overwhelming evidence that Petitioner participated in the burglary of Mr. Rose's garage and the theft of two vehicles and that he evaded arrest. Petitioner was apprehended as the sole occupant in possession of and driving one of the stolen vehicles. Petitioner was facing thirty years' imprisonment at sixty percent should he go to trial. However, Petitioner received a sentence for less than half that amount, fifteen years at forty-five percent, due to the plea agreement negotiated by trial counsel. Therefore, Petitioner has shown no prejudice because Petitioner failed to show a reasonable probability that, but for counsel's errors, he would not have pleaded guilty and would have insisted on going to trial. He is not entitled to relief.

Unknowing Guilty Plea

On appeal, Petitioner argues that his plea was not knowing because he did not understand the repercussions of the plea. The State responds that "the only evidence presented at the post-conviction hearing to show that [Petitioner's] plea was involuntary was his claim that [trial counsel] did not explain the differences in the career offender status and the persistent offender status." However, the State contends the trial court clearly explained the differences to Petitioner in its plea colloquy.

Whether a guilty plea is knowing and voluntary is a mixed question of law and fact. *Jaco*, 120 S.W.3d at 830-31. Therefore, in such cases we review the post-conviction court's findings of fact *de novo* with a presumption of correctness. *Id.* The post-conviction court's findings of law are reviewed purely *de novo*. *Id.*

When reviewing a guilty plea, this court looks to both the federal standard as announced in the landmark case *Boykin v. Alabama*, 395 U.S. 238 (1969), and the state

standard as announced in *State v. Mackey*, 553 S.W.2d 337 (Tenn. 1977), *superseded on other grounds by* Tenn. R. Crim. P. 37(b) and Tenn. R. App. P. 3(b). *Don Allen Rodgers*, 2012 WL 1478764, at *5. Under the federal standard, there must be an affirmative showing that the plea was "intelligent and voluntary." *Boykin*, 395 U.S. at 242. Likewise, the Tennessee Supreme Court has held that "the record of acceptance of a defendant's plea of guilty must affirmatively demonstrate that his decision was both voluntary and knowledgeable, i.e.[,] that he has been made aware of the significant consequences of such a plea . . . ." *Mackey*, 553 S.W.2d at 340. "[A] plea is not 'voluntary' if it is the product of '[i]gnorance, incomprehension, coercion, terror, inducements, [or] subtle or blatant threats . . . ." *Blankenship v. State*, 858 S.W.2d 897, 904 (Tenn. 1993) (quoting *Boykin*, 395 U.S. at 242-43).

In order to determine whether a plea is intelligent and voluntary, the trial court must "canvass[] the matter with the accused to make sure he has a full understanding of what the plea connotes and of its consequence." *Boykin*, 395 U.S. at 244. The trial court looks to several factors before accepting a plea, including:

> [T]he relative intelligence of the defendant; degree of his familiarity with criminal proceedings; whether he was represented by competent counsel and had the opportunity to confer with counsel about the options available to him; the extent of advice from counsel and the court concerning the charges against him; and the reasons for his decision to plead guilty, including a desire to avoid a greater penalty that might result from a jury trial.

Blankenship, 858 S.W.2d at 904; *Howell v. State*, 185 S.W.3d 319, 330-31 (Tenn. 2006). Once the trial court has conducted a proper plea colloquy, it discharges its duty to assess the voluntary and intelligent nature of the plea and creates an adequate record for any subsequent review. *Boykin*, 395 U.S. at 244.

Statements made by a petitioner, his attorney, and the prosecutor during the plea colloquy, as well as any findings made by the trial court in accepting the plea, "constitute a formidable barrier in any subsequent collateral proceedings." *Blackledge v. Allison*, 431 U.S. 63, 73-74 (1977). Statements made in open court carry a strong presumption of truth, and to overcome such presumption, a petitioner must present more than "conclusory allegations unsupported by specifics." *Id.* at 74.

At Petitioner's guilty plea submission hearing, the trial court explained the differences between career offender status and persistent offender status:

[THE COURT]: I understand the plea arrangement to be that you're entering a plea of guilty in [c]ount one to a D felony as a persistent offender. A D felony would carry a range of punishment not less than [eight] and up to [twelve] years. The State gave notice that you would be a career offender, but they're agreeing to a persistent offender, which carries a lesser percentage of service. A career offender is [sixty] percent, persistent is [forty-five] percent[,] for a [twelve]-year sentence at [forty-five] percent.

In [c]ount two, . . . you're charged [with] a B felony. A B felony, if you are a persistent offender, would carry twenty to thirty years. If you were a career offender, thirty years. . . . [T]hey're agreeing to accept a plea [to] a C [felony,] which carries a range of punishment of ten to fifteen years as a persistent offender[.]

And then in the last count, a sentence of twelve years as a persistent offender all concurrent for an effective sentence of fifteen years as a persistent offender. Is that your understanding of the plea arrangement?

[PETITIONER]: Yes, sir.

In its written order, the post-conviction court made findings of fact and conclusions of law and determined that Petitioner's plea was knowing. During its discussion of Petitioner's ineffective assistance claim, the post-conviction court found "that [P]etitioner understood the plea and sentence. He accepted the plea deal, but now maintains he did not understand. He can not [sic] show how he did not understand. He has failed to show counsel was deficient." The post-conviction court later detailed the following exchange from the guilty plea submission hearing:

It was explained [Petitioner] would receive "an effective sentence of [fifteen] years as a persistent offender. Is that your understanding of the plea arrangement?["] Petitioner answered, ["]Yes, sir.["] [Petitioner] stated he understood this. The [c]ourt finds that [P]etitioner knowingly and voluntarily entered a plea of guilty.

It is clear from both the plea colloquy and the post-conviction court's findings of fact that Petitioner made a knowing plea. The trial court explained the charges against Petitioner and the possible sentences stemming from it. The trial court also explained the State's burden of proof at trial and that there was no right to appeal from a guilty plea. The trial court explained the difference in range of punishment between a career offender and a persistent offender. Petitioner acknowledged that he understood his rights and that

he was waiving his right to a jury trial. Such statements made in open court carry a strong presumption of truth, and Petitioner has offered nothing to indicate that his plea was unknowing except to say that, at the time, he did not understand. The post-conviction court determined that Petitioner did not prove by clear and convincing evidence that his plea was unknowing, and we agree. Therefore, Petitioner is not entitled to relief.

Conclusion

For the aforementioned reasons, we affirm the judgment of the post-conviction court.

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ROBERT L. HOLLOWAY, JR., JUDGE